ORDER ON TRANSMISSION FORMULA RATE PROPOSAL AND INCENTIVES

(issued January 31, 2017)

1. On November 28, 2016, as supplemented on December 5, 2016, pursuant to section 205 of the Federal Power Act (FPA), 1 section 219 of the FPA, 2 Order No. 679, 3 and the Commission’s November 15, 2012 Transmission Incentives Policy Statement, 4 PJM Interconnection, L.L.C. (PJM) submitted, on behalf of American Electric Power Service Corporation (AEP), Transource Pennsylvania, LLC (Transource Pennsylvania) and Transource Maryland, LLC (Transource Maryland) (together Transource): (i) a request for authorization to implement a transmission formula rate template (Formula Rate) and formula rate implementation protocols (Protocols) to recover the costs of investments in transmission facilities located in the PJM region for each of the companies; 5 and (ii) a request for authorization to utilize certain incentive rate treatments.


5 For the purposes of cost recovery in PJM, each of the Transource companies meet the definition of Transmission Owner as defined by Schedule 12.a.iv of PJM’s Open Access Transmission Tariff (Tariff), available at http://www.pjm.com/~media/documents/agreements/tariff.ashx.
for a competitively assigned project in Pennsylvania and Maryland. The Formula Rate and Protocols will be included as part of Attachment H to the PJM Tariff. Transource requests that the Commission authorize the requested incentives and accept the Formula Rate and Protocols, effective February 1, 2017.

2. For the reasons discussed below, we accept and suspend Transource’s filing for a nominal period, subject to refund and conditions, and subject to the outcome of hearing and settlement judge proceedings for certain aspects of the proposed formula rate. We also accept in part, and reject in part, the transmission rate incentives proposal. The Commission can revise a proposal filed under section 205 of the FPA as long as the filing utility accepts the change. See City of Winnfield La. v. FERC, 744 F.2d 871, 875-77 (D.C. Cir. 1984). The filing utility is free to indicate that it is unwilling to accede to the Commission’s conditions by withdrawing its filing.

I. Background

3. The Transource companies are wholly owned subsidiaries of Transource Energy, LLC (Transource Energy), which is a transmission-focused joint venture of AEP and Great Plains Energy Incorporated. Transource Pennsylvania is organized under the laws of the State of Delaware while Transource Maryland is organized under the laws of the State of Maryland. Transource was formed to construct, finance, own, operate, and maintain new projects located in Pennsylvania and Maryland that are assigned through competitive developer selection under the PJM Regional Transmission Expansion Plan (RTEP) process. 

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6 PJM Interconnection, L.L.C., Intra-PJM Tariffs, OATT Table of Contents, PJM OATT Table of Contents, 23.0.0, OATT ATT H-29, OATT Attachment H-29 - TPA Annual Transmission Rates, 0.0.0, OATT ATT H-29A, OATT Attachment H-29A - TPA Formula Rate Template, 0.0.0, OATT ATT H-29B, OATT Attachment H-29B - Formula Rate Implementation Protocols, 0.0.0, OATT ATT H-30, OATT Attachment H-30 - TMD Annual Transmission Rates, 0.0.0, OATT ATT H-30A, OATT Attachment H-30A - TMD Formula Rate Template, 0.0.0, OATT ATT H-30B, and OATT Attachment H-30B - Formula Rate Implementation Protocols, 0.0.0.

7 The Commission can revise a proposal filed under section 205 of the FPA as long as the filing utility accepts the change. See City of Winnfield La. v. FERC, 744 F.2d 871, 875-77 (D.C. Cir. 1984). The filing utility is free to indicate that it is unwilling to accede to the Commission’s conditions by withdrawing its filing.

