

151 FERC ¶ 61,010  
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.

Transource Kansas, LLC

Docket No. ER15-958-000

ORDER ON TRANSMISSION FORMULA RATE PROPOSAL AND INCENTIVES,  
ACCEPTING AND SUSPENDING FILING, AND ESTABLISHING HEARING AND  
SETTLEMENT JUDGE PROCEDURES

(Issued April 3, 2015)

1. In this order, we conditionally accept Transource Kansas, LLC's (Transource Kansas) proposed formula rate template and implementation protocols to recover costs associated with transmission projects that it intends to own and develop as part of Southwest Power Pool, Inc.'s (SPP) 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 SPP's Open Access Transmission Tariff (Tariff), consistent with the effective date established in that future proceeding, subject to a further compliance filing to be made within 30 days of the date of this order. We accept Transource Kansas' proposed base return on equity (ROE) for filing, suspend it for a nominal period, to be effective April 3, 2015, subject to refund, and set it for hearing and settlement judge procedures. We also grant Transource Kansas' request for authorization to defer as a regulatory asset its prudently-incurred costs, including pre-commercial and formation costs, effective April 3, 2015, and its request to use a hypothetical capital structure. We deny Transource Kansas' request for authorization to recover prudently-incurred costs related to transmission facilities abandoned for reasons beyond its control and its request for authorization to include 100 percent of construction work in progress (CWIP) in rate base during development and construction. We also deny Transource Kansas' request to include 50 percent of CWIP in rate base for all transmission projects that it is awarded through SPP's Order No. 1000 competitive solicitation process. Finally, we conditionally

---

<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).

accept Transource Kansas' request that other yet-to-be-formed affiliates be authorized to utilize the same formula rate template and implementation protocols and the same requested incentives.

## **I. Background**

2. In Order No. 1000, the Commission 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 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 competitive bidding process as one method to comply with the requirements of Order No. 1000.<sup>2</sup> In response to the requirements of Order No. 1000, SPP established a process under which qualified transmission developers can bid to develop transmission projects that have been designated in SPP's regional transmission plan for competitive bidding (Competitive Upgrades).<sup>3</sup>

3. Transource Kansas states that it is a wholly-owned subsidiary of Transource Energy, LLC (Transource Energy) which is a joint venture between American Electric Power Company, Inc. (AEP) and Great Plains Energy Incorporated (Great Plains Energy). Transource Kansas states that it was formed to construct, finance, own, operate, and maintain new Competitive Upgrades located in Kansas that are posted for competitive bidding through the SPP competitive solicitation process. Transource Kansas expects to become a transmission-owning member of SPP when Transource Energy is awarded a Competitive Upgrade on Transource Kansas' behalf.

---

<sup>2</sup> *Id.* P 336.

<sup>3</sup> Generally, Competitive Upgrades are integrated transmission plan or high priority upgrades operated at or above 100kV that are not rebuilds of existing transmission facilities. *See generally* SPP, Open Access Transmission Tariff Sixth Revised Volume No. 1, Att. Y §§ I.1, II (1.0.0).

## II. Transource Kansas Filing

4. On February 2, 2015, Transource Kansas submitted for filing under section 205 of the Federal Power Act (FPA)<sup>4</sup> a proposed transmission formula rate to recover costs associated with transmission projects that it intends to own and develop as part of the SPP Order No. 1000 competitive solicitation process. Transource Kansas explains that the formula rate consists of two parts: (1) a forward-looking cost of service template that underlies the annual transmission revenue requirement determination; and (2) formula rate implementation protocols (protocols) that will provide Transource Kansas' customers with information to facilitate the annual review of the inputs to the cost of service template (together, Formula Rate). Transource Kansas states that it is submitting the Formula Rate for ultimate inclusion in Attachment H of SPP's Tariff, and that costs will not flow through the Formula Rate until it has been incorporated into the SPP Tariff through a later FPA section 205 filing. Transource Kansas proposes to use the same depreciation rates accepted by the Commission for use by Transource Missouri for its investments in SPP.<sup>5</sup> Transource Kansas also requests a base ROE of 10.6 percent and a 50 basis point adder to its ROE for regional transmission organization (RTO) participation.

5. In addition, Transource Kansas seeks approval of the following non-ROE incentive rate treatments: (1) 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 Competitive Upgrade that it is awarded that are incurred prior to the date charges are assessed to SPP customers, and authorization to amortize the regulatory asset over a five year period thereafter; (2) use of a hypothetical capital structure of 40 percent debt and 60 percent equity until its first Competitive Upgrade is placed into service; (3) recovery of prudently incurred costs in the event any transmission projects that are chosen by SPP to develop is abandoned for reasons outside Transource Kansas' control; and (4) inclusion of 100 percent of CWIP in rate base during the development and construction phase for projects that will be operated at or above 300kV (Highway Projects). Transource Kansas requests the incentive rate treatments pursuant to Order No. 679<sup>6</sup> or, in the alternative, pursuant to section 205 of the FPA. Transource Kansas further seeks inclusion of 50 percent of CWIP in rate base for all Competitive Upgrades pursuant to 18 C.F.R. § 35.25, which, with respect to Highway

---

<sup>4</sup> 16 U.S.C. § 824d (2012).

<sup>5</sup> Transmittal at 17 (citing *Transource Missouri, LLC*, 143 FERC ¶ 61,104 (2013)).

<sup>6</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).

Projects, is being requested as an alternative to the requested CWIP incentive. In addition, Transource Kansas requests prior authorization for other, yet to be formed, state-specific Transource Kansas affiliates that develop SPP transmission facilities to replicate and adopt the proposed Formula Rate, including the requested incentives.

6. Transource Kansas states that it is requesting approval of its proposed Formula Rate and incentives before SPP's competitive solicitation bidding window has commenced and before transmission projects are known to secure a measure of rate certainty. According to Transource Kansas, absent the certainty of an accepted Formula Rate and pre-authorized incentive rate treatments, it will be unable to develop the economic components of a bid for a Competitive Upgrade with the degree of precision and confidence required to effectively compete in SPP's competitive solicitation process.

7. Transource Kansas filed its proposed Formula Rate in Transource Kansas' eTariff database. Transource Kansas requests an effective date of April 3, 2015, although it recognizes that no costs will flow through the Formula Rate until the requisite section 205 filing to include the Formula Rate in the SPP Tariff is approved.<sup>7</sup>

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

8. Notice of Transource Kansas' filing was published in the *Federal Register*, 80 Fed. Reg. 7443, with interventions and protests due on or before February 23, 2015. Timely motions to intervene were filed by BHE U.S. Transmission LLC and South Central MCN, LLC. The Kansas Corporation Commission (Kansas Commission) filed a notice of intervention and protest. On March 10, 2015, Transource Kansas filed a motion for leave to answer and answer.

### **IV. Discussion**

#### **A. Procedural Matters**

9. 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. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. §385.213(a)(2) (2014), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We accept Transource Kansas' answer because it provides information that assisted us in our decision-making process.

---

<sup>7</sup> Transmittal at 14.

**B. Requests for Incentives**

10. In the Energy Policy Act of 2005,<sup>8</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, which sets forth processes by which a public utility may seek transmission rate incentives pursuant to section 219,<sup>9</sup> including the incentives requested here by Transource Kansas.

11. 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>10</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>11</sup>

12. 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 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>12</sup>

13. Transource Kansas submitted its requests for the regulatory asset, hypothetical capital structure, abandoned plant, and CWIP incentives under Order No. 679. However, Transource Kansas 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>13</sup>

14. As discussed in more detail below, Transource Kansas cannot meet the requirements for incentive rates under Order No. 679 and the Commission’s regulations

---

<sup>8</sup> Pub. L. No. 109-58, § 1241, 119 Stat. 594.

