151 FERC ¶ 61,011
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

San Diego Gas & Electric Company Docket No. EL15-11-000

ORDER GRANTING IN PART, AND DENYING IN PART, PETITION FOR DECLARATORY ORDER

(Issued April 3, 2015)

1. On October 29, 2014, San Diego Gas & Electric Company (SDG&E) filed a petition for declaratory order[1] seeking authorization for certain transmission rate incentives pursuant to section 219 of the Federal Power Act[2] (FPA) and Order No. 679[3] for its Sycamore-Peñasquitos transmission line project (Project). As discussed below, this order denies SDG&E's request for a 100 basis points adder to its return on equity (ROE),[4] and grants the requested authorization to recover one hundred percent of all prudently-incurred development and construction costs if the Project is abandoned or cancelled, in whole or in part, for reasons beyond SDG&E's control (Abandonment Incentive).

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[1] SDG&E October 29, 2014 Filing (SDG&E Filing).

[2] 16 U.S.C. § 824s (2012).

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

[4] The requested adder will be referred to as the ROE Incentive.

I. Background

2. SDG&E is a California public utility corporation engaged in the transmission, distribution, and sale of energy services, and is a participating transmission owner in the California Independent System Operator Corporation (CAISO) balancing authority area.

3. The Project consists of approximately 16.7 linear miles of new 230 kilovolt (kV) transmission line connecting the existing Sycamore Canyon and Peñasquitos substations. SDG&E stated that the Project "include[s] replacement of existing wood structures with steel, …, installation of new 230 kV steel poles, utilization of existing structures within SDG&E's existing right-of-way, and installation of new underground lines in SDG&E's franchise position along a major thoroughfare."[5]

4. SDG&E explains that the Project was identified in CAISO's 2012-2013 Transmission Plan as "critically needed for reliability purposes."[6] SDG&E states that CAISO identified May 2017 as the latest needed in-service date, and it conducted a competitive solicitation process to find a project sponsor.[7] CAISO informed SDG&E that it had been selected as the Project's sponsor in March 2014. SDG&E estimates the cost of the Project to be $129 million.[8]

5. SDG&E proposes to partner with an affiliate of Citizens Energy Corporation (Citizens), and has an arrangement whereby SDG&E will finance the construction and will own 100 percent of the Project, but will lease 50 percent of the transfer capability of the underground portion to Citizens once the Project enters commercial operation. SDG&E and Citizens have entered into a non-binding memorandum of understanding in connection with the development of the Project, but have not yet negotiated and executed project-specific agreements. However, SDG&E anticipates that the terms of the lease

[5] SDG&E Filing at 4. SDG&E adds that the transmission line will be located entirely within the cities of San Diego and Poway, California and on the grounds of Marine Corps Air Station Miramar.

[6] *See* CAISO 2012-2013 Transmission Plan, SDG&E Filing, Exhibit Nos. SDG-2 at 12 and SDG-4 at 5. SDG&E states that CAISO believed the Project was "critically needed for reliability purposes" due to the "retirement of the generation at SONGS [the San Onofre Nuclear Generating Station] and anticipated retirement of once-through cooling units in California." SDG&E Filing at 3.

[7] SDG&E Filing at 3-4.

[8] *Id.* at 39.

would be materially the same as the terms used in the arrangement between SDG&E and Citizens for the Sunrise-Powerlink transmission line.[9]

6. In its filing, SDG&E requests two incentives for its Project: (1) authorization to recover 100 percent of all prudently-incurred development and construction costs if the Project is abandoned or cancelled, in whole or in part, for reasons beyond SDG&E's control; and (2) a 100 basis points adder to SDG&E's ROE to address risks and challenges associated with the Project. According to SDG&E, the requested ROE Incentive will result in incremental annual revenues of approximately $820,000. SDG&E states that its petition satisfies the mandates of section 219 of the FPA and Order No. 679, and follows the guidance of the Commission's November 15, 2012 policy statement on transmission rate incentives.[10]

II. Notice of Filing and Responsive Pleadings

7. Notice of SDG&E's Filing was published in the *Federal Register*, 79 Fed. Reg. 66,721 (2014), with interventions or protests due on or before November 28, 2014. Timely motions to intervene were filed by the Modesto Irrigation District, Trans Bay Cable, L.L.C., and Southern California Edison Company. Sacramento Municipal Utility District; California Department of Water Resources State Water Project; Transmission Agency of Northern California; the City of Santa Clara and the M-S-R Public Power Agency; and the Six Cities[11] each filed motions to intervene and protests. Pacific Gas and Electric Company (PG&E) filed a motion to intervene out-of-time, and the California Public Utilities Commission (CPUC) filed a motion to intervene out-of-time and protest. SDG&E filed an answer to protests,[12] to which CPUC and Six Cities each filed a motion for leave to answer and answer.

