151 FERC ¶ 61,246
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Midcontinent Independent System Operator, Inc. and WPPI Energy — Docket No. ER15-1544-000

ORDER ON TRANSMISSION RATE INCENTIVES

(Issued June 19, 2015)

1. On April 21, 2015, Midcontinent Independent System Operator, Inc. (MISO) and WPPI Energy (WPPI) filed a request for certain transmission incentive rate treatments under sections 219 and 205 of the Federal Power Act (FPA)[1] for WPPI to facilitate its participation in the Badger Coulee transmission line project (Badger Coulee Project). WPPI requests that the Commission grant its request for the following incentive rate treatments under Order No. 679:[2] (1) a hypothetical capital structure of 50 percent equity and 50 percent debt; (2) authorization to recover 100 percent of prudently incurred costs if the Badger Coulee Project is abandoned or cancelled due to factors beyond WPPI's control; and (3) permission to establish a regulatory asset account to enable recovery of pre-commercial, Badger Coulee Project-related expenses. As discussed below, we grant WPPI's requested transmission incentive rate treatments.

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[1] 16 U.S.C. §§ 824s, 824d (2012).

[2] *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) (2012 Incentives Policy Statement).

# I. Background

## A. Description of WPPI

2. WPPI states that it is a not-for-profit regional municipal joint action agency serving 51 customer-owned electric utilities in Wisconsin, Iowa, and the Upper Peninsula of Michigan. WPPI explains that it develops and owns generation, negotiates and holds power purchase agreements, and arranges transmission service and congestion protection on behalf of its member utilities.

3. WPPI states that all of its members and their customers are located within the MISO footprint, and WPPI is a MISO market participant. WPPI states that although it is not subject to the Commission's jurisdiction, it anticipates recovering the costs of its transmission investments through MISO rates once it becomes a MISO Transmission Owner (TO).[3] WPPI also states that it has no direct ownership of any in-service transmission assets at this time, but does own an interest in the Hampton-Rochester-La Crosse transmission project (La Crosse Project), which is currently under construction.[4]

## B. Description of the Badger Coulee Project

4. WPPI states that the Badger Coulee Project is a planned 345 kilovolt (kV) MISO Multi Value Project (MVP) from La Crosse, Wisconsin to Madison, Wisconsin, consisting of approximately 180 miles of transmission line.[5] WPPI states that the line is planned to extend from the existing Briggs Road substation near La Crosse to the existing North Madison substation, continuing on to the Cardinal substation in Middleton, Wisconsin.[6]

5. WPPI states that during the MISO Transmission Expansion Planning (MTEP) process, MISO identified the Badger Coulee Project as an MVP that will address local

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[3] WPPI April 21, 2015 Filing at 1 (Filing). WPPI states that MISO joins this filing as the administrator of the MISO Open Access Transmission, Energy and Operating Reserve Markets Tariff (Tariff), but MISO takes no position on the substance of the filing.

[4] *Id.* at 2.

[5] Under MISO's Tariff, a project must satisfy one of three functional criteria in order to be designated as an MVP. *See* MISO, FERC Electric Tariff, Attachment FF, Transmission Expansion Planning Protocol (14.0.0).

[6] Filing at 3; *see also* Ex. WPPI-3 at 27 (MISO January 2012 MVP Report).

and regional electric system reliability issues and support federal and state renewable energy policy. WPPI states that the Badger Coulee Project will also provide utilities flexibility in responding to new environmental requirements and generation retirements. Additionally, WPPI states that the Badger Coulee Project will enable Wisconsin to more readily import power, which will lead to lower wholesale electricity prices.[7]

6. WPPI states that construction of the Badger Coulee Project is expected to begin in 2016, with completion scheduled for 2018. WPPI explains that the entire Badger Coulee Project is expected to cost approximately $580 million, including the line connecting the Briggs Road substation to the North Madison substation, which is expected to cost approximately $495.8 million. WPPI states that its ownership share for the line connecting the Briggs Road substation to the North Madison substation will be 1.5 percent and that WPPI will not have voting authority on matters related to the Badger Coulee Project.[8] WPPI also states that its costs – inclusive of investment, financing, and internal costs – are expected to be approximately $8.9 million.[9]

### C. Request for Incentives

7. WPPI states that it requests the following incentive rate treatments under Order No. 679: (1) a hypothetical capital structure of 50 percent equity and 50 percent debt for the life of the Badger Coulee Project financing; (2) the right to recover, pursuant to a subsequent section 205 filing, 100 percent of prudently incurred costs in the event that the Badger Coulee Project is abandoned due to factors beyond its control; and (3) approval to establish a regulatory asset for accrual of pre-commercial expenses related to the Badger Coulee Project. WPPI states that it does not request an incentive return on equity (ROE) adder or any other incentive at this time.[10]

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[7] Filing at 3.

