

149 FERC ¶ 61,180  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

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

Transource Wisconsin, LLC

Docket No. ER15-13-000

ORDER ON TRANSMISSION FORMULA RATE PROPOSAL AND INCENTIVES

(Issued November 26, 2014)

1. In this order, we conditionally accept Transource Wisconsin, LLC's (Transource Wisconsin) 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 the Midcontinent Independent System Operator, Inc.'s (MISO) Order No. 1000<sup>1</sup> 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 Transource Wisconsin's proposed base return on equity (ROE) for filing to be effective December 1, 2014, as requested. We also grant Transource Wisconsin's request for authorization to defer as a regulatory asset its prudently-incurred costs, including pre-commercial and formation costs, effective December 1, 2014, as requested. We reject Transource Wisconsin's request for authorization, under section 219 of the Federal Power Act (FPA)<sup>2</sup> and section 205 of the FPA,<sup>3</sup> to recover prudently-

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<sup>1</sup> *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*, 762 F.3d 41 (D.C. Cir. 2014).

<sup>2</sup> 16 U.S.C. § 824s (2012).

<sup>3</sup> 16 U.S.C. § 824d (2012).

incurred costs related to transmission facilities abandoned for reasons beyond its control (Abandoned Plant) and its request for authorization to include 100 percent of construction work in progress (CWIP) in rate base during development and construction. Further, we conditionally accept Transource Wisconsin's request that other yet-to-be-formed affiliates be authorized to utilize the same formula rate template and the same requested incentives.

## **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.<sup>4</sup> In response to the requirements of Order No. 1000, MISO 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 (i.e., Open Transmission Projects).<sup>5</sup>

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<sup>4</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 336.

<sup>5</sup> See *Midwest Indep. Transmission Sys. Operator, Inc.*, 142 FERC ¶ 61,215 (2013), *order on reh'g and compliance filings*, 147 FERC ¶ 61,127 (2014).

3. Transource Wisconsin states that it is a wholly owned subsidiary of Transource Energy, which is a joint venture between American Electric Power Company (AEP) and Great Plains Energy.<sup>6</sup> Transource Wisconsin states that its primary focus is to develop and own transmission facilities that emerge from the Order No. 1000 regional transmission planning and competitive solicitation process in MISO.

## **II. Transource Wisconsin Filing**

4. On October 1, 2014, Transource Wisconsin submitted for filing, a proposed formula rate template comprised of: (1) a forward-looking Attachment O formula rate template that determines Transource Wisconsin's annual transmission revenue requirement (ATRR) using data from the entity's FERC Form No. 1; (2) an Attachment GG for calculating project-specific network upgrade charges for Market Efficiency Projects (MEP); and (3) an Attachment MM for calculating project specific charges for Multi-Value Projects (MVP) developed by Transource Wisconsin.<sup>7</sup> Transource Wisconsin also proposes formula rate implementation protocols. Transource Wisconsin also proposes depreciation rates that are principally based on the depreciation rates approved for use by Indiana and Michigan Power Company (I&M), a PJM transmission owner and subsidiary of AEP, for similar transmission facilities.<sup>8</sup> Transource Wisconsin states that it will utilize the MISO return on equity (ROE), subject to the outcome of the pending complaint in Docket No. EL14-12-000. Transource Wisconsin also proposes to cap the equity component of its capital structure at 55 percent.

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<sup>6</sup> AEP owns affiliates that are incumbent transmission owning members in both PJM Interconnection, LLC (PJM) and Southwest Power Pool, Inc. (SPP). Great Plains Energy owns affiliates that are incumbent transmission owning members of SPP. Transource Wisconsin states that, because PJM uses a sponsorship model rather than the competitive bidding model adopted by MISO, Transource Energy was able to compete in a recent PJM competitive process without the need for an accepted formula rate or pre-authorized incentives. Transmittal at n.6.

<sup>7</sup> Under the MISO Tariff, the only projects that are subject to MISO Order No. 1000 competitive solicitation process are MEP and MVP. Costs for MEPs are recovered under MISO Tariff Attachment GG and costs for MVPs are recovered under MISO Tariff Attachment MM.

<sup>8</sup> *Indiana and Michigan Power Co.*, Docket No. ER14-1408-000 (Apr. 29, 2014) (unpublished letter order).

5. In addition, Transource Wisconsin seeks approval of the following non-ROE incentive rate treatments: (1) recovery of prudently incurred costs in the event any transmission projects that it is chosen by MISO to develop is abandoned for reasons outside Transource Wisconsin's control; (2) recovery of all prudently incurred pre-commercial costs that are not capitalized and included in CWIP, establishment of a regulatory asset to include all such expenses associated with any Open Transmission Project that it is awarded that are incurred prior to the date charges are assessed to MISO customers, and authorization to amortize the regulatory asset over a five year period thereafter; and (3) inclusion of 100 percent of CWIP in rate base during the development and construction phase. Transource Wisconsin requests the incentive rate treatments pursuant to section 219 of the FPA or, in the alternative, pursuant to section 205 of the FPA. In addition, Transource Wisconsin requests prior authorization for other, yet to be formed, state-specific Transource Wisconsin affiliates that develop MISO transmission facilities to replicate and adopt the proposed formula rate template, including the requested incentives, through a ministerial section 205 filing.

6. Transource Wisconsin states that it is requesting approval of its proposed formula rate template and incentives before MISO's competitive solicitation bidding window has commenced and before transmission projects are known to secure a measure of rate certainty in advance of the first MISO competitive solicitation bidding window. According to Transource Wisconsin, absent the certainty of an accepted formula rate template and pre-authorized incentive rate treatments, it will be unable to develop the economic components of a bid for an Open Transmission Project with the degree of precision and confidence required to effectively compete in MISO's competitive developer selection process.