<sup>9</sup> 16 U.S.C. § 824s (2012).

<sup>10</sup> Order No. 679, FERC Stats. & Regs. ¶ 31,222 at P 76.

<sup>11</sup> *Id.* P 8 (citing 16 U.S.C. §§ 824(d)-(e)).

<sup>12</sup> Order No. 679-A, FERC Stats. & Regs. ¶ 31,236 at P 40.

<sup>13</sup> Transmittal at 8.

because it has not identified any specific projects for which it is seeking incentives. Order No. 679 requires a project-specific demonstration of the nexus between the requested incentives and the risks and challenges of the project. To obtain section 219 incentive rate treatment, 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>14</sup> Without identifying a specific project, these requirements cannot be met.

15. The Commission 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>15</sup> The Commission has exercised its section 205 authority to grant certain incentives to nonincumbent transmission developers competing in the Order No. 1000 competitive solicitation process, just as Transource Kansas seeks to do here.<sup>16</sup> Consistent with the Commission's determinations in *XEST*, *XETD*, and *Transource Wisconsin*, we find that granting the regulatory asset incentive and hypothetical capital structure in this instance 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. However, as the Commission held in *Transource Wisconsin*, 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 respect to obtaining these incentives in the Order No. 1000 competitive solicitation processes.

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

**a. Proposal**

16. Transource Kansas requests authorization to establish a regulatory asset in which to book pre-commercial costs incurred up to the date that charges are assessed to SPP

---

<sup>14</sup> 18 C.F.R. § 35.35(d) (2014).

<sup>15</sup> See *Pacific Gas and Elec. Co.*, 123 FERC ¶ 61,067 (2008); *Southern California Edison Co.*, 133 FERC ¶ 61,107 (2010).

<sup>16</sup> See *Xcel Energy Southwest Transmission Co., LLC*, 149 FERC ¶ 61,182 (2014) (*XEST*); *Xcel Energy Transmission Dev. Co., LLC*, 149 FERC ¶ 61,181 (2014) (*XETD*); *Transource Wisconsin LLC*, 149 FERC ¶ 61,180 (2014) (*Transource Wisconsin*).

customers under the Formula Rate.<sup>17</sup> The regulatory asset would include all prudently incurred costs prior to Transource Kansas' Formula Rate taking effect but that are not capitalized or included in CWIP. Transource Kansas states that it will begin to accrue such costs before it expects to begin recovery under the SPP Tariff.

17. Transource Kansas 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 as current expenses.<sup>18</sup> Transource Kansas contends that the regulatory asset incentive will provide up-front regulatory certainty, improve coverage ratios used by rating agencies to determine credit quality, and reduce interest expense on long term debt, which will ultimately lower costs for customers for any Competitive Upgrade awarded to Transource Kansas.<sup>19</sup>

18. Transource Kansas also seeks authorization to amortize the regulatory asset over five years, beginning with the first year that costs are assessed to SPP customers under the Formula Rate, and to accrue monthly carrying charges, compounded semi-annually, on the regulatory asset's balance beginning on the date the Commission authorizes the creation of the regulatory asset until the regulatory asset is included in rate base.<sup>20</sup>

**b. Commission Determination**

19. We find that it is appropriate to grant Transource Kansas' regulatory asset incentive under section 205. We note that the Commission has granted regulatory asset incentives requested under section 205 in the past.<sup>21</sup> Further, the Commission has held that this incentive can be granted under the Commission's section 205 authority if the incentive furthers a public policy goal, including the policy goal of placing nonincumbent

---

<sup>17</sup> Transource Kansas states that these costs could include, for example, engineering expenses, attorney and consultant fees, administrative expenses, travel expenses, development surveys, and costs to support planning and bid development activities. Transmittal at 28.

<sup>18</sup> *Id.* at 28-29.

<sup>19</sup> *Id.* at 29.

<sup>20</sup> *Id.*

<sup>21</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).

transmission developers on a level playing field with incumbent transmission owners in the Order No. 1000 competitive solicitation processes.<sup>22</sup> Consistent with the Commission's decisions in *XEST*, *XETD*, and *Transource Wisconsin*, we find that Transource Kansas' 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>23</sup> Nonincumbent transmission developers wishing to bid on regional transmission projects in SPP's competitive solicitation process must incur early pre-commercial and formation costs, but because they do not have plant in service and/or rates in effect, they do not have a mechanism to recover these costs as they are incurred, as do incumbent transmission owners whose transmission planning-related costs are expensed to transmission operations and maintenance accounts that are typically included in transmission formula rates. We note that the Commission's policy goal of placing nonincumbent transmission developers on a level playing field with incumbent transmission owners in the Order No. 1000 competitive solicitation process is only relevant to projects eligible for bidding through Order No. 1000 competitive solicitation processes. Consequently, Transource Kansas may only apply the regulatory asset incentive to projects that are developed through Order No. 1000 competitive solicitation processes.

20. We also grant Transource Kansas' request to amortize the regulatory asset over five years and to accrue monthly carrying charges, compounded semi-annually. We accept Transource Kansas' proposed effective date of April 3, 2015 to allow it to establish the regulatory asset, and begin accruing carrying charges.

21. However, while we will allow Transource Kansas to record its prudently incurred costs as a regulatory asset, Transource Kansas must make a section 205 filing to demonstrate that the pre-commercial and formation costs are just and reasonable before it includes them in rates. In that filing, Transource Kansas 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 Kansas is issued a notice to construct by SPP, rendering it eligible to

---

<sup>22</sup> See *Pacific Gas and Elec. Co.*, 123 FERC ¶ 61,067 at P 33; *Southern California Edison Co.*, 133 FERC ¶ 61,107 at P 62; *XEST*, 149 FERC ¶ 61,182 at P 33; *XETD*, 149 FERC ¶ 61,181; *Transource Wisconsin*, 149 FERC ¶ 61,180 at P 16.

<sup>23</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.”).

recover costs through the SPP Tariff, it is unclear whether Transource Kansas will have any customers from which to recover its regulatory asset.

## 2. Request for Authorization to Use Hypothetical Capital Structure

### a. Proposal

22. Transource Kansas proposes the use of a hypothetical capital structure consisting of 40 percent debt and 60 percent equity until its first project achieves commercial operation. Transource Kansas states that, as a nonincumbent transmission developer with no existing assets, Transource Kansas will have an unstable capital structure during the development and construction period prior to the time when long term debt is issued. Transource Kansas argues that a hypothetical capital structure will allow it to utilize a consistent and predictable cost of capital when determining its carrying cost for the regulatory asset, as well as its return on CWIP, unamortized regulatory balance or AFUDC carrying costs during the period prior to its first asset being placed into service. Transource Kansas adds that the Commission has approved the use of a hypothetical capital structure of 40 percent debt and 60 percent equity for its affiliate, Transource Missouri, and for other transmission developers.<sup>24</sup>

### b. Protest

23. The Kansas Commission notes that Transource Kansas' affiliate, Transource Wisconsin, proposed to cap the equity component of its capital structure at 55 percent, and the Commission granted that request.<sup>25</sup> Therefore, the Kansas Commission argues, the proposal for a 60 percent equity capitalization could result in undue discrimination against the Kansas customers of Transource Energy in relation to the Wisconsin customers of Transource Energy. In addition, the Kansas Commission argues that Transource Energy chose to create a wholly-owned subsidiary with no existing assets and that that choice should not be manipulated to increase rates to ratepayers.