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[9] SDG&E leased to an affiliate of Citizens, for a term of 30 years, 50 percent of the transfer capability of a thirty mile long portion of the Sunrise-Powerlink transmission line that is located in Imperial County, California (Border-East Line). The Citizens lessee prepaid rent to SDG&E and is responsible for an allocated portion of SDG&E's ongoing costs associated with operating and maintaining the Border-East line. Citizens made filings with the Commission to establish mechanisms for recovering its costs.

[10] *Promoting Transmission Investment through Pricing Reform*, 141 FERC ¶ 61,129 (2012) (Policy Statement).

[11] The "Six Cities" consist of Anaheim, Azusa, Banning, Colton, Pasadena, and Riverside, California.

[12] SDG&E subsequently filed an errata to correct a factual mistake in its answer.

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, 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), the Commission will grant PG&E's and CPUC's late-filed motions to intervene given their interests in the proceeding, the early stage of the proceeding, and the absence of undue prejudice or delay.

9. 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 and/or answer unless otherwise ordered by the decisional authority. We will accept SDG&E's, Six Cities' and CPUC's answers because they have provided information that assisted us in our decision-making process.

B. Substantive Matters

1. Requirements for Incentives

a. Order No. 679

10. Pursuant to Order No. 679, an applicant may seek to obtain incentive rate treatment for a transmission infrastructure investment that satisfies the requirements of FPA section 219, i.e., the applicant must show that "the facilities for which it seeks incentives either ensure reliability or reduce the cost of delivered power by reducing transmission congestion."[13] Order No. 679 established the process for an applicant to demonstrate that it meets this standard, including a rebuttable presumption that the standard is met if:

> (1) the transmission project results from a fair and open regional planning process that considers and evaluates the project for reliability and/or congestion and is found to be acceptable to the Commission; or (2) a project has received construction approval from an appropriate state commission or state siting authority.[14]

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

[14] *Id.*

Order No. 679-A clarified the operation of this rebuttable presumption by noting that the authorities and/or processes on which it is based (i.e., a regional planning process, a state commission, or siting authority) must, in fact, consider whether the project ensures reliability or reduces the cost of delivered power by reducing congestion.[15]

11. An applicant for a transmission rate incentive must also demonstrate a nexus between the incentives being 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.[16] Applicants must provide sufficient support to allow the Commission to evaluate each element of the package and the interrelationship of all elements of the package. The Commission noted that this nexus test is fact-specific and requires the Commission to review each application on a case-by-case basis.

b. Policy Statement

12. In the Policy Statement, the Commission announced its expectation that an applicant seeking an ROE incentive would demonstrate: (1) that the proposed project faces risks and challenges that are not either already accounted for in the applicant's base ROE or addressed through risk-reducing incentives; (2) that it is taking appropriate steps and using appropriate mechanisms to minimize its risk during project development; (3) that alternatives to the project have been, or will be, considered in either a relevant transmission planning process or another appropriate forum; and (4) applicants are expected to commit to limiting the application of the ROE incentive to a cost estimate.[17]

13. The Policy Statement lists a few examples of the types of projects that could satisfy the first criterion, i.e., that the proposed project faces risks and challenges that are not either already accounted for in the applicant's base ROE or addressed through risk-reducing incentives. They are projects that:

> (1) relieve chronic or severe grid congestion that has had demonstrated cost impacts to consumers; (2) unlock location constrained generation resources that previously had limited or no access to the wholesale electricity markets; or (3) apply new

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

[16] Order No. 679-A, FERC Stats. & Regs. ¶ 31,236 at P 27.