7. Transource Wisconsin filed its proposed formula rate template and protocols in Transource Wisconsin's eTariff database. Transource Wisconsin requests an effective date of December 1, 2014, although it recognizes that no costs will flow through the formula rate template until the requisite section 205 filing to include the formula rate template in the MISO Tariff is approved.<sup>9</sup>

### **III. Notice of Filing and Responsive Pleadings**

8. Notice of Transource Wisconsin's filing was published in the *Federal Register*, 79 Fed. Reg. 61,073 (2014), with interventions and comments due on or before October 22, 2014. Timely motions to intervene were filed by MidAmerican Transmission, LLC, Dairyland Power Cooperative, Xcel Energy Services, Inc., and

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<sup>9</sup> Transmittal at 3.

MISO Transmission Owners.<sup>10</sup> The Public Service Commission of Wisconsin (Wisconsin Commission) filed a notice of intervention and comment. The Midwest Municipal Transmission Group (MMTG) filed a motion to intervene, protest, and comments. WPPI Energy (WPPI) and Madison Gas and Electric Company (Madison Gas) filed motions to intervene out-of-time. On October 31, 2014, Transource Wisconsin filed an answer to MMTG's Protest.

9. Wisconsin Commission states that it does not support or oppose any particular relief sought by Transource Wisconsin.<sup>11</sup> Wisconsin Commission explains that the Commission's Order No. 1000 prompted competition in transmission development and the state of Wisconsin welcomes competition in this instance. Wisconsin Commission also states that given the substantial costs of transmission projects, measures promoting competition in MISO's transmission developer selection process will benefit electric ratepayers. Additionally, Wisconsin Commission explains that it believes Transource Wisconsin's motivation to enhance its competitiveness by obtaining pre-application approval of formula rates seems logical.<sup>12</sup>

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<sup>10</sup> 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, Illinois); 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.

<sup>11</sup> Wisconsin Commission Comments at 6.

<sup>12</sup> *Id.* at 4-7.

#### IV. Discussion

##### A. Procedural Matters

10. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2014), the notice of intervention and timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding. Pursuant to Rule 214(d) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214(d) (2014), we grant WPPI's and Madison Gas' motions to intervene out-of-time given their interest in the proceeding, the early stage of the proceeding, and the absence of undue prejudice or delay. We accept Transource Wisconsin's answer because it has provided information that assisted us in our decision-making process.

##### B. Request for Incentives

11. In the Energy Policy Act of 2005,<sup>13</sup> Congress added section 219 to the FPA, directing the Commission to establish, by rule, incentive-based rate treatments to promote capital investment in electric transmission infrastructure. The Commission subsequently issued Order No. 679,<sup>14</sup> which sets forth processes by which a public utility may seek transmission rate incentives pursuant to section 219, including the incentives requested here by Transource Wisconsin.

12. Pursuant to section 219, an 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."<sup>15</sup> Also, as part of this demonstration, "section 219(d) provides that all rates approved under the Rule are subject to the requirements of sections 205 and 206 of the FPA, which require that all rates, charges, terms and conditions be just and reasonable and not unduly discriminatory or preferential."<sup>16</sup>

13. In addition to satisfying the section 219 requirement of ensuring reliability and/or reducing the cost of delivered power by reducing congestion, Order No. 679 requires an

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<sup>13</sup> Pub. L. No. 109-58, § 1241, 119 Stat. 594.

<sup>14</sup> *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).

<sup>15</sup> Order No. 679, FERC Stats. & Regs. ¶ 31,222 at P 76.

<sup>16</sup> *Id.* P 8 (citing 16 U.S.C. §§ 824(d)-(e)).

applicant to demonstrate that there is a nexus between the incentive sought and the investment being made. In Order No. 679-A, the Commission clarified that the 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.”<sup>17</sup>

14. Transource Wisconsin submitted its requests for the Abandoned Plant, CWIP and regulatory asset incentives under section 219. However, Transource Wisconsin asserts that the Commission could also authorize the requested rate treatments under section 205 because the requested incentives are just and reasonable and will promote the Commission’s pro-competitive policies.<sup>18</sup>

15. The regulations under section 219 require a project-specific demonstration of the nexus between the requested incentives and the risks and challenges of the projects, a demonstration that Transource Wisconsin cannot meet, because Transource Wisconsin has not identified any specific projects. To obtain incentive rate treatment under Order No. 679, section 35.35(d) of the Commission’s regulations requires an applicant to file a petition for declaratory order or make a section 205 filing that satisfies the requirements of section 219, i.e., the applicant must demonstrate that the transmission facilities for which it seeks incentives either ensure reliability or reduce the cost of delivered power by reducing transmission congestion. Further, under the Order No. 679 nexus test, the applicant must show that the total package of incentives is tailored to address the demonstrable risks or challenges faced by the applicant in undertaking the project.<sup>19</sup>

16. The Commission has previously held that incentives granted under 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.<sup>20</sup> We find that granting the regulatory asset incentive in this instance 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. However, the abandoned plant and CWIP incentives do not serve this public policy goal because both incumbent and non-incumbent transmission developers are similarly situated with

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<sup>17</sup> Order No. 679-A, FERC Stats. & Regs. ¶ 31,236 at P 40.

<sup>18</sup> Transmittal at 8-9.

<sup>19</sup> 18 C.F.R. § 35.35(d) (2014).