---

<sup>24</sup> Transmittal at 30 (citing *Transource Missouri, LLC*, 141 FERC ¶ 61,075, at P 66 (2012); *Green Power Express LP*, 127 FERC ¶ 61,031, at P 72 (2009); *Primary Power*, 131 FERC ¶ 61,015, at P 141 (2010); *Atl. Grid Operations A LLC*, 135 FERC ¶ 61,144, at P 121 (2011)).

<sup>25</sup> Kansas Commission Protest at 8 (citing *Transource Wisconsin*, 149 FERC ¶ 61,180 at P 34).

**c. Answer**

24. Transource Kansas argues that the Commission does not recognize a single just and reasonable rate, and the existence of another affiliated utility in a different region with a different capital structure does not give rise to undue discrimination. For instance, Transource Kansas notes that the Commission has authorized different ROEs for different Transource Energy affiliates in different regions. Transource Kansas argues that these disparate ROEs do not reflect undue discrimination, but rather recognition that there is range of reasonable outcomes in ratemaking. Transource Kansas adds that the same is true of varying capital structures.

**d. Commission Determination**

25. We grant Transource Kansas' request to use a hypothetical capital structure consisting of 60 percent equity and 40 percent debt prior to its first transmission project going into service. We grant this request under section 205 of the FPA because we find that granting the requested hypothetical capital structure furthers the policy goal of placing nonincumbent transmission developers on a level playing field with incumbent transmission owners in the Order No. 1000 competitive solicitation process, thereby encouraging competition.<sup>26</sup> As the Commission held in *XEST* and *XETD*, nonincumbent transmission developers have a particular need for the hypothetical capital structure incentive because it establishes certain financial principles that incumbent transmission owners currently have in place but that remain undetermined for nonincumbent transmission developers.<sup>27</sup> Therefore, allowing nonincumbent transmission developers to utilize a hypothetical capital structure would help level the playing field between incumbent and nonincumbent transmission developers in the Order No. 1000 competitive solicitation process. Consequently, Transource Kansas may only apply this hypothetical capital structure incentive to projects that are developed through Order No. 1000 competitive solicitation processes.

26. We reject the Kansas Commission's argument that Transource Kansas' proposed hypothetical structure would be discriminatory. In general, the protection against undue discrimination prohibits the dissimilar treatment of similarly-situated entities, but rate differences may be justified and rendered lawful based on the specific factual differences between the entities at issue.<sup>28</sup> We do not believe that a different hypothetical capital

---

<sup>26</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.”).

<sup>27</sup> *XEST*, 149 FERC ¶ 61,182 at P 22; *XETD*, 149 FERC ¶ 61,181 at P 13.

<sup>28</sup> See *W. Grid. Dev., LLC*, 133 FERC ¶ 61,029, at P 17 (2010).

structure is unduly discriminatory or preferential, and the Commission has approved different capital structures for different Transource Energy affiliates in separate regions.<sup>29</sup> Further, the requested hypothetical capital structure is within the bounds of what the Commission has approved in the past.

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

**a. Proposal**

27. Transource Kansas requests authorization to recover prudently-incurred costs in the event that a Competitive Upgrade it is awarded through the SPP competitive solicitation process must be abandoned for reasons outside Transource Kansas' control. Transource Kansas explains that without upfront assurances that all prudently-incurred costs can be recovered in the event of abandonment, lenders will be hesitant to commit capital for construction financing.<sup>30</sup>

28. Transource Kansas states that the Competitive Upgrades that it expects to compete for and develop face a number of risks that could lead to abandonment. Transource Kansas states that, in particular, for large scale Competitive Upgrades, 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 Kansas states that there is a potential for challenges to SPP's developer selection process or decisions and a potential risk that an assigned project could be later removed from the regional transmission expansion plan.<sup>31</sup>

29. Transource Kansas argues that the risk-reducing benefits of the abandonment incentive are not dependent on the design specifications of the Competitive Upgrade or its location within the SPP footprint. Transource Kansas notes that the precise size or

---

<sup>29</sup> Compare *Transource Missouri, LLC*, 141 FERC ¶ 61,075 at P 66 (approving transmission developer's request for a hypothetical capital structure of 40 percent long term debt and 60 percent equity) with *Transource Wisconsin*, 149 FERC ¶ 61,180 at P 34 (approving proposal to cap the equity component of a transmission developer's capital structure at 55 percent).

<sup>30</sup> Exhibit No. TKS-200; Direct Testimony of Matthew D. Vermillion at 13.

<sup>31</sup> Transmittal at 30-31.

location of the project, or the particular development challenges faced, are not the key issues to lenders.<sup>32</sup>

30. Transource Kansas argues that the Commission's default policy of permitting only 50 percent recovery of abandoned plant cost is intended to encourage public utility management to consider risk in deciding whether to pursue asset development projects.<sup>33</sup> This logic does not apply to the instant application, argues Transource Kansas, because all of the decisions about whether to undertake the project are made by SPP through its Commission-approved regional transmission planning process, not by Transource Kansas. Further, Transource Kansas argues that granting its requested incentive will promote the Commission's Order No. 1000 policy of encouraging competitive transmission development as a means of putting downward pressure on transmission development costs.

**b. Protest**

31. The Kansas Commission states that the Commission rejected Transource Wisconsin's abandoned plant incentive on the grounds that Transource Wisconsin had not identified any specific projects.<sup>34</sup> The Kansas Commission argues that the Transource Kansas proposal suffers from the same fundamental deficiencies and, therefore, should be rejected for the same reasons.

**c. Answer**

32. Transource Kansas notes that Transource Wisconsin's request for the abandoned plant incentive remains pending before the Commission on rehearing. Transource Kansas also states that it has presented additional evidence concerning the existence of a policy goal that would be furthered by authorizing 100 percent abandoned plant recovery for Competitive Upgrades. Transource Kansas asserts that authorizing 100 percent abandoned plant recovery for projects that are built at the direction of SPP advances the Commission policy of respecting the outcome of the regional planning process and supporting active participation in the competitive developer selection process.

---

<sup>32</sup> Exhibit No. TKS-200; Direct Testimony of Matthew D. Vermillion at 14.

<sup>33</sup> Transmittal at 36.

<sup>34</sup> Kansas Commission Protest at 9 (citing *Transource Wisconsin*, 149 FERC ¶ 61,180 at PP 23-25).

**d. Commission Determination**

33. We deny Transource Kansas' request to recover all prudently-incurred costs in the event a Competitive Upgrade awarded through the SPP competitive solicitation process must be abandoned for reasons outside its reasonable control.<sup>35</sup>

34. We find that because Transource Kansas 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 Kansas cannot provide details about the scope or size or identify specific federal and state siting hurdles associated with a particular transmission project. Regardless of whether these metrics are "key interests" to lenders, as Transource Kansas contends, they are relevant to the nexus test under Order No. 679. As such, we deny Transource Kansas' request for the abandoned plant incentive under section 219 as premature. Transource Kansas 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 requirements of Order No. 679.

35. We also deny Transource Kansas' request for the abandoned plant incentive under section 205. Unlike the regulatory asset incentive and the hypothetical capital structure 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. Furthermore, we do not agree that granting the abandonment incentive is necessary to support active participation in the regional planning process because all potential participants face the same level of uncertainty in their bid placements.

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

**a. Proposal**

36. Transource Kansas requests authorization to include 100 percent of CWIP in rate base during the development and construction phase of any awarded Competitive Upgrade that is also a Highway Project.<sup>36</sup> Transource Kansas states that, by avoiding the

---

<sup>35</sup> *Transource Wisconsin*, 149 FERC ¶ 61,180 at PP 23-25.

<sup>36</sup> Transmittal at 31.