[17] Policy Statement, 141 FERC ¶ 61,129 at PP 20-28 (ROE incentive analysis).

technologies to facilitate more efficient and reliable usage and operation of existing or new facilities.[18]

2. SDG&E's Proposal

14. In reference to the first requirement of Order No. 679, SDG&E asserts that "the Commission has found that CAISO's transmission planning process is a fair and open regional planning process that is an appropriate basis for the section 219 threshold requirements being presumptively satisfied."[19] SDG&E states that because the Project is needed to ensure reliability,[20] and because it resulted from CAISO's regional transmission planning process, it satisfies the threshold requirement of section 219.[21]

15. As to the second requirement of Order No. 679, i.e., the nexus requirement, SDG&E reiterates that it has only requested two incentives, and states that those incentives are narrowly tailored to address, among other things, the risks and challenges it faces, and has faced already, in developing this Project. For example, SDG&E points to the fact that the structure of the competitive solicitation process requires much of the work and costs upfront, with no guarantee of being awarded the project. SDG&E also emphasizes the risks inherent in the regulatory process and the Project's tight timeline (due to the May 2017 in-service date). Finally, SDG&E highlights the fact that, by its agreement with Citizens, it is proposing to use an innovative commercial arrangement that provides an opportunity for a third party, independent transmission company to participate in the development and financing on terms that are essentially without risk. SDG&E states that it is bearing the incremental risk in a manner that serves the Commission's policy supporting new entry, and it stands to earn less than it would

[18] Policy Statement, 141 FERC ¶ 61,129 at P 21.

[19] SDG&E Filing at 11 (citing *Citizens Energy Corp.*, 129 FERC ¶ 61,242 at P 16 (2009)).

[20] *See supra* note 6.

[21] CAISO's transmission plan "provides a comprehensive evaluation of [its] transmission grid to identify upgrades needed to successfully meet California's policy goals, in addition to examining conventional grid reliability requirements and projects that can bring economic benefits to consumers." CAISO 2012-2013 Transmission Plan, SDG&E Filing, Exhibit No. SDG-2 at 2.

otherwise.[22] SDG&E states that the requested Abandonment Incentive[23] and ROE Incentive are narrowly tailored to address these risks and challenges, and therefore satisfy the nexus test.[24]

16. SDG&E asserts that the Project satisfies all the criteria of the Policy Statement. In support of the Project's meeting the first criterion (that the proposed project faces risks and challenges that are not either already accounted for in the applicant's base ROE or addressed through risk-reducing incentives), SDG&E states that the Project is one of the first to come through Phase 3 of CAISO's transmission planning process, which required a large amount of work and money upfront. SDG&E explains that it pursued the Project in CAISO's recently implemented Phase 3 competitive process, and that Phase 3 presents the challenge of engaging in some development activities in advance of being selected. Thus, SDG&E claims that the CAISO Phase 3 process exposed SDG&E to cost recovery risk earlier and made developing the Project harder than if it had not been subject to Phase 3.[25] SDG&E explains that this is not reflected in its base ROE because the CAISO Phase 3 process is relatively new and the base ROE from SDG&E's last transmission formula rate case did not reflect this competitive process. SDG&E claims that the latter is further supported by the provisions of its current settlement[26] on base ROE that preserves SDG&E's right to request an incentive ROE for risks and challenges.[27] SDG&E also asserts that peer companies, from which estimates of the cost of equity are derived, do not reflect in their base ROEs, the additional risks and challenges of

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[22] SDG&E Filing at 30.

[23] SDG&E states that it "expects to demonstrate the prudence of all of the Project's costs through a future FPA section 205 [16 U.S.C. § 824d (2012)] filing" if the Project is abandoned. SDG&E Filing at 8.

[24] Additionally, SDG&E states that its base ROE and the requested ROE Incentive of 100 basis points total 11.05 percent, and is therefore within the "zone of reasonableness" discussed in Order No. 679. As a result, SDG&E asserts that the resulting rates will be just and reasonable.

[25] SDG&E Filing at 28.

[26] SDG&E's Fourth Transmission Owner Formula Offer of Settlement and Settlement Agreement, submitted on February 4, 2014 in Docket No. ER 13-941, and approved by Letter Order issued on May 27, 2014. *San Diego Gas and Elec. Co.*, 147 FERC ¶ 61,150 (2014) (Settlement).