<sup>20</sup> See *Pacific Gas and Elec. Co.*, 123 FERC ¶ 61,067 (2008); *Southern California Edison Co.*, 133 FERC ¶ 61,107 (2010).

respect to obtaining these incentives in the Order No. 1000 competitive solicitation processes.

**1. Request for Authorization to Establish Regulatory Asset**

**a. Proposal**

17. Transource Wisconsin requests, pursuant to Order No. 679, authorization to establish a regulatory asset in which to book certain costs for Open Transmission Projects that it is awarded, such as pre-commercial and formation costs.<sup>21</sup> The regulatory asset would include all prudently incurred costs prior to Transource Wisconsin's formula rate template taking effect but that are not capitalized or included in CWIP. Transource Wisconsin states that it will not establish the regulatory asset until Transource Wisconsin is actually awarded an Open Transmission Project and will not seek to recover the costs of preparing unsuccessful bids.<sup>22</sup>

18. Transource Wisconsin states that it is requesting authorization for the regulatory asset transmission incentive because it will begin to accrue pre-commercial and formation costs before it can recover such costs under the MISO Tariff. Transource Wisconsin explains that it cannot become a MISO transmission owner and recover costs under the MISO Tariff until it owns transmission facilities that it places under MISO's functional control. Transource Wisconsin states, therefore, that if MISO awards Transource Wisconsin an Open Transmission Project, it would begin incurring expenses associated with constructing that project, but would not qualify as a MISO transmission owner and could thus not recover costs associated with the Open Transmission Project on a current basis. Therefore, Transource Wisconsin states that the regulatory asset incentive is necessary so that it can record and recover in an appropriate manner necessary startup and project development costs it prudently incurred for transmission projects before they can be recovered under the formula rate template as current expenses.<sup>23</sup> Transource Wisconsin also seeks authorization to accrue monthly carrying charges, compounded semi-annually, on the regulatory asset's balance beginning on the date MISO awards Transource Wisconsin the right to construct a transmission project.

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<sup>21</sup> Transource Wisconsin states that these costs could include, for example, engineering expenses, attorney and consultant fees, administrative expenses, development surveys, and costs to support planning and bid development activities. *Id.* at 30.

<sup>22</sup> *Id.* at 30 and n.97.

<sup>23</sup> *Id.* at 30.

Transource Wisconsin states that when its proposed formula rate template is incorporated into the MISO Tariff and current expenses can be recovered through that formula rate template, it will stop booking expenses to the regulatory asset and instead will recover those expenses through the formula rate template as they are incurred.<sup>24</sup>

**b. Commission Determination**

19. We find that it is appropriate to grant Transource Wisconsin's regulatory asset incentive under section 205, even though Transource Wisconsin has not met the Order No. 679 nexus test. We note that the Commission has granted regulatory asset incentives requested under section 205 in the past.<sup>25</sup> Further, the Commission has held that incentives granted under Order No. 679 can also be granted under the Commission's section 205 authority if the incentive furthers a public policy goal.<sup>26</sup> We find that Transource Wisconsin's request for the regulatory asset incentive under section 205 furthers the Commission's policy goal of placing nonincumbent transmission developers on a level playing field with incumbent transmission owners in Order No. 1000 competitive solicitation processes, thereby encouraging competition.<sup>27</sup> 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 planning-related costs are expensed to transmission operations and maintenance (O&M) accounts that are typically included in transmission formula rates.

20. We also grant Transource Wisconsin's request to amortize the regulatory asset over five years and to accrue monthly carrying charges, compounded semi-annually. We accept Transource Wisconsin's proposed effective date of December 1, 2014, to allow it

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<sup>24</sup> *Id.* at 31.

<sup>25</sup> *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).

<sup>26</sup> *See Pacific Gas and Elec. Co.*, 123 FERC ¶ 61,067; *Southern California Edison Co.*, 133 FERC ¶ 61,107.

<sup>27</sup> *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.”).

to establish the regulatory asset, and begin accruing carrying charges, once it is awarded an Open Transmission Project.

21. However, while we will allow Transource Wisconsin to record its prudently incurred costs as a regulatory asset, Transource Wisconsin must make a section 205 filing to demonstrate that the pre-commercial and formation costs are just and reasonable. In that filing, Transource Wisconsin 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 Transource Wisconsin becomes a transmission owner, it is unclear whether Transource Wisconsin will have any customers from which to recover its regulatory asset.

2. **Request for Authorization to Recover Costs of Abandoned Transmission Facilities**

a. **Proposal**

22. Transource Wisconsin requests authorization to recover prudently-incurred costs in the event that any transmission project it is awarded through the MISO competitive solicitation process must be abandoned for reasons outside Transource Wisconsin's reasonable control. Transource Wisconsin states that the MISO Open Transmission Projects that it expects to compete for under MISO's competitive solicitation process face a number of risks that could lead to eventual abandonment. Transource Wisconsin states that, in particular, for transmission projects of the scale that will qualify for competitive bidding in MISO, there will be a number of environmental, regulatory, siting, and right-of-way acquisition risks that could lead to the eventual abandonment of the project. In addition, Transource Wisconsin states that there is a potential for challenges to MISO's selection of Transource Wisconsin to develop projects under MISO's competitive solicitation process.<sup>28</sup>

b. **Commission Determination**

23. We deny Transource Wisconsin's request to recover all prudently-incurred costs in the event a transmission project awarded through the MISO competitive solicitation process must be abandoned for reasons outside its reasonable control.

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<sup>28</sup> Transmittal at 29.