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 Kansas states that the Commission has acknowledged that inclusion of CWIP in rate base will benefit consumers by mitigating the possibility that consumers will experience “rate shock” when projects come into service.<sup>37</sup> Transource Kansas argues that the ratepayer benefits associated with the CWIP incentive would apply equally to any Highway Project awarded to Transource Kansas, regardless of project-specific design or location.<sup>38</sup>

37. Transource Kansas 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>39</sup> Transource Kansas 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.<sup>40</sup>

**b. Commission Determination**

38. We deny Transource Kansas’ request for authorization to include 100 percent of CWIP in rate base at this time.<sup>41</sup> We find that because Transource Kansas has not identified a transmission project and has not described the details of its financial situation that CWIP would alleviate, it has not met the nexus test under Order No. 679. Transource Kansas 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 Kansas provides only general statements that the CWIP incentive will improve cash flow during construction and provide greater regulatory certainty. Transource Kansas 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>42</sup> As such, we deny Transource Kansas’ request for the CWIP incentive under section 219 as premature. Transource Kansas may resubmit a request for the CWIP incentive once it identifies a specific transmission

---

<sup>37</sup> *Id.* (citing *Oklahoma Gas & Elec. Co.*, 133 FERC ¶ 61,274, at P 48 (2010)).

<sup>38</sup> Exhibit No. TKS-200; Direct Testimony of Matthew D. Vermillion at 20.

<sup>39</sup> Transmittal at 32.

<sup>40</sup> *Id.*

<sup>41</sup> *Transource Wisconsin*, 149 FERC ¶ 61,180 at PP 28-29.

<sup>42</sup> Transmittal at 32.

project and is able to demonstrate that the project meets the requirements of Order No. 679.

39. We also deny Transource Kansas' request for the CWIP incentive under section 205. Unlike the regulatory asset incentive and the hypothetical capital 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. Base ROE and RTO Participation ROE Adder**

#### **1. Proposal**

40. Transource Kansas requests a base ROE of 10.6 percent. Transource Kansas states that it calculated this ROE according to the standards adopted by the Commission in Opinion No. 531.<sup>43</sup> Specifically, Transource Kansas' ROE witness, Mr. McKenzie, applied the two-step discounted cash flow (DCF) method, while also evaluating the cost of equity using the risk premium, capital asset pricing model, and expected earnings analyses. Transource Kansas' DCF method establishes a zone of reasonableness of 6.2 percent to 11.58 percent. Transource Kansas states that evaluating a point estimate ROE from within the top end of the zone of the DCF range, as the Commission found in Opinion No. 531, is justified given the continued anomalous capital market conditions. According to Transource Kansas, a 10.6 percent ROE is consistent with the results of the risk premium, capital asset pricing model, and expected earnings analyses.<sup>44</sup> Transource Kansas also argues that a 10.6 percent base ROE is consistent with the ROEs of other incumbent, investor-owned utilities in SPP and is necessary to ensure parity among competitors in SPP's Order No. 1000 competitive solicitation process.

41. Transource Kansas also requests a 50 basis point adder to its base ROE for RTO participation. It notes that, in Order No. 679, the Commission stated that it will approve the RTO participation ROE adder "for public utilities that join and/or continue to be a member of an ISO, RTO, or other Commission-approved Transmission Organization."<sup>45</sup>

---

<sup>43</sup> Exhibit No. TKS-300, Direct Testimony of Adrien M. McKenzie at 2 (citing *Martha Coakley, Mass. Attorney Gen. v. Bangor Hydro-Elec. Co.*, Opinion No. 531, 147 FERC ¶ 61,234 (2014)).

<sup>44</sup> *Id.* at 16-17.

<sup>45</sup> Transmittal at 37-38 (citing Order No. 679, FERC Stats. & Regs. ¶ 31,222 at (*continued ...*))

Transource Kansas explains that it will become a member of SPP, transfer functional control of transmission facilities it develops to SPP once they are constructed, and will recover the costs of its transmission assets from SPP customers through the inclusion of the Transource Kansas Formula Rate in the SPP Tariff.

## 2. Protest

42. The Kansas Commission states that the analysis supporting Transource Kansas' proposed 10.6 percent base return on equity is similar to other analyses that have been set for hearing. Therefore, the Kansas Commission argues, the Commission should, at a minimum, find that Transource Kansas' proposed base ROE has not been shown to be just and reasonable. As part of its request for an evidentiary hearing or settlement judge procedures, the Kansas Commission requests the maximum five-month suspension.

## 3. Answer

43. Transource Kansas contends that the Kansas Commission did not identify any issues of material fact with respect to Mr. McKenzie's DCF analysis. Transource Kansas believes that the Commission has been afforded sufficient record evidence to establish a just and reasonable ROE for Transource Kansas somewhere within the range of reasonableness presented by Mr. McKenzie, without the need for an evidentiary hearing or settlement procedures.

## 4. Commission Determination

44. Our preliminary analysis indicates that Transource Kansas' proposed base ROE has not been shown to be just and reasonable, and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Therefore, we accept Transource Kansas' proposed ROE for filing, suspend it for a nominal period, to be effective April 3, 2015, subject to refund, and set it for hearing and settlement judge procedures.

45. While we are setting these matters for a trial-type evidentiary hearing, we encourage the parties to make every effort to settle their dispute before hearing procedures are commenced. To aid the parties in their settlement efforts, we will hold the hearing in abeyance and direct that a settlement judge be appointed, pursuant to Rule 603 of the Commission's Rules of Practice and Procedure.<sup>46</sup> If the parties desire, they may, by mutual agreement, request a specific judge as the Settlement Judge in the proceeding; otherwise, the Chief Judge will select a judge for this purpose. The settlement judge shall

---

P 326, *order on reh'g*; Order No. 679-A, FERC Stats. & Regs. ¶ 31,236 at P 86).

<sup>46</sup> 18 C.F.R. § 385.603 (2014).

report to the Chief Judge and the Commission within 30 days of the date of the appointment of the settlement judge, concerning the status of settlement discussions. Based on this report, the Chief Judge shall provide the parties with additional time to continue their settlement discussions or provide for commencement of a hearing by assigning the case to a presiding judge.

46. Finally, consistent with previous Commission orders,<sup>47</sup> we grant Transource Kansas' request for a 50 basis point incentive ROE adder for its participation in SPP.

#### **D. Accounting Treatment**

##### **1. Proposal**

47. Transource Kansas states that its financial books and records will reflect the assets, equity, and results of operations for Transource Kansas.<sup>48</sup> Although Transource Kansas 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.

48. Transource Kansas states that the employees of its affiliates will provide services to Transource Kansas on an at-cost basis through service agreements at a price that is consistent with any applicable pricing regulations.<sup>49</sup> Transource Kansas explains that certain costs, due to their shared nature, cannot be directly billed to an individual company. For these costs, Transource Kansas describes an assignment and allocation methodology based on the cost allocation manuals of AEP and Great Plains Energy.<sup>50</sup>

##### **2. Commission Determination**

49. To the extent that costs are allocated or directly-billed from Transource Kansas' parent company or any of its affiliates, we direct Transource Kansas to further explain and provide the methodology for the allocation of those costs in a compliance filing to be made within 30 days of the date of this order.<sup>51</sup> The cost allocation manuals submitted by

---

<sup>47</sup> See, e.g., *MidAm. Transco Cent. Cal. Transco, LLC*, 147 FERC ¶ 61,179, at P 45 (2014); *Transource Missouri, LLC*, 141 FERC ¶ 61,075 at P 75; *XEST*, 149 FERC ¶ 61,182 at P 64.

<sup>48</sup> Exhibit No. TSK-500, Direct Testimony of Rhoderick C. Griffin at 4.

<sup>49</sup> *Id.* at 5.