[27] *Id.* at 29; Testimony of Mr. Avery, SDG&E Filing, Exhibit No. SDG-1, at 28-29.

participating in a more competitive transmission planning process pursuant to Order No. 1000.[28] Additionally, SDG&E explains that its "innovative" commercial development arrangement with Citizens, discussed above, exposes SDG&E to some development risk and reduces its total returns below what they would have otherwise earned, and that these additional risks and challenges are not reflected in SDG&E's base ROE.[29] Finally, SDG&E explains that the requested Abandonment Incentive mitigates risk and challenges, since corporate earnings will not decrease if the project is abandoned, but it does not reward shareholders for the increased risk nor the difficulty of the undertaking.[30]

17. As discussed above, the Policy Statement lists three examples of the types of projects that may satisfy the first criterion of the ROE incentive analysis. SDG&E argues that the Project meets the standards illustrated by the examples in the Policy Statement because the Project "provide[s] demonstrable consumer benefits by making the transmission grid more efficient, reliable and cost-effective."[31] Regarding the first example, that the Project reduces chronic or severe congestion, SDG&E explains that its service area is transmission-constrained and has been for many years, and the transmission constraints require a greater reliance on more expensive local generation for resource adequacy. SDG&E asserts that although CAISO has not identified how much this specific Project will lower local resource adequacy requirements and thus reduce congestion, the Project is included in the total package of CAISO's approved transmission projects and new generation resources that are needed to meet local capacity requirements for resource adequacy.[32]

18. SDG&E claims the Project compares to the second example, a project that unlocks location constrained resources, as well. SDG&E asserts that CAISO's analysis demonstrates the Project will address a number of potential overloads that are identified in CAISO's system deliverability studies, and will enable the deliverability of renewable generation needed to meet the state's 33 percent renewable portfolio goal.[33]

[28] SDG&E Filing at 29-30.

[29] SDG&E Filing at 30; Testimony of Mr. Avery, SDG&E Filing, Exhibit No. SDG-1, at 29.

[30] Testimony of Mr. Avery, SDG&E Filing, Exhibit No. SDG-1, at 34.

[31] Policy Statement, 141 FERC ¶ 61,129 at P 22.

[32] Testimony of Mr. Avery, SDG&E Filing, Exhibit No. SDG-1, at 36-39.

[33] *Id.* at 39-41.

19. In support of the argument that its Project compares to the third example, a project that applies new technologies to facilitate more efficient and reliable usage and operation of existing or new facilities, SDG&E states that it will:

> use LIDAR [Light Detection and Ranging] technology for airborne surveys of the Project (which can improve the analysis undertaken for vegetation management and line rating); employ optical ground wire which will increase data capacity and allow the company to monitor power on the line and move power to avoid outages and brownouts; and employ other technologies to provide for more efficient project development and construction.[34]

As a result, SDG&E believes that its Project is consistent with all three of the examples offered in the Policy Statement of transmission projects that face "risks and challenges that are not already accounted for in the applicant's base ROE or addressed through risk-reducing incentives,"[35] and thus that it satisfies the first criterion of the Policy Statement's ROE incentive analysis.

20. Regarding the second criterion (that an applicant take steps to mitigate or minimize risk before requesting an ROE incentive), SDG&E points to its project management and design choices to show that it has mitigated or minimized risk. For example, SDG&E explains that it is proposing a route for the Project that requires no new right of way and uses existing overhead electric facilities, which it states has the effect of reducing litigation risk, environmental concerns, and abandonment risks.

21. As to the third criterion of the ROE incentive analysis (consideration of alternatives), SDG&E states that as part of CAISO's transmission planning process, the Project was weighed against alternatives, and thus, SDG&E asserts, this demonstration has been made.[36]

22. Finally, SDG&E has agreed to limit the ROE Incentive to the cost estimate for its proposal, which it asserts satisfies the fourth criterion of the analysis (commitment to cost estimates). SDG&E states that:

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[34] *Id.* at 13-15, and 41.

[35] Policy Statement, 141 FERC ¶ 61,129 at P 20.

[36] SDG&E also points out that the "CPUC has a statutory obligation to consider alternatives in connection with the permitting of the Project." SDG&E Filing at 38.