[8] *Id.* at 4. WPPI states that the projected participants and their prospective ownership shares for the line connecting the Briggs Road substation to the North Madison substation are as follows: American Transmission Company (50 percent), Northern States Power Company, a Wisconsin corporation (37 percent), SMMPA Wisconsin, LLC (6.5 percent), Dairyland Power Cooperative (Dairyland) (3 percent), and WPPI (1.5 percent).

[9] *Id.* at 5.

[10] *Id.*

### D. Request for Waivers

8. WPPI states that it requests waiver of the requirements of 18 C.F.R. § 35.13(d) (2014) concerning Period I and Period II cost data to the extent it is deemed applicable in this filing. WPPI states that it also requests waiver of service requirements in Rule 2010 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.2010 (2014) to the extent that waiver is deemed necessary.

## II. Notice of Filing and Responsive Pleadings

9. Notice of WPPI's filing was published in the *Federal Register*, 80 Fed. Reg. 23,266 (2015), with interventions and comments due on or before May 12, 2015. Dairyland filed a motion to intervene. On May 13, 2015, Xcel Energy Services Inc. (Xcel Energy) filed a motion to intervene out-of-time.

## III. Discussion

### A. Procedural Matters

10. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2014), the timely, unopposed motion to intervene of Dairyland serves to make it a party to this proceeding. Pursuant to Rule 214(d) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214(d) (2014), we will grant Xcel Energy's motion to intervene out-of-time given its interest in the proceeding, the early stage of the proceeding, and the absence of undue prejudice or delay.

### B. Substantive Matters

#### 1. Request for Incentives

##### a. Section 219 Requirement

11. In the Energy Policy Act of 2005,[11] Congress added section 219 to the FPA, directing the Commission to establish, by rule, incentive-based rate treatments to promote capital investment in certain transmission infrastructure. The Commission subsequently issued Order No. 679, which sets forth processes by which a public utility may seek transmission rate incentives pursuant to section 219, including the incentives requested here by WPPI. Additionally, in November 2012, the Commission issued a policy

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

statement providing additional guidance regarding its evaluation of applications for transmission rate incentives under section 219 and Order No. 679.[12]

12. Pursuant to Order No. 679, an applicant may seek to obtain incentive rate treatment for transmission infrastructure investment that satisfies the requirements of 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 a process for an applicant to follow 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 projects for reliability 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] Order No. 679-A clarified the operation of this rebuttable presumption by noting that the authorities 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]

13. WPPI states that the Badger Coulee Project qualifies for the rebuttable presumption under section 219.[16] WPPI states that MISO approved the Badger Coulee Project during its 2011 MTEP process and identified it in MISO's January 10, 2012 MVP Report as an MVP that will enhance reliability and relieve congestion.[17] WPPI adds that the Commission recognized that the MTEP is an open and transparent, stakeholder-driven process by which MISO annually identifies transmission projects required to address system reliability and congestion issues.[18]

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[12] 2012 Incentives Policy Statement, *supra* note 2.

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

[14] *Id*.

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

[16] Filing at 6.

[17] Ex. WPPI-3 at 27; *see also* MISO, *Multi Value Project Portfolio Results and Analyses* at 22 (2012) ("Each project in the MVP portfolio was analyzed to ensure that the project is justified against MVP cost allocation Criterion 1").

[18] Filing at 6.

14. WPPI also states that it expects the Public Service Commission of Wisconsin (Wisconsin Commission) to issue an order granting the Badger Coulee Project a Certificate of Public Convenience and Necessity (CPCN) in mid-April 2015.[19]

15. The Commission has previously found that projects approved as MVPs under Criterion 1 are entitled to the rebuttable presumption established under Order No. 679.[20] In this case, the Badger Coulee Project received approval through the MTEP process and the MISO Board of Directors approved the Badger Coulee Project under Criterion 1 as part of the January 10, 2012 MVP Report. Therefore, we find that the Badger Coulee Project is entitled to the rebuttable presumption that it meets the section 219 requirement.

### b. Nexus Requirement

16. In addition to satisfying the section 219 requirement of ensuring reliability 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."[21] 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.[22] The Commission noted that this nexus test is fact-specific and requires the Commission to

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[19] *Id.* at 4.