<sup>50</sup> *Id.* at 6.

<sup>51</sup> See *Repeal of the Public Utility Holding Company Act of 1935 and Enactment (continued ...)*

Transource Kansas' filing do not describe the allocation factors and how they are calculated. We direct Transource Kansas to provide additional information that more specifically describes how inter-affiliate costs are allocated. In addition, to the extent that there are sales of non-power goods and services among affiliates, we remind Transource Kansas of its obligations under section 35.44(b)(1) of the Commission's Regulations.<sup>52</sup>

**E. Depreciation Rates**

**1. Proposal**

50. Transource Kansas proposes to use the same depreciation rates accepted by the Commission for use by Transource Missouri, which were based on the depreciation study underlying depreciation rates approved for use by Public Service Company of Oklahoma.<sup>53</sup> Transource Kansas states that it calculated the depreciation rates using the transmission plant and general plant service lives identified in the Public Service Company of Oklahoma depreciation study, and the net salvage estimates by account identified in the Public Service Company of Oklahoma depreciation study, as modified by the Oklahoma Corporation Commission. Transource Kansas states that since it has not yet constructed any facilities and there is no historical data upon which to base its depreciation rates, it is appropriate to use the service lives and net salvage percentages supported by the Public Service Company of Oklahoma depreciation study. Furthermore, Transource Kansas states that any Competitive Upgrades that it develops will be operated in a manner similar to the manner that Public Service Company of Oklahoma operates its facilities and will also be located in a region which is geographically similar to Oklahoma.

**2. Commission Determination**

51. We accept Transource Kansas' proposed depreciation rates. We recognize that, because Transource Kansas' transmission facilities have yet to be identified, there is no historical data to support a depreciation study. In the past, the Commission has accepted formula rates that use a corporate affiliate's Commission-approved depreciation rates for

---

*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>52</sup> 18 C.F.R. § 35.44(b)(1) (2014).

<sup>53</sup> Transmittal at 17 (citing *Transource Missouri, LLC*, 143 FERC ¶ 61,104).

a transmission joint venture start-up, and we do so here.<sup>54</sup> We find that, as Transource Missouri is an affiliate company with transmission facilities under construction in the SPP region, Transource Missouri's depreciation rates are an appropriate proxy for Transource Kansas to adopt in determining its proposed depreciation rates.

**F. Inclusion of 50 Percent CWIP in Rate Base Pursuant to Section 35.25**

**1. Proposal**

52. Transource Kansas requests, pursuant to section 35.25 of the Commission's regulations,<sup>55</sup> authority to include 50 percent of CWIP in rate base for all Competitive Upgrades, which, it states, is a separate and distinct request from the request for the 100 percent CWIP transmission incentive with respect to Competitive Upgrades that are

Highway Projects.<sup>56</sup> Transource Kansas states that, under section 35.25, it can recover up to 50 percent of CWIP in rate base for non-pollution control or fuel conversion assets, provided it can demonstrate that the construction work is "prudent and consistent with a least-cost energy supply program."<sup>57</sup> Transource Kansas submits that its "Statement of Compliance with Construction Work in Progress Regulations" demonstrates compliance with, or expressly seeks waiver of, each of the regulation's requirements for inclusion of CWIP in rate base. Transource Kansas acknowledges that the Commission denied a request by Commonwealth Edison Company (ComEd) to include 50 percent of CWIP associated with all transmission investment in rate base because ComEd made no demonstration that its future investments would be prudent and consistent with a least-cost supply program.<sup>58</sup> Transource Kansas states that, unlike ComEd's blanket request,

---

<sup>54</sup> See *XEST*, 149 FERC ¶ 61,182 at P 124.

<sup>55</sup> 18 C.F.R. § 35.25 (2014). See also *Construction Work In Progress for Public Utilities; Inclusion of Costs in Rate Base*, Order No. 298, FERC Stats. & Regs. ¶ 30,455, *order on reh'g*, Order No. 298-A, 48 Fed. Reg. 46,012 (Oct. 11, 1983), FERC Stats. & Regs., ¶ 30,500 (1983), *order on reh'g*, Order No. 298-B, FERC Stats. & Regs. ¶ 30,524 (1983).

<sup>56</sup> Transmittal at 20. Transource Kansas' requested 100 percent CWIP incentive filed under Order No. 679 (or alternatively under FPA section 205) would apply only to Competitive Upgrades that are also Highway Projects.

<sup>57</sup> *Id.* (citing 18 C.F.R. § 35.25(c)(4)).

<sup>58</sup> *Id.* at 21 (citing *Commonwealth Edison Co.*, 119 FERC ¶ 61,238, at P 89 (2007) (*ComEd*)).

the instant request would apply only for construction work performed on Competitive Upgrades for which it receives a notice to construct by SPP and therefore will have been vetted by SPP's Commission-approved planning process. Transource Kansas argues that the inclusion of Competitive Upgrades in SPP's transmission expansion plan ensures that the associated construction work performed by Transource Kansas will be prudent and consistent with a least-cost energy supply program.

## **2. Commission Determination**

53. We deny Transource Kansas' request for 50 percent CWIP for all Competitive Upgrades. The Commission held in *ComEd* that "the nature of Order No. 298's requirements for CWIP inclusion makes providing. . . [the information required under section 35.25] for an indefinite period of time for unspecified construction projects difficult, if not impossible."<sup>59</sup> Transource Kansas' request involves unspecified future projects with an unspecified time line. Given the unknown nature of these projects, Transource Kansas cannot make an accurate representation that its investments would be consistent with a least-cost supply program, as required under section 35.25. The fact that such projects will have been vetted by SPP does not change the fact that the projects are unknown at this time. This denial is without prejudice to Transource Kansas or any of its affiliates requesting CWIP when it identifies a project.

## **G. Formula Rate**

### **1. Proposal**

54. Transource Kansas requests approval of its Formula Rate, which will be used to determine revenue requirements for SPP transmission facilities, including Competitive Upgrades.<sup>60</sup> The Formula Rate is a forward-looking formula, whereby Transource Kansas forecasts the values that will populate the formula rate template for each calendar year, and later determines a true-up of the forecasted values after the actual data become available in the FERC Form No. 1. Transource Kansas also states that its proposed

---

<sup>59</sup> *ComEd*, 119 FERC ¶ 61,238 at P 87. See also *Commonwealth Edison Co.*, 122 FERC ¶ 61,037, at P 54 (2008), where the Commission upheld its denial of 50 percent CWIP for all future projects because "the Commission cannot determine if such future projects will meet the appropriate standards the Commission has required for CWIP treatment."

<sup>60</sup> Transource Kansas filed its proposed Formula Rate in the Transource Kansas eTariff database with a requested effective date of April 3, 2015. Transource Kansas states that it will make a later joint filing with SPP, pursuant to section 205 of the FPA, to incorporate the Formula Rate into Attachment H of the SPP Tariff.

Formula Rate is flexible enough to incorporate and reflect adjustments to its revenue requirement on a project-by-project basis to incorporate competitive bid concessions offered and accepted during the bidding process.<sup>61</sup>

55. Transource Kansas also requests approval of its protocols, which govern the specific procedures for notice, requests for information, and review and challenge procedures to the annual update. Transource Kansas claims that its protocols are similar to those used by its SPP transmission-owner affiliates, including Transource Missouri.