24. We find that because Transource Wisconsin has not identified a transmission project and not described the specific risks and challenges that the abandoned plant incentive would address, it has not met the nexus test under Order No. 679. Transource Wisconsin cannot provide details about the scope or size or identify specific federal and state siting hurdles associated with a particular transmission project. As such, we deny Transource Wisconsin's request for the abandoned plant incentive under section 219 as premature. Transource Wisconsin may resubmit a request for the abandoned plant incentive once it identifies a specific transmission project and is able to demonstrate that the project meets the statutory standard under section 219 and the requirements of Order No. 679.

25. We also deny Transource Wisconsin's request for the abandoned plant incentive under section 205. Unlike the regulatory asset incentive, incumbent transmission owners do not already have the advantage of the abandoned plant incentive, but must, like nonincumbent transmission developers, request it after a specific project is identified. As such, granting the abandoned plant incentive to nonincumbent transmission developers at this point is not necessary to further 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.

**3. Request for Authorization to Include 100 Percent of CWIP in Rate Base**

**a. Proposal**

26. Transource Wisconsin requests under section 219, or in the alternative, under section 205, authorization to include 100 percent of CWIP in rate base during the development and construction phase of any Open Transmission Project awarded to Transource Wisconsin through the MISO competitive solicitation process that has an estimated development cost of over \$50 million.<sup>29</sup> Transource Wisconsin states that the CWIP incentive will improve cash flow during construction and provide greater regulatory certainty, both of which are instrumental in supporting financial integrity and attracting capital.<sup>30</sup> Transource Wisconsin also states that, by avoiding the capitalization of the cost of capital through the Allowance for Funds Used During Construction (AFUDC), inclusion of CWIP in rate base reduces the overall financing costs borne by ratepayers. In addition, Transource Wisconsin states that the Commission has acknowledged that inclusion of CWIP in rate base will benefit consumers by mitigating

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<sup>29</sup> Transmittal at 23.

<sup>30</sup> *Id.* at 31-32.

the possibility that consumers will experience “rate shock” when projects come into service.<sup>31</sup> Transource Wisconsin also states that cash flow stability resulting from the CWIP incentive would help it secure and maintain a BBB credit rating, which will help it secure financing on reasonable terms, lowering its cost of debt and overall cost.<sup>32</sup>

27. Transource Wisconsin states that MISO’s competitive solicitation process requires applicants to provide estimated detailed project costs, including the projected annual revenue requirement for the first 40 years that the facilities will be in service. Transource Wisconsin also states that to provide accurate estimates of revenue requirements, it must know what formula rate and incentive treatments will apply to recovery of the costs of its investments. Transource Wisconsin also argues that uncertainty regarding the availability of incentive rate treatments may frustrate its ability and willingness to offer discounts in its competitive bids.<sup>33</sup>

**b. Commission Determination**

28. We deny Transource Wisconsin’s request for authorization to include 100 percent of CWIP in rate base at this time. In this instance, we find that because Transource Wisconsin has not identified a transmission project and not described the details of its financial situation that CWIP would alleviate, it has not met the nexus test under Order No. 679. Transource Wisconsin did not provide details regarding its financial pressures, delayed cash flow, relative size of its investment, or any adverse impacts to short-term liquidity; instead Transource Wisconsin provides only general statements that the CWIP incentive will improve cash flow during construction and provide greater regulatory certainty. Transource Wisconsin also states that the cash flow stability will help it attract capital, and secure and maintain a BBB credit rating, although it makes no showing of the size of the effect on cash flow that CWIP would elicit.<sup>34</sup> As such, we deny Transource Wisconsin’s request for the CWIP incentive under section 219 as premature. Transource Wisconsin may resubmit a request for the CWIP incentive once it identifies a specific transmission project and is able to demonstrate that the project meets the statutory standard under section 219 and the requirements of Order No. 679.

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<sup>31</sup> Transmittal at 32 (citing *Oklahoma Gas & Elec. Co.*, 133 FERC ¶ 61,274, at P 48 (2010)).

<sup>32</sup> *Id.*

<sup>33</sup> Transmittal at 35.

<sup>34</sup> Transmittal at 32.

29. We also deny Transource Wisconsin's request for the CWIP incentive under section 205. Unlike the regulatory asset incentive, incumbent transmission owners do not already have the advantage of the CWIP incentive, but must, like nonincumbent transmission developers, request it after a specific project is identified. As such, granting the CWIP incentive to nonincumbents at this point is not necessary to further 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.

### C. Accounting Treatment

#### 1. Proposal

30. Transource Wisconsin states that its financial books and records will reflect the assets, equity, and results of operations for Transource Wisconsin.<sup>35</sup> Transource Wisconsin proposes to use the accrual method of accounting as required by generally accepted accounting principles to record revenues and expenses. Although Transource Wisconsin 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. Transource Wisconsin states that all services provided by its affiliates will be on an at-cost basis through service agreements.<sup>36</sup>

31. Also, Transource Wisconsin states that business and administrative expenses incurred while developing bids for Open Transmission Projects within MISO will come from two sources: (1) direct expenses incurred by itself; and (2) charges by Transource Energy or its affiliates for services provided to Transource Wisconsin through its services agreements with Transource Energy. In addition, Transource Wisconsin states that services provided by employees of Transource Wisconsin's affiliates and charged to Transource Wisconsin will fall into either a direct category or an allocated cost category.<sup>37</sup>

#### 2. Commission Determination

32. To the extent that costs are allocated or directly-billed from Transource Wisconsin's parent company or any of its affiliates, we direct Transource Wisconsin to explain and provide the methodology for the allocation of those costs in a compliance

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<sup>35</sup> Exhibit No. TWI-400, Direct Testimony of Jon D. Holzumuller at 3.