[20] *See, e.g.*, *Midcontinent Indep. Sys. Operator, Inc.*, 145 FERC ¶ 61,263, at P 19 (2013). MVP Criterion 1 states the following:

> A Multi Value Project must be developed through the transmission expansion planning process to enable the transmission system to deliver energy reliably and economically in support of documented energy policy mandates or laws enacted or adopted through state or federal legislation or regulatory requirement that directly or indirectly govern the minimum or maximum amount of energy that can be generated by specific types of generation. The MVP must be shown to enable the transmission system to deliver such energy in a manner that is more reliable or more economic than it otherwise would be without the transmission upgrade.

[21] Order No. 679-A, FERC Stats. & Regs. ¶ 31,236 at P 40.

[22] 2012 Incentives Policy Statement, 141 FERC ¶ 61,129 at P 10 (quoting Order No. 679-A, FERC Stats. & Regs. ¶ 31,236 at P 40).

review each application on a case-by-case basis. The Commission has, in prior cases, approved multiple rate incentives for particular projects where appropriate.[23] This is consistent with Order No. 679 and our interpretation of section 219 authorizing the Commission to approve more than one incentive rate treatment for an applicant proposing a new transmission project, as long as each incentive is justified by a showing that it satisfies the requirements of section 219 and that there is a nexus between the incentives proposed and the investment made.[24]

**i. <u>Hypothetical Capital Structure</u>**

**(a) <u>WPPI Proposal</u>**

17. WPPI states that it requests authority to use a hypothetical capital structure of 50 percent equity and 50 percent debt for the life of financing for the Badger Coulee Project, which it envisions to be from January 1, 2018, through December 31, 2037. WPPI states that its request is commensurate to the risks that WPPI faces in developing the Badger Coulee Project and will provide returns comparable to those of major investors in the Badger Coulee Project.[25] WPPI explains that it cannot raise equity capital through stock offerings and, similar to other municipal investors, often relies on non-equity financing for its projects.[26]

18. WPPI states that this incentive enables WPPI to maintain strong credit performance that attracts financing. WPPI explains that it targets achieving a credit rating of A+ from all three major credit agencies, and its current credit ratings are A (S&P), A+ (Fitch), and A1 (Moody's).[27]

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[23] *See, e.g.*, *Central Minn. Mun. Power Agency and Midwest Municipal Transmission Group*, 134 FERC ¶ 61,115, at P 34 (2011) (finding that inclusion of 100 percent of construction work in progress in rate base, abandoned plant recovery, and use of a hypothetical capital structure were tailored to the unique challenges faced by the applicant).

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

[25] Filing at 7, 10.

[26] *Id.* at 8; *see also* Direct Testimony of James Pardikes, Ex. WPPI-5 at 17 (Pardikes Testimony).

[27] Direct Testimony of Marty Dreischmeier, Ex. WPPI-4 at 5; Pardikes Testimony at 19.

19. WPPI asserts that an equity ratio of 50 percent will facilitate WPPI's strong credit rating by making possible its appropriate debt service coverage (DSC) ratio.[28] WPPI states that its five-year DSC average is 1.33 and it targets a DSC of 1.25, which is consistent with Moody's DSC range of 1.20 to 1.40 for an "A" rated joint action agency such as WPPI.[29] WPPI states that if its actual 2014 equity ratio of 31.4 percent were used to calculate the return on its investment for the Badger Coulee Project, the average DSC for debt issued to finance its investment would be anticipated to yield a simple average DSC of 1.11 from 2019 through 2037, which would cause WPPI's financial metrics to degrade or would require its members to make up the difference by paying higher rates.[30]

20. WPPI asserts that its requested hypothetical capital structure will allow it the needed coverage to service its prospective debt for the Badger Coulee Project. WPPI explains that its 50 percent equity ratio will be viewed favorably by credit rating agencies and the investment community by providing additional needed coverage to service debt used to finance the Badger Coulee Project without additional charges to WPPI members.[31] WPPI continues that the 50 percent equity ratio will facilitate the liquidity expected by lenders and ensure WPPI's ability to cover debt obligations. WPPI explains that its requested equity level would result in a present-value liquidity level of approximately 164 days, which is generally consistent with the Moody's high range of adjusted liquidity of 90 to 150 days for "A" rated joint action agencies such as WPPI.[32]

21. WPPI states that granting its requested hypothetical capital structure supports and encourages WPPI's participation in the Badger Coulee Project and future transmission projects. WPPI also states that as a general matter, granting its request will encourage public power participation and diversity in new transmission investments, as public power entities are traditionally less inclined to take risks in new projects in part due to limited cash flow and smaller size.[33]

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[28] Filing at 8.