## 2. Protest

56. The Kansas Commission contends that there are material issues of fact raised by the Transource Kansas protocols and that the protocols have not been shown to be just and reasonable. For example, the Kansas Commission notes that Transource Kansas' affiliate, Transource Missouri, is obligated by its protocols to respond to information requests pertaining to its Annual Update within 10 days, whereas Transource Kansas proposes to respond within 15 days.<sup>62</sup> In addition, the Kansas Commission notes that under the Transource Kansas protocols, the failure of an Interested Person to raise a preliminary challenge about a particular issue would bar that Interested Person from raising that issue in a formal challenge.<sup>63</sup> The Kansas Commission claims that the Transource Missouri protocols do not appear to have a similar bar. The Kansas Commission argues that these two examples demonstrate that there are material issues of fact that the Commission should resolve through hearing and/or settlement judge procedures. The Kansas Commission adds that the Commission should not be compelled to approve Transource Kansas' proposal on the timeline proposed simply to accommodate Transource Kansas' self-imposed timing constraints with respect to the SPP competitive solicitation process.

## 3. Answer

57. Transource Kansas asserts that just because its protocols differ from those of an affiliated SPP transmission owner does not give rise to issues of material fact that would require a hearing to resolve. Transource Kansas agrees that the Commission has identified minimum requirements with respect to scope of participation, transparency,

---

<sup>61</sup> Transmittal at 22.

<sup>62</sup> Kansas Commission Protest at 4 (citing Transource Kansas Protocols at 11, § 4.c and Transource Missouri Protocols at 10, § 4.c).

<sup>63</sup> *Id.* (citing Transource Kansas Protocols at 13, § 5.b).

and challenge procedures,<sup>64</sup> but asserts that its proposed protocols are fully consistent with the Commission's requirements as described in *Empire* and the Commission Staff's July 17, 2014 "Guidance on Formula Rate Updates."<sup>65</sup>

58. Transource Kansas contends that the Commission has already ruled on the issues raised by the Kansas Commission. First, Transource Kansas notes that the Commission declined to require the Midcontinent Independent System Operator, Inc. (MISO) transmission owners to respond to information requests within 10 business days.<sup>66</sup> Transource Kansas contends that the 10-day response period in Transource Missouri's protocols was the result of settlement and does not create binding precedent for Transource Kansas or any other utility. Second, Transource Kansas contends that its protocols do not bar parties from raising a formal challenge if the party did not raise that same issue in a preliminary challenge.<sup>67</sup> Transource Kansas contends that this is consistent with the MISO Compliance Order.

#### 4. Commission Determination

59. We conditionally accept Transource Kansas' proposed formula rate template, subject to a compliance filing to be made within 30 days of the date of this order to address the matters discussed below. While the formula rate template generally conforms to other Commission-accepted formula rate templates, there are variances that Transource Kansas has not explained as well as errors that Transource Kansas would need to correct. Moreover, while Transource Kansas states that its proposed protocols are fully consistent with the Commission's requirements described in *Empire*, and are also consistent with the Commission Staff's July 17, 2014 Guidance on Formula Rate Updates,<sup>68</sup> we find that the protocols do not adhere to the standards required by the Commission in *Empire*, which were determined based on the MISO formula rate protocol proceedings.<sup>69</sup> We

---

<sup>64</sup> Transource Kansas Answer at 4 (citing *Empire Dist. Elec. Co.*, 148 FERC ¶ 61,030 (2014) (*Empire*)).

<sup>65</sup> *Id.* (citing FERC Staff's Guidance on Formula Rate Updates (2014), <http://www.ferc.gov/industries/electric/indus-act/oatt-reform/staff-guidance.pdf>).

<sup>66</sup> *Id.* (citing *Midcontinent Indep. Sys. Operator, Inc.*, 146 FERC ¶ 61,212, at P 32 (2014) (MISO Compliance Order)).

<sup>67</sup> *Id.* at 5-6 (citing Protocols section 5.b).

<sup>68</sup> *See* Transource Kansas Answer at 4 (citing *Empire*, 148 FERC ¶ 61,030).

<sup>69</sup> *Midwest Indep. Transmission Sys. Operator, Inc.*, 139 FERC ¶ 61,127, at P 8 (*continued ...*)

therefore order Transource Kansas to modify its formula rate template and protocols and to provide further explanation, as described below.

**a. Formula Rate Template Corrections**

60. We note that Attachment H, page 1, line 9 mistakenly references Attachment 3, column H. This should reference Attachment 3, column K. We direct Transource Kansas to make this change.

61. Attachment H, page 2, line 26a should include the phrase “(enter negative)” after “Unfunded Reserves.” We direct Transource Kansas to make this change.

62. Attachment 1, line 10, column 1 should read “Annual Allocation Factor for Revenue Credits.” We direct Transource Kansas to make this change.

63. Attachment 3, columns E and F are unclear. Specifically, the purpose of line 2 is unclear, and it is also unclear what inputs and/or calculations are to be placed in columns E and F, and the purpose that each of these columns serves. We direct Transource Kansas to revise columns E and F to make clear the purpose of line 2, what inputs and/or calculations are to be placed in columns E and F, and the purpose of each of these columns.

64. The heading of Attachment 4, page 2, column F, as well as the purpose of that column, is unclear, as is the phrase “exclude the portion of any balance offset by a balance sheet account” in Attachment 4, note G. We direct Transource Kansas to explain the purpose of column F and the quoted phrase in note G, and how they ensure that capital contributions from customers are appropriately deducted from rate base before they are used to fund liabilities. We also direct Transource Kansas to revise the heading of column F to make clear the inputs and/or calculations to be placed in that column, and to clarify note G consistent with its explanation of the purpose of the quoted phrase.

65. Attachment 6 contains the True-Up Interest Calculation, however it does not completely specify what interest rate is to be used. Specifically, line 9 reads “Avg. Monthly FERC Rate” and the Monthly Interest Rate references a Note A which does not exist. We direct Transource Kansas to revise its formula rate template to clarify what

---

(2012), *Midwest Indep. Transmission Sys. Operator, Inc.*, 143 FERC ¶ 61,149 (2013) (MISO Investigation Order), *order on reh’g*, 146 FERC ¶ 61,209 (2014), *order on compliance*, MISO Compliance Order, 146 FERC ¶ 61,212, *order on compliance*, *Midcontinent Indep. Sys. Operator, Inc.*, 150 FERC ¶ 61,025 (2015).

interest rate is being used, consistent with the explanation contained in the supporting testimony.<sup>70</sup>

66. Attachment 7, Post-Retirement Benefits other than Pension (PBOPs), contains some items that are not clearly supported. Specifically, it is not clear from the submitted actuarial reports why the amount relating to retired personnel on line 3 is zero. Further, for line 5, it is not clear how the labor dollars for AEP are derived, or are appropriate, given that AEP has a number of public utility and non-public utility operating company subsidiaries for which PBOP expenses are included in the -\$27,206,002 figure on line 2. Finally, line 7 contains no specification of the inputs and/or underlying calculations to be placed in that line. We direct Transource Kansas to provide additional clarification and support to address these issues.

67. Attachment 8 contains the methodology to determine the cost of debt and contains a 175 basis point spread over the LIBOR rate. Transource Kansas states that it bases this spread on the spread currently charged to Transource Missouri. Further, Transource Kansas states that it will update the spread using the best available information. To the extent that Transource Kansas continues to utilize Attachment 8, we direct Transource Kansas, in its annual informational filing, to provide supporting documentation for the credit spread in Attachment 8. Further, Attachment 8, note 4 contains a reference error and should read “[l]ines 10 through 21a include....” We direct Transource Kansas to make this change.