<sup>36</sup> Exhibit No. TWI-300. Direct Testimony of Alan C. Hentz Test. at 11.

<sup>37</sup> Exhibit No. TWI-400, Direct Testimony of Jon D. Holzmuller at 4.

filing.<sup>38</sup> In addition, to the extent that there are sales of non-power goods and services among affiliates, we remind Transource Wisconsin of its obligations under section 35.44(b)(1) of the Commission's Regulations.<sup>39</sup>

**D. Rate of Return**

**1. Proposal**

33. Transource Wisconsin 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, Transource Wisconsin requests permission to be treated like any other transmission-owning member of MISO and be permitted to use the Commission approved MISO regional base ROE, which is currently 12.38 percent. Transource Wisconsin notes that the MISO regional base ROE has been challenged in a complaint proceeding in Docket No. EL14-12-000, and therefore will make a compliance filing, if necessary, to modify the ROE consistent with the outcome of that proceeding.<sup>40</sup> Transource Wisconsin further proposes to cap the equity component of its capital structure at 55 percent.<sup>41</sup>

**2. Commission Determination**

34. We grant Transource Wisconsin's request to use the MISO regional base ROE, subject to the outcome of the complaint proceeding in Docket No. EL14-12-000.<sup>42</sup> Transmission-owning members of MISO are currently authorized to use a 12.38 percent ROE for calculating their annual transmission revenue requirement. If Transource

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<sup>38</sup> 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).

<sup>39</sup> 18 C.F.R. § 35.44(b)(1) (2014).

<sup>40</sup> Transmittal at 19.

<sup>41</sup> *Id.*.

<sup>42</sup> *Association of Businesses Advocating Tariff Equity v. Midcontinent Indep. Sys. Operator, Inc.*, 149 FERC ¶ 61,049 (2014).

Wisconsin 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. We also grant Transource Wisconsin's proposal to cap the equity component of its capital structure at 55 percent. We note that the Commission traditionally does not require applicants to cap the capital structures used for ratemaking at a particular numerical value. Here, however, Transource Wisconsin has voluntarily proposed to cap the equity component of its capital structure, and we accept this voluntary cap.

## **E. Depreciation Rates**

### **1. Proposal**

35. Transource Wisconsin proposes to use depreciation rates that are principally based on the depreciation rates of I&M, an AEP operating company.<sup>43</sup> Transource Wisconsin states that it calculated the depreciation rates using a 2010 depreciation study for I&M, which includes the transmission and general plant service lives and net salvage estimates by account. Transource Wisconsin states that since it has not yet constructed any facilities and there is no historical data to base their depreciation rates, it is appropriate to use I&M's depreciation rates because the facilities Transource Wisconsin plans to build are similar to the ones I&M currently owns.<sup>44</sup> Furthermore, Transource Wisconsin's planned facilities will be operated in a manner similar to the manner that I&M operates its facilities and will also be located in a region which is geographically similar to the location of I&M's facilities.

### **2. Commission Determination**

36. Transource Wisconsin states that its proposed depreciation rates were calculated using a 2010 depreciation study approved by the Commission for use in Docket No. ER14-1408-000. However, Transource Wisconsin's proposed depreciation rates differ from those that the Commission accepted in Docket No. ER14-1408-000. Additionally, the depreciation study in Exhibit No. TWI-502 does not support Transource Wisconsin's proposed depreciation rates in Exhibit No. TWI-503. Accordingly, we direct Transource Wisconsin, in its compliance filing due within 30 days of the date of this order, to provide a depreciation study which supports its proposed depreciation rates, or revise the depreciation rates filed to conform to those accepted in Docket No. ER14-1408-000.

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<sup>43</sup> Transmittal at 18 (citing *Indiana and Michigan Power Co.*, Docket No. ER14-1408-000 (Apr. 29, 2014) (unpublished letter order).).

<sup>44</sup> *Id.*

**F. Formula Rate****1. Proposal**

37. Transource Wisconsin states that its proposed formula rate template and protocols are similar to those of other MISO transmission owners. The formula rate template is a forward-looking formula, whereby costs are projected and then tried-up to actual costs once they are known. In addition to the company specific MISO Attachment O formula rate template and protocols, Transource Wisconsin also filed company-specific versions of Attachments GG and MM to the MISO Tariff. Transource Wisconsin also proposes provisions in its formula rate template to enable it to incorporate any concessions (i.e., discounts) that it includes in its Order No. 1000 competitive solicitation bids.<sup>45</sup> The protocols establish a process governing information exchange between Transource Wisconsin and interested parties, an annual informational filing, and procedures for informal and formal challenges to implementation of the formula rate template. Transource Wisconsin states that the protocols are consistent with MISO's May 19, 2014 compliance filing in Docket No. ER13-2379-003, which was filed in response to the Commission's order requiring modification to the MISO Tariff Attachment O protocols.<sup>46</sup> In addition, Transource Wisconsin agrees to make any additional changes to its proposed protocols that the Commission may order in Docket No. ER13-2379-000, *et al.*<sup>47</sup>

38. Transource Wisconsin filed its proposed formula rate template and protocols in the Transource Wisconsin eTariff database with a requested effective date of December 1, 2014. Transource Wisconsin states that if MISO awards an Open Transmission Project to Transource Wisconsin through the MISO competitive solicitation process, Transource Wisconsin and MISO will make a joint section 205 filing to incorporate the formula rate into the MISO Tariff. Transource Wisconsin states that such filing would be ministerial in nature.<sup>48</sup>

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<sup>45</sup> Transmittal at 19.

<sup>46</sup> Exhibit No. TWI-300, Direct Testimony of Alan C. Heintz Test. at 16.