[29] Pardikes Testimony at 19.

[30] *Id*. at 20-22.

[31] *Id*. at 24.

[32] *Id*. at 25.

[33] Filing at 10.

#### (b) Commission Determination

22. We grant the requested incentive for WPPI to use a hypothetical capital structure of 50 percent equity and 50 percent debt for the life of financing of the Badger Coulee Project. The requested hypothetical capital structure will bolster WPPI's financial metrics, help ensure its strong credit rating, and enable its participation in the Badger Coulee Project by providing returns comparable to those of other major investors in the same project. Further, the requested hypothetical capital structure is within the range that the Commission has allowed for other entities reliant on non-equity financing.[34]

### ii. Abandoned Plant

#### (a) WPPI Proposal

23. WPPI states that it seeks to recover 100 percent of prudently incurred abandoned plant costs should the Badger Coulee Project fail to be completed due to causes beyond WPPI's control. WPPI explains that the abandoned plant incentive will remove a potential deterrent to WPPI's participation in the Badger Coulee Project and future projects by eliminating the risk that WPPI will have no means to recover its prudently incurred costs should cancellation occur and will provide additional assurance to credit rating agencies and lenders.[35] WPPI also states that any recovery in rates of costs associated with abandonment will be the subject to a future filing with the Commission under section 205.[36]

24. WPPI states that its risks related to the abandoned plant incentive are high because, among other things, WPPI will be a minority investor in the Badger Coulee Project. WPPI explains that it has limited control over decisions related to planning and operations because it is not a lead investor and has no voting rights, and thus has no effective control over whether the Badger Coulee Project will be abandoned. WPPI continues that the Badger Coulee Project is still in the preliminary stages of development,

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[34] *See, e.g., Midcontinent Indep. Sys. Operator, Inc.*, 145 FERC ¶ 61,263 (authorizing Central Municipal Power Agency to use a hypothetical capital structure of 50 percent equity and 50 percent debt); *WPPI Energy*, 141 FERC ¶ 61,004 (2012) (authorizing WPPI to use a hypothetical capital structure of 45 percent equity and 55 percent debt).

[35] Filing at 11.

[36] *Id.* at 17.

and still requires permits and authorizations from various state and federal agencies, along with the completion of ownership and operating agreements.[37]

**(b) Commission Determination**

25. We grant the requested incentive for WPPI to have the opportunity to recover its prudently incurred costs for the Badger Coulee Project if it is abandoned for reasons beyond WPPI's control. In Order No. 679, the Commission found that the abandonment incentive is an effective means of encouraging transmission development by reducing the risk of non-recovery of costs.[38] We agree with WPPI that it faces substantial risks and challenges because, for example, it is a minority investor, and that approval of the abandonment incentive will address those risks and challenges by protecting WPPI from further losses if the Badger Coulee Project should be cancelled for reasons outside WPPI's control.

26. We will not determine the justness and reasonableness of WPPI's abandoned plant recovery, if any, until WPPI seeks such recovery in a future section 205 filing. Order No. 679 specifically reserves the prudence determination for the later section 205 filing that every utility is required to make if it seeks abandoned plant recovery. At such time, WPPI will be required to demonstrate in its section 205 filing that abandonment was beyond its control, provide for rate authorization allowing for recovery of abandonment costs that were prudently-incurred, and propose a rate and cost allocation method to recover the costs in a just and reasonable manner.[39]

**iii. Regulatory Asset**

**(a) WPPI Proposal**

27. WPPI states that it seeks a regulatory asset account for all Badger Coulee Project pre-commercial expenses incurred beginning in 2014 and extending through the date that WPPI has a transmission plant in service. WPPI explains that it would accumulate these pre-commercial expenses and later amortize them for recovery over five years, pursuant to a subsequent section 205 filing at the Commission. WPPI states that the costs accrued to the Badger Coulee Project regulatory asset would include the following Badger Coulee Project-related expenses: (1) pursuing regulatory approvals; (2) developing agreements, such as participation agreements; (3) acquiring expert advice regarding financing;

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[37] *Id.* at 11-12; *see also* Pardikes Testimony at 31-32.

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

[39] *Id.* P 166.