8 See generally Amended and Restated Operating Agreement of PJM Interconnection, L.L.C., Schedule 6 § 1.5.8 (effective July 18, 2016) (PJM Operating Agreement).
A. **Description of the PJM Market Efficiency Project 9A**

4. Transource identifies Market Efficiency Project 9A as baseline projects b2743 and b2752, which includes the competitive components to be developed by Transource (the Project), as well as several transmission upgrades that will be built by the incumbent utilities.9

5. Transource explains that the Project consists of: (1) the West Line, which is composed of approximately 27 miles of new double-circuit 230 kV alternating current (AC) overhead transmission line configured in a six-wire arrangement between the existing Ringgold Substation to a new Rice Substation that will tie into the existing Conemaugh-Hunterstown 500 kV line; (2) the Rice Substation, which is a new substation to include two 900 MVA, 500/230 kV transformers, two 230 kV circuit breakers in a single bus-double breaker configuration, and four 500 kV circuit breakers in a ring bus configuration; (3) the East Line, which is composed of approximately 14.5 miles of new double-circuit 230 kV AC overhead transmission line configured in a six-wire arrangement between the existing Conastone Substation to a new Furnace Run Substation that taps the existing Three Mile Island-Peach Bottom 500 kV line; and (4) the Furnace Run Substation, which is a new substation to include two 900 MVA, 500/230 kV transformers, two 230 kV circuit breakers in a single bus-double breaker configuration, and four 500 kV circuit breakers in a ring bus configuration. The East and West Lines each cross the Pennsylvania-Maryland border. The cost estimate for the Project is approximately $197 million in 2015 dollars. The total estimated cost for Market Efficiency Project 9A, including the Project and the non-competitive components, is approximately $320 million. The Project is expected to be in-service on or before June 1, 2020.10

6. Transource states that the Project represents the first competitively awarded transmission project in Maryland and Pennsylvania, as well as the first competitive Market Efficiency Project in PJM. PJM further states that Market Efficiency Project 9A, including the Project, is expected to produce approximately $620 million in congestion savings over 15 years.

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9 Transource Transmittal at 3.

10 Id. at 3–4.
B. Transource Filing

7. Transource seeks the following incentives: (1) inclusion of 100 percent construction work in progress (CWIP) in rate base during the development and construction of the Project; (2) recovery of all prudently-incurred pre-commercial costs not capitalized and included in CWIP, and establishment of a regulatory asset for such expenses incurred prior to the time costs first flow through to customers under the PJM Tariff, including authorization to accrue monthly carrying charges and amortize the regulatory asset with interest over five years for cost recovery purposes; (3) use of a hypothetical capital structure of 60 percent equity and 40 percent debt until the Project is placed into service; (4) recovery of 100 percent of prudently-incurred costs in the event that all or part of the Project must be abandoned for reasons outside the control of Transource (abandoned plant incentive); (5) a 50 basis point return on equity (ROE) adder to reflect the risks and challenges associated with the development of the Project; and (6) a 50 basis point ROE regional transmission organization (RTO) participation adder (RTO Participation Adder) in recognition that the Transource companies will become transmission-owning members of PJM and will turn over operational control of any transmission assets to PJM once they are placed into service.

8. Transource requests that the Commission accept for filing its proposed Formula Rate, Protocols, and incentive rate treatments, effective February 1, 2017.\textsuperscript{11}

9. Transource states that the requested incentive rate treatments are just and reasonable, and any requested incentive rate treatments that are not approved under an Order No. 679 analysis should be approved under an FPA section 205 analysis.\textsuperscript{12}

II. Notice of Filing and Responsive Pleadings

10. Notices of the November 28, 2016 and December 5, 2016 filings were published in the \textit{Federal Register}, 81 Fed. Reg. 87,035 (2016) and 81 Fed. Reg. 89,924 (2016), respectively, with interventions or protests due on or before December 19, 2016. Notices of intervention and timely motions to intervene were filed by Delaware Public Service Commission; Maryland Public Service Commission (MDPSC); Old Dominion Electric Cooperative (ODEC); Mid-Atlantic MCN LLC; New Jersey Division of Rate Counsel; Maryland Office of People's Counsel; and American Municipal Power, Inc. (AMP). On December 19, 2016 ODEC and AMP (together, Protesters) jointly filed a protest

\textsuperscript{11} \textit{Id.} at 2.

\textsuperscript{12} \textit{Id.} at 41.
Protest). Transource filed a motion for leave to answer and an answer on January 3, 2017 (Answer). On January 19, 2017, Protesters filed a motion to respond and a response to Transource’s Answer (Protesters’ Answer). On January 25, 2017, Transource filed a motion to respond and answer to Protesters’ Answer (Transource Answer to Answer).