> the requested [ROE Incentive] will not have unlimited applicability to whatever [the] Project's costs wind up being, but rather will only apply to the lesser of (1) the actual cost of the Project, or (2) the cost estimate that SDG&E submitted to CAISO in its application to be project sponsor (approximately $129 million)….[37]

3. Responsive Pleadings

a. Protests

23. Protests were filed by CPUC, Sacramento Municipal Utility District (SMUD), California Department of Water Resources State Water Project (CDWR), Transmission Agency of Northern California (TANC), the City of Santa Clara and the M-S-R Public Power Agency (Santa Clara and M-S-R), and the Six Cities (collectively, Protesters). All of the protests argue that the Project does not merit an ROE Incentive.[38] The Protesters state that being a part of CAISO's competitive solicitation process is not a risk or challenge that merits an ROE Incentive. They state that other projects go through this process, and it is inappropriate for the Commission to provide an incentive for something that is in the usual course of business. They argue that the same can be said for the "supposed" risk of getting regulatory approval. According to the Protesters, there is nothing unique or special about the fact that the Project requires regulatory approval and faces possible future litigation, and thus there is no need for the ROE Incentive. The Protesters also state that some of the risks and challenges to which SDG&E refers, such as approval from CPUC, have already passed, and, as a result, do not require mitigation in the form of an ROE Incentive. They also argue that SDG&E's partnership with Citizens does not merit an ROE Incentive because, if anything, it enhances SDG&E's position instead of posing a risk or challenge.[39]

24. The Protesters further argue that the Abandonment Incentive that SDG&E requested in this proceeding adequately mitigates the risks and challenges of the Project and thus makes the ROE Incentive unnecessary. They state that the real risks and challenges of the Project are those that are addressed through the Abandonment Incentive. All other supposed risks and challenges, the Protesters argue, either no longer

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[37] *Id.* at 39.

[38] No party protested the requested Abandonment Incentive.

[39] Six Cities November 25, 2014 Protest at 2-13; Santa Clara and M-S-R November 25, 2014 Protest at 8-10; CDWR November 26, 2014 Protest at 5-8; SMUD November 26, 2014 Protest at 3-5; TANC November 26, 2014 Protest at 8-11; CPUC December 1, 2014 Protest at 2-3.

exist or are too speculative and amorphous in nature to merit the ROE Incentive. The Protesters reiterate that transmission incentives are not a reward for doing what one should already be doing, such as practicing good project management or taking risk mitigation measures.[40]

25. In response to SDG&E's claim that its proffered ROE Incentive would be within the zone of reasonableness, Six Cities explains that they undertook their own discounted cash flow (DCF) analysis. Six Cities determined that an addition of 100 basis points would place SDG&E's proposed ROE well above the upper end of the zone of reasonableness.[41]

26. Finally, CPUC contends that it was inappropriate for SDG&E to exclude from its bid for the Project that it submitted in CAISO's competitive solicitation process the fact that it would seek Commission approval of transmission rate incentives if it had the winning proposal. CPUC argues that failure to include data regarding the total cost impact to ratepayers affects the validity of the competitive solicitation process.[42]

b. Answers

27. SDG&E submitted an answer to protests on December 24, 2014. In its answer, SDG&E responds to CPUC's claim that SDG&E had failed to disclose in the Project bid its intent to seek transmission rate incentives, and was thus trying to seek an unfair advantage in the competitive solicitation process. SDG&E states that not only were the potential incentives included in SDG&E's calculations submitted to CAISO in its bid, but that CPUC received a copy of all paperwork well ahead of time. In response to the Protesters' claims that the Project is not unique or risky enough to merit the ROE Incentive, SDG&E asserts that the Protesters are ignoring the accelerated timeline of the Project which results from the May 2017 in-service date. Additionally, in response to the Protesters' argument that SDG&E's partnership with Citizens does not qualify as a risk or challenge, SDG&E states that the ROE Incentive would reward its shareholders for shouldering the development risk of the Project while at the same time encouraging a non-traditional utility's participation. Finally, SDG&E states that Six Cities' ROE

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[40] *See* Order No. 679, FERC Stats and Regs. ¶ 31,222 at P 26.