(4) educating and performing outreach to stakeholders, such as WPPI members; (5) participating in meetings; and (6) paying non-income related taxes assessed to transmission investments prior to the Badger Coulee Project going into service. WPPI also states that it will exclude all costs properly classified as construction work in progress (CWIP).[40] WPPI states that it does not request that the regulatory asset for the Badger Coulee Project also include other transmission related expenses (e.g., Operation and Maintenance planning and an allocated portion of Administrative and General overhead) because the Commission approved WPPI's collection of those expenses in the regulatory asset granted to WPPI for the La Crosse Project.[41]

28. WPPI states that it will cease to accrue expenses to the requested regulatory asset once its first eligible transmission plant, the La Crosse Project, enters into service. WPPI estimates that the La Crosse Project could commence service as early as the fall of 2015, but could be delayed into 2016. WPPI states that it estimates its pre-commercial expenses for the Badger Coulee Project are $16,000 for 2014, and will be $250,000 for 2015 if the La Crosse Project in service date is delayed.[42] WPPI states that after it becomes a MISO TO, it will post the actual costs for each year accrued in the requested regulatory asset account and the cumulative amount on its Open Access Same-time Information System website.[43]

29. WPPI proposes to apply a carrying charge compounded semi-annually to the balance of the expenses in the account. WPPI states that it requests that the carrying charge be effective on the date its incentive request is approved by the Commission. WPPI also states that it requests that the carrying charge equal the return utilizing the requested hypothetical capital structure requested in this filing. WPPI explains that this return includes using the currently applicable MISO ROE of 12.38 percent and WPPI's actual cost of debt; WPPI continues that if the MISO ROE is changed by the Commission, WPPI will use the new ROE. WPPI explains that the proposed carrying charge will be applied to the regulatory asset account balance until WPPI has both eligible in-service transmission and MISO revenue recovery. WPPI continues that it proposes to amortize and recover the regulatory asset account balance over five years

[40] Filing at 13.

[41] Pardikes Testimony at 36; *see also WPPI Energy*, 141 FERC ¶ 61,004 at PP 20-21.

[42] Filing at 12-14; *see also* Pardikes Testimony at 35, 40.

[43] Pardikes Testimony at 41.

beginning with the first Attachment O annual cycle that begins after WPPI has eligible transmission plant in service.[44]

30. WPPI states that approval of the requested regulatory asset will mitigate the financial risks associated with the Badger Coulee Project by allowing WPPI to eventually recover prudently incurred pre-commercial expenses. Furthermore, WPPI asserts, recovery of these expenses over a five-year period with a carrying charge using the proposed return, combined with Commission approval of the other requested incentives, communicates reasonable probability of cost recovery. WPPI explains that, without the requested regulatory asset, these expenses would never be recovered and would either have to be paid by WPPI members or put downward pressure on financial metrics. WPPI contends that the Commission's approval of a regulatory asset allows WPPI to avoid such a choice and is consistent with Order No. 679's goal of encouraging development of transmission by public power entities.[45]

**(b) <u>Commission Determination</u>**

31. We grant the requested incentive for WPPI to record Badger Coulee Project pre-commercial costs – not included as CWIP – as a regulatory asset until the La Crosse Project is in-service. We find that WPPI has demonstrated that this incentive is tailored to the risks and challenges posed by the Badger Coulee Project because this incentive will provide WPPI with added up-front regulatory certainty and mitigate financial risks associated with the Badger Coulee Project.

32. We also grant WPPI's request to accrue monthly carrying charges, compounded semi-annually as proposed, beginning on the date of this order until the asset is included in rate base. We accept WPPI's proposal to amortize the regulatory asset over five years, consistent with rate recovery.[46] WPPI must record all associated carrying charges by debiting Account 182.3, Other Regulatory Assets, and crediting Account 421, Miscellaneous Nonoperating Income.[47] Further, we authorize WPPI to amortize the

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[44] *Id*. at 41-42.

[45] *Id.* at 44-45 (citing Order No. 679, FERC Stats. & Regs. ¶ 31,222 at P 354).

[46] *See, e.g., MidAmerican Transco Central California Transco, LLC,* 147 FERC ¶ 61,179, at P 33 (2014) (*MidAmerican Transco*).