**b. Formula Rate Protocols**

68. We disagree with the Kansas Commission that Transource Kansas’ proposed 15 business day period to respond to information requests is not just and reasonable. The fact that the protocols of an affiliate within the same region contain a different response period does not make Transource Kansas’ proposal unjust and unreasonable. Further, the Commission has already found such a deadline to be just and reasonable.<sup>71</sup>

69. We also disagree with the Kansas Commission that Transource Kansas’ protocols do not allow a party to raise a formal challenge if it had not raised a preliminary challenge about the same issue. Proposed sections 4.d and 5.b indicate that failure to raise an issue in a preliminary challenge does not bar the party from filing a formal challenge about that issue. However, we find that the protocols unjustly limit Interested Persons’ ability to file a formal challenge by requiring that there be a preliminary

---

<sup>70</sup> Exhibit No. TKS-400; Direct Testimony of Alan C. Heintz at 7.

<sup>71</sup> MISO Compliance Order, 146 FERC ¶ 61,212 at P 60. *See also Westar Energy, Inc.*, 150 FERC ¶ 61,203 at P 48.

challenge involving that Interested Person still outstanding 60 days after the close of the review period. As the Commission stated in the MISO Compliance Order, “[w]hile it is reasonable to encourage interested parties to submit a preliminary challenge before filing a formal challenge... an interested party’s awareness and understanding of an issue may evolve as new information becomes available through the course of the preliminary challenge process.”<sup>72</sup> We find that Transource Kansas’ proposal fails to properly account for this consideration because it bars parties who may have resolved their preliminary challenges from raising a formal challenge based on new information pertaining to any issue discovered during the preliminary challenge process. We therefore direct Transource Kansas to remove this barrier to filing a formal challenge. Further, we direct Transource Kansas to clarify that formal challenges are to be filed in the same docket as the informational filing.<sup>73</sup>

70. Transource Kansas proposes to submit the annual update as an informational filing with the Commission at the same time that it posts the annual update and makes it available for review by interested persons. However, in the MISO Investigation Order, the Commission required that the informational filing be made “following the time period allowed for parties to review the updates and for transmission owners to respond to information and document requests, and must include any corrections or adjustments made during that period.”<sup>74</sup> The Commission also requires that the informational filing must note any aspects of the formula rate or inputs that are subject to dispute. Further, the Commission requires the protocols to specifically provide that the informational filing include the information that is reasonably necessary to determine: (1) that input data under the formula rate are properly recorded in any underlying workpapers; (2) that the transmission owner has properly applied the formula rate and the procedures in the protocols; (3) the accuracy of data and the consistency with the formula rate of the actual revenue requirement and rates (including any true-up adjustment) under review; (4) the extent of accounting changes that affect formula rate inputs; and (5) the reasonableness of projected costs included in the projected capital addition expenditures.<sup>75</sup> We therefore direct Transource Kansas to modify its protocols such that its informational filing occurs after the review period and is otherwise consistent with the standards developed in the MISO Investigation Order.

---

<sup>72</sup> MISO Compliance Order, 146 FERC ¶ 61,212 at P 108.

<sup>73</sup> *Id.* P 113.

<sup>74</sup> MISO Investigation Order, 143 FERC ¶ 61,149 at P 92.

<sup>75</sup> *Id.*

71. Our review indicates that Transource Kansas does not propose to hold an annual meeting to discuss its annual projection of revenue requirements. Consistent with the standards established in the MISO Compliance Order,<sup>76</sup> we direct Transource Kansas to revise its protocols to provide for an annual meeting to discuss its annual projection of revenue requirements.

72. Further, we note that the Commission has previously held that notice of the annual update, annual projection, and any meetings should be delivered via an exploder list.<sup>77</sup> We therefore direct Transource Kansas to revise its protocols to ensure that such notices utilize an exploder list. In addition, postings of the annual update, annual projection, and meetings should be made to SPP's OASIS in addition to SPP's website.<sup>78</sup> We direct Transource Kansas to ensure that posting of the annual update, annual projection, and public meetings are made to SPP's OASIS and website.

73. We find that Transource Kansas' definition of "Interested Persons" does not adequately guarantee that all possible interested parties have the right to participate in the formula rate review process. We therefore direct Transource Kansas revise its protocols to make clear that its definition of "Interested Persons" includes but is not limited to those parties listed in section 3.4.d, consistent with the Commission's finding in the MISO Investigation Order.<sup>79</sup>

74. We find that Transource Kansas' proposed annual update and annual projection do not provide sufficient transparency. First, Transource Kansas should provide details in the annual update of *any* change in Transource Kansas' accounting procedures.<sup>80</sup> Second, the annual update must provide interested persons information about Transource Kansas' implementation of the formula rate in sufficient detail and with sufficient explanation to demonstrate that each input to the formula rate is consistent with the requirements of the formula rate.<sup>81</sup> We direct Transource Kansas to revise its protocols to provide these details.

---

<sup>76</sup> MISO Compliance Order, 146 FERC ¶ 61,212 at P 62 (citing MISO Investigation Order, 143 FERC ¶ 61,149 at P 86).

<sup>77</sup> *Id.* P 59.

<sup>78</sup> MISO Investigation Order, 143 FERC ¶ 61,149 at P 86.

<sup>79</sup> *Id.*

<sup>80</sup> MISO Compliance Order, 146 FERC ¶ 61,212 at P 87.

<sup>81</sup> MISO Investigation Order, 143 FERC ¶ 61,149 at P 86.

75. We find that Transource Kansas should include language in its protocols regarding joint meetings with other transmission owners using formula rates to establish the revenue requirements for recovery of the costs of projects subject to the same regional cost allocation. A joint meeting with other transmission owners using formula rates to establish the revenue requirements for recovery of the costs of projects that they develop that are subject to the same regional cost allocation would be an efficient way for such transmission owners to conduct annual meetings to discuss their annual updates, so that parties interested in the annual updates of multiple transmission owners with projects subject to the same regional cost allocation do not have to separately participate in each transmission owner's annual meeting.<sup>82</sup> This could ease the burden of both transmission customers and owners by limiting the number of annual meetings necessary.<sup>83</sup> Accordingly, we direct Transource Kansas to include a requirement in its protocols that it endeavor to coordinate with other transmission owners using formula rates to establish revenue requirements for recovery of the costs of transmission projects that utilize the same regional cost sharing mechanism and hold joint meetings to enable all interested persons to understand how those transmission owners are implementing their formula rates for recovering the costs of such projects.<sup>84</sup>

76. The interest calculation on any true-up adjustment over/under recovery references Attachment 11 of the formula rate template.<sup>85</sup> However, the formula rate template contains no Attachment 11. We direct Transource Kansas to correct this reference.

77. In the MISO Compliance Order, the Commission found that it is reasonable for the protocols to provide some limitation on the type of information that can be requested in both the information exchange and challenge processes but that the protocols should not overly restrict the types of information requested.<sup>86</sup> We find that Transource Kansas'

---

<sup>82</sup> MISO Compliance Order, 146 FERC ¶ 61,212 at P 59.

<sup>83</sup> *Id.* While we recognize that Transource Kansas' formula rate protocols only govern Transource Kansas' annual updates, we expect other public utility transmission owners using formula rates to establish revenue requirements for recovery of the costs of transmission projects that utilize the same regional cost sharing mechanism to cooperate in coordinating to hold joint meetings.

<sup>84</sup> Transource Kansas would not need to coordinate with transmission owners that do not use formula rates and thus do not update their rates each year.

<sup>85</sup> Transource Kansas Filing Attachment B, Formula Rate Implementation Protocols, at section 2.b.