[41] *See* Six Cities Protest at 18-28. They state that the calculations of SDG&E witness, Dr. Morin, were incorrect, and that the zone of reasonableness is actually 7.86 percent-8.73 percent, which places SDG&E's potential ROE with the requested 100 basis points adder at 11.05 percent, which is above the upper end of the zone.

[42] CPUC Protest at 4.

analysis is flawed because, in SDG&E's opinion,[43] it does not correctly follow the appropriate methodology, and it should, therefore, be disregarded.

28. Six Cities filed an answer to SDG&E's answer on January 8, 2015. In its answer, Six Cities state that any of SDG&E's perceived risks and challenges associated with the Project will be mitigated by the Abandonment Incentive. Six Cities also argue that the risks and challenges are already accounted for in SDG&E's base ROE and repeat their claim that the requested ROE Incentive will be outside the zone of reasonableness.[44]

29. CPUC filed an answer to SDG&E's answer on January 12, 2015. In response to SDG&E's claim that it had provided information on potential rates incentives in materials provided to CPUC and others, CPUC argues that SDG&E buried the incentive information amidst the "financial assumptions" in its voluminous filing, and, in fact, never even used the word "incentive." CPUC further argues that, even if it had been made aware that SDG&E would seek rate incentives for the Project, that fact is irrelevant. CPUC states that CAISO was the entity that needed to know about the incentives, so that it could properly compare and contrast the different proposals it received. CPUC additionally claims that SDG&E's statement, that it faced a risk because it had begun work on the Project before receiving regulatory approval, is false and contrary to a statement SDG&E made to CPUC.[45] CPUC suggests the Commission set the issues for hearing.

4. Commission Determination

30. The Commission has previously determined that projects found by a regional transmission planning process to ensure reliability are entitled to the rebuttable presumption established in Order No. 679, that "the facilities for which [the applicant] seeks incentives either ensure reliability or reduce the cost of delivered power by reducing transmission congestion."[46] Here, the Project was selected in an open and non-

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[43] SDG&E attached to its answer a statement from Dr. Morin in which he purports to point out the flaws in Six Cities' DCF analysis.

[44] Six Cities states that they find "significant errors" in Dr. Morin's attached statement and proceed to point out what they see as flaws in his analysis.

[45] CPUC claims that, in a deficiency response to CPUC in December 2014, SDG&E stated that it had in fact not begun much of the work on the Project until after being notified that it had the winning bid.

[46] *See, e.g., Midwest Indep. Transmission Sys. Operator, Inc.*, 141 FERC ¶ 61,121, at P 16 (2012) (finding that two Ameren projects qualified for the rebuttable presumption based on the MISO Board's approval of each project as reliability projects under

(continued…)

discriminatory regional transmission planning process, and identified in CAISO's 2012-2013 Transmission Plan as necessary to address reliability concerns.[47] Therefore, we find that, because the Project is necessary to ensure grid reliability and was selected in a Commission-approved regional transmission planning process, the Project meets the rebuttable presumption and satisfies the above-noted requirements of FPA section 219.

31. Having determined that SDG&E has satisfied this threshold requirement of FPA section 219, we must next consider whether the package of incentives requested satisfies the nexus test. In applying the nexus test, the Commission finds that SDG&E has demonstrated that the requested Abandonment Incentive is warranted.[48] The Abandonment Incentive appropriately addresses the risks and challenges specific to the Project, such as regulatory and litigation risk, and the challenge of meeting CAISO's timeline. These risks and challenges are outside of SDG&E's control and could potentially lead to the abandonment of the Project. Therefore, we grant SDG&E's request for an Abandonment Incentive, subject to SDG&E's filing under section 205 of the FPA[49] for recovery of abandonment costs.[50] SDG&E must propose in a future section 205 filing a just and reasonable rate to recover such abandoned plant costs.

32. However, the Commission finds that the requested ROE Incentive is not warranted, and, therefore, denies it. In the Policy Statement, the Commission explained that an applicant seeking an ROE incentive would need to demonstrate that the proposed project faces risks and challenges that are not either already accounted for in the applicant's base ROE or addressed through risk-reducing incentives.[51] We find that SDG&E has failed to demonstrate that the risks and challenges faced by the Project are

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Criterion 1 as part of Appendix A of the 2011 MISO Transmission Expansion Planning Report); *Ameren Servs. Co.*, 135 FERC ¶ 61,142, at P 31 (2011) (making the same finding regarding two other Ameren projects).