[47] *Revisions to Uniform Systems of Accounts to Account for Allowances under the Clean Air Act Amendments of 1990 and Regulatory-Created Assets and Liabilities and to Form Nos. 1, 1-F, 2 and 2*-A, Order No. 552, FERC Stats. and Regs., Regulations Preambles January 1991- June 1996 ¶ 30,967, at 30,825 (1993) (requiring that deferred returns or carrying charges accrued on regulatory assets be credited to Account 421).

regulatory asset and related carrying charges associated with the Badger Coulee Project by debiting Account 566, Miscellaneous Transmission Expense, and crediting Account 182.3, consistent with Commission precedent.[48] Once WPPI includes the regulatory asset in rate base as part of its revenue requirement, it will earn a return on the unamortized balance of the regulatory asset and, therefore, WPPI must stop accruing carrying charges on the regulatory asset.[49]

33. While this order grants WPPI the ability to record pre-commercial and transmission-related costs as a regulatory asset, WPPI must make a filing under section 205 to demonstrate that these costs are just and reasonable before it will be allowed to recover any such costs. WPPI will have to establish that the costs included in the regulatory asset are costs that would otherwise have been chargeable to expense in the period incurred, and parties will be able to challenge any such costs at that time.

### iv. <u>Total Package of Incentives</u>

#### (a) <u>WPPI Proposal</u>

34. WPPI states that the total package of incentives sought is tailored to address the demonstrable risks and challenges WPPI faces in undertaking the Badger Coulee Project. WPPI states that the Badger Coulee Project is of greater complexity than other more routine capital projects that WPPI undertakes as part of its normal operations. WPPI explains that as a whole, the requested incentives will reduce the demonstrable risks and challenges associated with WPPI's participation in the Badger Coulee Project, while making it more likely that WPPI will consider participation in future transmission projects. WPPI also explains that the hypothetical capital structure incentive ensures that WPPI obtains a reasonable DSC and cash flow metrics; the abandoned plant incentive addresses the risks that WPPI faces due to its limited influence and minority position; and the regulatory asset incentive is a necessary measure to allow WPPI to recover pre-commercial expenses and carrying costs and maintain strong financial health despite the fact that, unlike the lead project developers, it does not yet have transmission assets in service.[50]

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[48] *See, e.g.*, *MidAmerican Transco*, 147 FERC ¶ 61,179 at P 33.

[49] *See id.*

[50] Filing at 14-16.

#### (b) Commission Determination

35. We find that the total package of incentives sought by WPPI is tailored to address the risks and challenges that WPPI faces in undertaking the Badger Coulee Project. As noted above, in Order No. 679-A, the Commission clarified that its nexus test is met when an applicant demonstrates that the total package of incentives requested is tailored to address the demonstrable risks or challenges faced by the applicant.[51] 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.[52] The Commission noted that this nexus test is fact-specific and requires the Commission to review each application on a case-by-case basis. The Commission has, in prior cases, approved multiple rate incentives for particular projects as long as each incentive satisfies the nexus test. This is consistent with Order No. 679 and our interpretation of section 219 authorizing the Commission to approve more than one incentive rate treatment for an applicant proposing a new transmission project, as long as each incentive is justified by a showing that it satisfies the requirements of section 219 and that there is a nexus between the incentives proposed and the investment made.[53] We find that WPPI has demonstrated that each of the requested incentives, and the incentives package as a whole, addresses the risks and challenges faced by WPPI in undertaking the Badger Coulee Project.

### 2. Request for Waivers

36. We decline to address WPPI's request to waive the requirements under 18 C.F.R. § 35.13(d) that WPPI submit full Period I and Period II cost of service statements as premature because WPPI did not file a rate schedule, tariff, or service agreement. We also deny WPPI's request to waive the service requirements under 18 C.F.R. § 385.2010 because WPPI appears to have already met the requirements, which contemplate electronic service. WPPI states that it electronically served a copy of the filing on all MISO Tariff customers, all MISO Members, Member representatives of Transmission Owners and Non-Transmission Owners, MISO Advisory Committee participants, and state commissions in the region.[54]

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[51] Order No. 679-A, FERC Stats. & Regs. ¶ 31,236 at P 40; 2012 Incentives Policy Statement, 141 FERC ¶ 61,129 at P 10.

[52] 2012 Incentives Policy Statement, 141 FERC ¶ 61,129 at P 10 (quoting Order No. 679-A, FERC Stats. & Regs. ¶ 31,236 at P 40).

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

[54] Filing at 18.

The Commission orders:

WPPI's request for a hypothetical capital structure, abandoned plant recovery, and a regulatory asset account for the Badger Coulee Project is hereby granted, as discussed in the body of this order.

By the Commission.

( S E A L )

Kimberly D. Bose,
Secretary.