<sup>86</sup> MISO Compliance Order, 146 FERC ¶ 61,212 at P 67.

proposed protocols unduly limit the types of information requested in the information exchange and challenge processes. Thus, we direct Transource Kansas to revise its protocols to provide that information and document requests, preliminary challenges, and formal challenges shall be limited to what is necessary to determine: (1) the extent, effect, or impact of an accounting change; (2) whether the Annual True-Up fails to include data properly recorded in accordance with the protocols; (3) the proper application of the formula rate and procedures in the protocols; (4) the accuracy of data and consistency with the formula rate of the changes shown in the annual update; (5) the prudence of the actual costs and expenditures; (6) the effect of any change to the underlying Uniform System of Accounts or applicable form; and (7) any other information that may reasonably have substantive effect on the calculation of the charge pursuant to the formula.<sup>87</sup>

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

### **1. Proposal**

78. Transource Kansas explains that, due to differences in state legal and regulatory requirements, Transource Energy expects to form a state specific subsidiary for each state within the SPP footprint (Transource SPP Entities) where there is a Competitive Upgrade on which Transource Energy decides to submit a competitive bid. Transource Kansas requests that the Transource SPP Entities be authorized to replicate its Formula Rate without the need for entity-specific section 205 filings. Transource Kansas explains that its section 205 filing to incorporate the Formula Rate into the SPP tariff will consist of a *pro forma* Formula Rate available for use by any Transource SPP Entity. Transource Kansas asserts that its proposal is consistent with the approach accepted by the Commission in *Transource Wisconsin*.<sup>88</sup> Transource Kansas also requests that each of the Transource SPP Entities be authorized in advance to utilize the same Competitive Upgrade incentive rate treatments as applicable to Transource Kansas.

### **2. Protest**

79. The Kansas Commission argues that Transource Kansas has not identified a process in SPP akin to the MISO process whereby transmission owners may adopt the *pro forma* templates in the SPP Tariff. Therefore, the Kansas Commission argues that the Commission's determination in *Transource Wisconsin* to allow replication of the Formula Rate is not applicable here. The Kansas Commission also argues that allowing

---

<sup>87</sup> *Id.* PP 65, 67, and 107.

<sup>88</sup> Transmittal at 24 (citing *Transource Wisconsin*, 149 FERC ¶ 61,180 at P 63).

the Transource SPP Entities to adopt the Formula Rate without a further substantive proceeding would absolve those new entities of making the required demonstration that their proposed rates would be just and reasonable for the service they are proposing to provide, and would shift the burden of proof with regard to those opposing the rates, in contravention of the structure of the FPA. In particular, the Kansas Commission is concerned that the SPP entities would use the same capital structure in their formula rates without regard to the actual capital structure used by that entity.<sup>89</sup>

### 3. Answer

80. Transource Kansas responds that, while it is true that the SPP Tariff does not contain a generic, *pro forma* formula rate available to all transmission owners like that which exists in MISO, the SPP Tariff does contain formula rate templates that are used by more than one transmission owner and that were arrived at through a single filing. According to Transource Kansas, the Kansas Commission failed to cite any concrete due process concern that would justify the administrative burden of requiring affiliate-specific filings. Transource Kansas also clarifies that each Transource SPP Entity will have unique inputs to the formula rate, including individual capital structures once the entity has placed a project into service and the hypothetical capital structure is no longer used.

### 4. Commission Determination

81. We conditionally grant Transource Kansas' request for use of the proposed Formula Rate by the yet-to-be-formed Transource SPP Entities. 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. It is also consistent with the Commission's determination in *Transource Wisconsin*, where the Commission stated that there was 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 Transource Wisconsin's filing.<sup>90</sup> We note that the Commission's rationale in accepting Transource Wisconsin's proposal was not dependent on MISO having a *pro forma* Attachment O, and we reject the Kansas Commission's protest on this point. As discussed above, if and when SPP awards a Competitive Upgrade to Transource Kansas through the Order No. 1000 competitive solicitation process, Transource Kansas and SPP will make a joint section 205 filing to incorporate the Formula Rate into the SPP Tariff. In that filing, Transource Kansas should label the

---

<sup>89</sup> Kansas Commission Protest at 5-6.

<sup>90</sup> *Transource Wisconsin*, 149 FERC ¶ 61,180 at P 63.

formula rate templates and protocols as the *pro forma* formula rate templates and protocols for use by any Transource SPP Entity, which will obviate the need to make additional section 205 filings. As Transource Kansas explains, the inputs to the formula rate will vary in accordance with each Transource SPP Entity's FERC Form No. 1 data. However, we clarify that the Transource SPP Entities will each be subject to the ROE that is determined through the hearing and settlement judge procedures that have been ordered for Transource Kansas.

82. We will also allow the Transource SPP Entities to use the regulatory asset incentive rate treatment and hypothetical capital structure that we are granting for Transource Kansas. Since the rationale for granting these incentives to the Transource SPP Entities would be identical to the rationale adopted in this proceeding, and since the Commission has fully considered the incentives issue in this proceeding, the issue need not be re-litigated through further section 205 or section 219 filings.

The Commission orders:

(A) Transource Kansas' request for a hypothetical capital structure and its request to defer as a regulatory asset all of its prudently-incurred costs that are not capitalized, are hereby granted, as discussed in the body of this order.

(B) Transource Kansas' request for authorization to recover prudently-incurred costs of abandoned transmission facilities, its request to include 100 percent of CWIP in rate base for Competitive Upgrades that are Highway Projects, and its request for authorization to include 50 percent of CWIP in rate base for all Competitive Upgrades are hereby denied, as discussed in the body of this order.

(C) Transource Kansas' proposed formula rate template and protocols are hereby conditionally accepted for filing, subject to a compliance filing to be made within 30 days of the date of this order, as discussed in the body of this order. Transource Kansas' proposed formula rate template and protocols will take effect once filed with the Commission to become part of SPP's Tariff, consistent with the effective date established in that future proceeding.

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

(E) Transource Kansas' proposed ROE is hereby accepted for filing and suspended for a nominal period, to be effective April 3, 2015, subject to refund, as discussed in the body of this order. Transource Kansas' proposed RTO participation ROE adder is approved, as discussed in the body of this order.

(F) Pursuant to the authority contained in and subject to the jurisdiction

conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the FPA, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the FPA (18 C.F.R., Chapter I), a public hearing shall be held concerning the Transource Kansas' proposed base ROE. However, the hearing shall be held in abeyance to provide time for settlement judge procedures, as discussed in Ordering Paragraphs (G) and (H) below.

(G) Pursuant to Rule 603 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.603 (2014), the Chief Administrative Law Judge is hereby directed to appoint a settlement judge in this proceeding within fifteen (15) days of the date of this order. Such settlement judge shall have all powers and duties enumerated in Rule 603 and shall convene a settlement conference as soon as practicable after the Chief Judge designates the settlement judge. If the parties decide to request a specific judge, they must make their request to the Chief Judge within five (5) days of the date of this order.

(H) Within thirty (30) days of the appointment of the settlement judge, the settlement judge shall file a report with the Commission and the Chief Judge on the status of the settlement discussions. Based on this report, the Chief Judge shall provide the parties with additional time to continue their settlement discussions, if appropriate, or assign this case to a presiding judge for a trial-type evidentiary hearing, if appropriate. If settlement discussions continue, the settlement judge shall file a report at least every sixty (60) days thereafter, informing the Commission and the Chief Judge of the parties' progress toward settlement.

(I) If settlement judge procedures fail and a trial-type evidentiary hearing is to be held, a presiding judge, to be designated by the Chief Judge, shall, within fifteen (15) days of the date of the presiding judge's designation, convene a prehearing conference in these proceedings in a hearing room of the Commission, 888 First Street, NE, Washington, DC 20426. Such a conference shall be held for the purpose of establishing a procedural schedule. The presiding judge is authorized to establish procedural dates, and to rule on all motions (except motions to dismiss) as provided in the Rules of Practice and Procedure.

By the Commission.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.