<sup>47</sup> *Id.* Direct Testimony of Alan C. Heintz, at 16.

<sup>48</sup> Transmittal at 21.

## 2. Comment

39. MISO states that it takes no position on the justness and reasonableness of Transource Wisconsin's proposal.<sup>49</sup> However, MISO states that it discussed revising the proposed formula rate with Transource Wisconsin, and Transource Wisconsin is amenable to submitting a compliance filing with the following revisions. First, MISO explains that section 2.a. of the Annual Rate Calculation and True-Up Procedures of Attachment O describes the determination of the true-up adjustment as the difference between the estimated ATRR for the previous rate year and the actual ATRR based on actual costs for the rate year. MISO states that because Transource Wisconsin will not have any load to use in the true-up adjustment calculation, Transource Wisconsin should use the difference between the actual transmission revenues received and the actual revenue requirement. Second, MISO explains that it is unclear why lines 27, 28, and 29 on Page 4 of Attachment O-TWI reference "Note MM." Third, MISO explains that references between Attachments GG, MM, and Annual True-Up Procedures should be clarified.<sup>50</sup>

## 3. Answer

40. Transource Wisconsin states that it has had conversations with MISO concerning certain requested revisions to the formula rate, which it characterizes as "stylistic or mechanical in nature," and has agreed to implement clarifying revisions. Transource Wisconsin believes that these issues can most efficiently be resolved without the need for formal settlement or hearing procedures.<sup>51</sup>

## 4. Commission Determination

41. We conditionally accept Transource Wisconsin's proposed formula rate template and protocols, subject to a compliance filing due 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, we describe below several variances that Transource Wisconsin has not explained as well as errors that Transource Wisconsin must correct in the formula rate template.

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<sup>49</sup> MISO Comments at 3.

<sup>50</sup> *Id.* at 3-4.

<sup>51</sup> Transource Wisconsin Answer at 7.

a. **Formula Rate Issues**

42. We find that Transource Wisconsin has not sufficiently justified its calculation of cost of debt during the construction period. Note EE<sup>52</sup> in the formula rate template states that the 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 Transource Wisconsin, 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 Transource Wisconsin 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 Transource Wisconsin to explain and support such calculations as well as specify their inputs. Additionally, we direct Transource Wisconsin to provide a narrative explanation of the basis for the proposed interest rate prior to issuing debt. Specifically, the interest rate used prior to issuing debt is developed in Attachment 8 by combining the “Libor 1Mo” of 1.77 percent and the “Spread” of 1.75 percent, neither of which are supported.

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<sup>52</sup> Note EE in the formula rate template states:

“Prior to issuing any debt, a cost of debt of 3.52% will be used without true-up. After issuing any debt, the cost of debt is 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.”

43. In addition, we find that Transource Wisconsin's formula rate template should recognize unfunded O&M costs reserves. Utilities may accrue monies through charges 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, Transource Wisconsin, in a compliance filing, to propose revisions to its formula rate template to credit any unfunded reserves against rate base.<sup>53</sup>

44. 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).<sup>54</sup>

Transource Wisconsin 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, Transource Wisconsin cites to Note D, which states “[Accumulated Deferred Income Tax] 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. Transource Wisconsin is directed to propose revisions that explain how it will calculate the ADIT inputs in the compliance due within 30 days of this order.

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<sup>53</sup> See, e.g., *Kentucky Utils. Co.*, 148 FERC ¶ 63,013 (2014); *PacifiCorp*, Docket No. ER11-3643-000 (Feb. 25, 2014) (delegated letter order); *Southern California Edison Co.*, Docket No. ER11-3697-000 (Feb. 18, 2014) (delegated letter order); *Southwest Power Pool, Inc.*, Docket No. ER12-2289-000 (June 12, 2014) (delegated letter order).

<sup>54</sup> Transource Filing, Appendix A, p. 5 Note F.

45. 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.<sup>55</sup> 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.<sup>56</sup> 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 interpretation of how its Normalization Rules apply in the context of formula rates.<sup>57</sup> 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 Transource Wisconsin is proposing to use the proration formula as prescribed by the IRS, we conditionally accept the usage of the proration formula, subject to Transource Wisconsin receiving a private letter ruling from the IRS stating that Transource Wisconsin must use the proration formula in its formula rate template to comply with IRS regulations and, in the compliance due within 30 days of this order, providing workpapers and a narrative explanation of how Transource Wisconsin intends to implement the proration formula. If Transource Wisconsin seeks but does not receive such a ruling, it must submit a compliance filing within 30 days of receiving notice of the IRS's 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 Transource Wisconsin does not seek such a ruling, in the compliance due within 30 days of this order, Transource Wisconsin 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.

46. We note that Transource Wisconsin's Attachment 1, Attachment GG and Attachment MM are not the same format; Transource Wisconsin should make corrections so that the format of all three templates is the same. In particular, Attachment 1, Page 2 of Transource Wisconsin's formula rate template includes Column 16a for the Ceiling Rate. However, Transource Wisconsin 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. Therefore, we direct Transource Wisconsin to add the ceiling rate elements of Attachment 1 to Attachments GG and MM. Further,

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<sup>55</sup> 18 C.F.R. § 35.13(h)(6).

<sup>56</sup> See *PJM Interconnection, L.L.C.*, 147 FERC ¶ 61,254, at P 18 (2014).

<sup>57</sup> *Id.*

we direct Transource Wisconsin 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 Transource Wisconsin's proposed Attachments 1, GG and MM, equals the amount by which the annual revenue requirement is reduced from the ceiling rate, or reflects some other basis.