[47] *See supra* n.6.

[48] Order No. 679, FERC Stats. & Regs. ¶ 31,222 at P 26, *order on reh'g*, Order No. 679-A, FERC Stats. & Regs. ¶ 31,236 at P 27. Policy Statement, 141 FERC ¶ 61,129 at P 10 (2012).

[49] 16 U.S.C. § 824d (2012).

[50] Order No. 679 specifically requires that any utility granted this incentive that then seeks to recover abandoned plant costs must submit such a section 205 filing. Order No. 679, FERC Stats. & Regs. ¶ 31,222 at PP 163-166.

[51] *See supra* n.17.

not either already accounted for in its base ROE or addressed through risk-reducing incentives, including the requested Abandonment Incentive that we are granting in this order. The specific challenges faced by the Project are directly related to siting and permitting, and the Abandonment Incentive will keep SDG&E's shareholders whole should any relevant authorities deny the siting and permitting required by the Project. In addition, the siting and permitting challenges faced by this project are also mitigated by other project development measures, such as the facts that construction will occur in an existing right-of-way, and the project will make use of existing facilities.

33. SDG&E claims that CAISO's Phase 3 competitive solicitation process exposed SDG&E to project selection risk, as well as earlier cost recovery risk, and made developing the Project harder than had it not been subject to the Phase 3 process. SDG&E argues that these risks and challenges are not reflected in its base ROE because SDG&E's previously effective base ROE pre-dates the implementation of the Phase 3 process, and the existing base ROE, established through settlement in 2014, preserves SDG&E's right to request an incentive ROE for risks and challenges for future projects. The Commission finds that the mere existence of the provision in the settlement[52] preserving a right to file for incentives in the future does not amount to a project-specific showing for an incentive ROE for risks and challenges. The settlement provision allows SDG&E the option to make a case that warrants an incentive ROE, but the Commission finds that SDG&E's case is unpersuasive.

34. SDG&E also points to the joint development arrangement with Citizens, stating that SDG&E is taking on all of the development risk, and the participation by Citizens will reduce returns to SDG&E's shareholders. SDG&E argues that the ROE Incentive is necessary to compensate SDG&E's shareholders, in part, for the foregone returns. The Commission is not persuaded by SDG&E's argument because SDG&E has not convincingly shown how the joint development of the Project with Citizens is a risk or challenge that justifies the ROE Incentive. While SDG&E argues that returns to its shareholders could be lower than without Citizens' involvement, this assertion alone does not demonstrate that the project faces risks and challenges that are not either already accounted for in the applicant's base ROE or addressed through risk-reducing incentives such as the Abandonment Incentive that we grant here.

35. Finally, because we are rejecting SDG&E's request for the ROE Incentive, we will not address either Six Cities' argument as to whether the ROE Incentive would place SDG&E's overall ROE outside of the zone of reasonableness, or CPUC's argument that

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[52] *See* Settlement at Section 1.4 ("SDG&E shall have the right to file a petition . . . for authorization to recover project-specific incentives.").

SDG&E's failure to explain during CAISO's competitive solicitation process that it would later seek incentives was inappropriate.[53]

The Commission orders:

(A) SDG&E's petition requesting an Abandonment Incentive is hereby granted, as discussed in the body of this order.

(B) SDG&E's petition requesting an ROE Incentive is hereby denied, as discussed in the body of this order.

By the Commission. Commissioner Moeller is concurring with a separate statement attached.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

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[53] We note that CPUC could address its grievances with regard to the information that applicants must submit in the competitive solicitation process directly with CAISO and its stakeholders.

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

San Diego Gas & Electric Company — Docket No. EL15-11-000

(Issued April 3, 2015)

MOELLER, Commissioner, *concurring*:

I am concurring today to further explain my thinking about ROE adders. Although all new construction of transmission lines can be risky to an extent, SDG&E did not sufficiently explain why those risks were not already accounted for in their base ROE. This is in contrast to other requests for ROE adders where I believed the unique risks warranted an adder.[1]

Accordingly, I respectfully concur.

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Philip D. Moeller
Commissioner

[1] *See PPL Electric Utilities Corporation*, 141 FERC ¶ 61,021 (2012).