47. Furthermore, Transource Wisconsin's Attachment 3 Column D references, "as Reported in Form No. 1," but does not include a specific page and line reference. We direct Transource Wisconsin to provide this reference. We also direct Transource Wisconsin to include in Attachment 3 a detailed narrative explanation of how it calculates the true-up adjustment.

48. In Attachment 7, Transource Wisconsin calculates the post-retirement benefits other than pensions (PBOP) costs which will be included on Page 3, Lines 5b and 5c of the formula rate template. However, Transource Wisconsin has not supported through testimony or an actuarial report in the instant filing the proposed PBOP costs. The Commission has stated in the past that future PBOP recovery filings must include the actuarial reports and all pertinent rate sheets.<sup>58</sup> We therefore will direct Transource Wisconsin to file the actuarial report supporting its PBOP costs 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 Transource Wisconsin to provide those clarifications in Attachment 7. We note that PBOP amounts can only be changed pursuant to a section 205 or 206 filing.

49. Transource Wisconsin 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," 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 any FERC approved Regulatory Asset."<sup>59</sup> However, Transource Wisconsin's formula rate template also includes Amortization of Regulatory Asset in the Annual Allocation factor for Other O&M Expense. It is unclear how Transource Wisconsin proposes to identify project-specific costs related to Amortization of Regulatory Asset and Unamortized Regulatory Asset for inclusion in

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<sup>58</sup> *Boston Edison Co.*, 74 FERC ¶ 61,178 (1996) (citing *Maine Yankee Atomic Power Co.*, 66 FERC ¶ 61,375, *clarified*, 68 FERC ¶ 61,190 (1994)).

<sup>59</sup> *Id.* at 9.

Attachments 1, GG and MM, since the proposed regulatory asset costs are not associated with specific projects. In addition, under Transource Wisconsin'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 Transource Wisconsin 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, Transource Wisconsin 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 Transource Wisconsin 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.

**b. Formula Rate Corrections**

50. On Page 1, Line 7 of Transource Wisconsin's proposed formula rate template calculates the total Net Revenue Requirement as the sum of Line 6a plus Line 6c. It appears that the reference to line 6a is in error and should be replaced with Line 6b, Net Revenue Requirement (without the true-up adjustment). We direct Transource Wisconsin to correct Page 1, Line 7 to ensure correct calculation of the net revenue requirement.

51. On Page 3 of the formula rate template, Transource Wisconsin includes separate line item numbers 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 Transource Wisconsin 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.

52. On Page 3, Lines 5b ("Less PBOP [Post-employment Benefits Other than Pensions]" Expense in Year") and 5c ("Plus PBOP Expense Allowed Amount"), reference as the source, Attachment 7, Line 8 and Line 6, respectively. However, Transource Wisconsin 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, Transource Wisconsin calculates the Total O&M costs. However, Transource Wisconsin incorrectly includes Line 7 twice in calculating Total O&M. Also, it appears that Line 8 also fails to include Line 6- Common O&M Costs in the calculation of Total O&M. Further, on Page 3, Line 12-Total Depreciation, Transource Wisconsin also appears to incorrectly calculate total depreciation by including the Line 12 in the sum. We direct Transource Wisconsin to correct these errors.

53. On Page 4, Lines 5, 27, 28 and 29, Transource Wisconsin references, note MM which states, “If page 4 lines 12-15 equal 0, TP shall equal ‘1’” which relate to Long Term Debt, Preferred Stock, and Common Stock, respectively. This note appears applicable to the development of allocators and not the elements of the rate of return. We direct Transource Wisconsin to correct the references to these lines.

54. In Attachment 4, Column E, Transource Wisconsin 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. We direct Transource Wisconsin to make these corrections in a compliance filing to ensure sufficient specificity in the calculation of the costs included in Attachment 4.

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

56. Further, as agreed to by Transource Wisconsin, 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.

57. Finally, Transource Wisconsin proposed tariff sheets in eTariff under Transource Wisconsin. These tariff sheets will need to be replaced by actual tariff sheets. Transource Wisconsin acknowledges that there will need to be a future filing under section 205 before any tariff sheets are incorporated into the MISO Tariff.

**G. Request for Authorization to Replicate the Formula Rate and Incentive Rate Treatments**

**1. Proposal**

58. Transource Wisconsin states that, due to varying state legal and regulatory requirements, Transource Energy intends to form state-specific subsidiaries in each state in the MISO footprint (Transource MISO Entities) once transmission projects in those states are awarded to Transource Energy through MISO’s competitive solicitation process. Transource Wisconsin requests that the Transource MISO Entities be authorized to replicate its formula rate, subject only to a “ministerial” filing to incorporate the replicated formula rate into the MISO Tariff. Transource Wisconsin asserts that its proposal is consistent with Commission precedent. For instance, Transource Wisconsin states that the replication of a single formula rate for use by multiple transmission owners

has precedent in MISO, where transmission owners are eligible to adopt the *pro forma* templates found in Attachments O, CC, GG, and MM of the MISO Tariff. Further, Transource Wisconsin argues that in *DATC Midwest Holdings*,<sup>60</sup> the Commission allowed a utility holding company to file a formula rate on behalf of its to-be-identified project development subsidiaries, subject only to a compliance filing to include the formula rate in MISO's Attachment O upon inclusion of a subsidiary's project in the MISO regional transmission plan.<sup>61</sup>

59. Transource Wisconsin also seeks prior authorization for all Transource MISO Entities to use its requested incentive treatments subject to the same terms, conditions, and limitations as applicable to Transource Wisconsin.<sup>62</sup>

## 2. Protest

60. MMTG objects to Transource Wisconsin's request for the Commission to predetermine that the formula rate and incentives that Transource Wisconsin proposes are acceptable for other state-specific Transource Energy subsidiaries. MMTG argues that approving this request for applications that have not yet been made and for unknown projects is premature. MMTG observes that there are certain factors central to assessing the justness, reasonableness, and entitlements to incentives that cannot be known at this time, including: (1) the states in which the filings will be made; (2) the projects at issue; (3) the specifics of the filing; (4) the timing of the projects; and (5) other related matters. MMTG is also concerned that any grant of blanket approval would diminish the right of third parties such as MMTG and its members to intervene and substantively comment on specific proposals.<sup>63</sup> MMTG also notes that its members have an interest in ensuring opportunities for municipal participation in transmission development, including joint ownership potentials or appropriate limitations or conditions in future filings.

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<sup>60</sup> Transmittal at 22 (citing *DATC Midwest Holdings, LLC*, 139 FERC ¶ 61,224 at P 38, Ordering Paragraph (J) (2012); *DATC Midwest Holdings, LLC*, 144 FERC ¶ 61,015 (2013) (order approving settlement)).

<sup>61</sup> Transmittal at 6-7.

<sup>62</sup> Transmittal at 36.

<sup>63</sup> MMTG Protest at 3.

### 3. Answer

61. Transource Wisconsin responds that its formula rate and incentive request will not restrict participation by municipal entities in transmission development because the Transource MISO Entities will compete for Open Transmission Projects under the same MISO developer qualification and selection criteria as any other transmission developer. Transource Wisconsin adds that its proposed formula rate would, without modification, support joint ownership by permitting any Transource MISO Entity that enters into a joint ownership arrangement with a municipal entity (or any other joint venture) to recover only its own investment in a jointly owned Open Transmission Project.<sup>64</sup>

62. Transource Wisconsin disagrees that it would be premature to allow Transource MISO Entities to replicate the formula rate, arguing that the very nature of formula rates involves acceptance of a rate under section 205 without knowledge of what projects will be undertaken or costs will flow through the formula. In addition, Transource Wisconsin notes that the Commission has accepted formula rates and approved incentives for transmission projects that have yet to be included in regional transmission expansion plans and where the formula rate and incentives would be used by a legal entity that is not yet in existence.<sup>65</sup> Finally, Transource Wisconsin argues that its proposal does not diminish the right of third parties to comment on specific proposals. Transource Wisconsin contends that its request has been sufficiently defined and narrowly tailored to allow third parties to provide comment through the instant proceeding. Further, Transource Wisconsin notes that both the abandonment and regulatory asset incentive requests will require subsequent section 205 filings before any regulatory asset or abandoned plant costs may be recovered from MISO ratepayers, which will afford third parties additional opportunities to intervene and provide substantive comments.<sup>66</sup>

### 4. Commission Determination

63. We conditionally grant Transource Wisconsin's request for use of the proposed formula rate by its yet-to-be-formed subsidiaries. Granting this request is consistent with the existing process in MISO, whereby transmission owners may adopt the *pro forma* templates found in Attachments O, CC, GG, and MM of the MISO Tariff. As discussed

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<sup>64</sup> Transource Wisconsin Answer at 3-4.

<sup>65</sup> *Id.* at 5 (citing *RITELine Illinois, LLC*, 137 FERC ¶ 61,039 (2011); *DATC Midwest Holdings, LLC*, 129 FERC ¶ 61,224; *DATC Midwest Holdings, LLC* 144 FERC ¶ 61,015).

<sup>66</sup> *Id.* at 6.

above, if and when MISO awards a transmission project to Transource Wisconsin through the MISO Order No. 1000 competitive solicitation process, Transource Wisconsin and MISO will make a joint section 205 filing to incorporate the formula rate into the MISO Tariff. In that filing, Transource Wisconsin should label the formula rate templates and protocols as the *pro forma* formula rate templates and protocols for use by any Transource MISO Entities, which will obviate the need to make additional section 205 filings. We find no reason to open a new proceeding to re-litigate the justness and reasonableness of a formula rate that is identical to the one being accepted in the instant filing.<sup>67</sup> Further, a “ministerial” filing is not necessary, given that one is not required for MISO transmission owners choosing to adopt the *pro forma* Attachments O, CC, GG, and MM.

64. We will also allow the Transource MISO Entities to use the regulatory asset incentive rate treatment that we are approving for Transource Wisconsin. Since the rationale for granting the regulatory asset rate treatment to the Transource MISO Entities would be identical to the rationale adopted in this proceeding, and since third parties have been afforded the opportunity to comment on the incentive proposal through this proceeding, the issue need not be re-litigated through further section 205 or 219 filings.

The Commission orders:

(A) Transource Wisconsin’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 December 1, 2014, as discussed in the body of this order.

(B) Transource Wisconsin’s request for authorization to recover prudently-incurred costs of abandoned transmission facilities is hereby denied, as discussed in the body of this order.

(C) Transource Wisconsin’s request for authorization to include 100 percent of CWIP in rate base is hereby denied, as discussed in the body of this order.

(D) Transource Wisconsin’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.

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<sup>67</sup> However, Transource MISO Entities would need to make a section 205 filing before making any changes to the Formula Rate, including any changes to depreciation rates or ROE.

(E) Transource Wisconsin's proposed formula rate template and protocols are 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.

(F) Transource Wisconsin's request that other state-specific subsidiaries be authorized to replicate its formula rate template and utilize the same incentives awarded to Transource Wisconsin is hereby granted, as discussed in the body of this order.

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

By the Commission.

( S E A L )

Kimberly D. Bose,  
Secretary.