III. Discussion

A. Procedural Matters

11. Pursuant to Rule 214 of the Commission’s Rules of Practice and Procedure,\(^\text{13}\) the notices of intervention and timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

12. Rule 213(a)(2) of the Commission’s Rules of Practice and Procedure\(^\text{14}\) prohibits an answer to a protest or answer unless otherwise ordered by the decisional authority. We accept Transource’s Answer, the Protesters’ Answer, and Transource’s Answer to Answer because they have provided information that assisted us in our decision-making process.

B. Transmission Incentives

1. Requested Incentives

13. Transource requests several transmission incentives, as discussed more fully below, including deferred recovery of pre-commercial costs through the establishment of a regulatory asset, CWIP in rate base, abandoned plant incentive, hypothetical capital structure, RTO participation adder, and an ROE adder for risks and challenges. Transource states it has narrowly tailored the package of incentive rate treatments for the Project to address the specific challenges faced by Transource in developing the Project.\(^\text{15}\)

\(^{13}\) 18 C.F.R. § 385.214 (2016).


\(^{15}\) Transource Transmittal at 18, 39.
2. **FPA Section 219 Requirement**

14. In the Energy Policy Act of 2005,\(^\text{16}\) Congress added section 219 to the FPA, directing the Commission to establish, by rule, incentive-based rate treatments to promote capital investment in 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 Transource. Additionally, in November 2012, the Commission issued its Transmission Incentives Policy Statement providing additional guidance regarding its evaluation of applications for transmission rate incentives under section 219 and Order No. 679.\(^\text{17}\)

15. 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.”\(^\text{18}\) 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 and/or congestion and is found to be acceptable to the Commission; or

(2) a project has received construction approval from an appropriate state commission or state siting authority.\(^\text{19}\)

16. The Commission also stated that “other applicants not meeting these criteria may nonetheless demonstrate that their project is needed to maintain reliability or reduce

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\(^{17}\) Transmission Incentives Policy Statement, 141 FERC ¶ 61,129.

\(^{18}\) Order No. 679, FERC Stats. & Regs. ¶ 31,222 at P 76.

\(^{19}\) Id. P 58.
congestion by presenting [to the Commission] a factual record that would support such a finding.”

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

   a. **Transource Filing**

18. Transource states that the Project satisfies the rebuttable presumption because it meets the requirements of FPA section 219(a) by ensuring reliability or reducing the cost of delivered power by reducing congestion. Specifically, Transource states that the Project qualifies for the rebuttable presumption because it was approved and included in the PJM RTEP. Moreover, Transource states that the 2016 PJM Whitepaper provides an analysis of the Project’s significant congestion benefits, and specifically identified the Project as a component of Market Efficiency Project 9A, which is expected to provide approximately $620 million in congestion savings over 15 years.

   b. **Commission Determination**

19. We find that the Project satisfies the section 219 requirement that it either ensure reliability or reduce the cost of delivered power by reducing transmission congestion and, therefore, is entitled to the rebuttable presumption established in Order No. 679. The Project was vetted and approved as part of the 2014/2015 PJM RTEP as a baseline project. In this regard, the Commission has held that the PJM RTEP constitutes “a fair and open regional planning process” that considers and evaluates projects for reliability

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20 *Id.* P 57; *see also* Order No. 679-A, FERC Stats. & Regs. ¶ 31,236 at P 41.

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

22 Transource Transmittal at 17.

23 *Id.* (citing 2016 PJM Whitepaper at 20-24).

24 *Id.* at 4.
and/or congestion for purposes of the rebuttable presumption provided in Order No. 679.\textsuperscript{25}

3. Order No. 679 Nexus

20. An applicant for a transmission rate incentive must demonstrate a nexus between the incentives being sought and the investment being made. 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.\textsuperscript{26} Applicants must provide sufficient support to allow the Commission to evaluate each element of the package and the interrelationship of all elements of the package. The Commission noted that this nexus test is fact-specific and requires the Commission to review each application on a case-by-case basis. The Commission has, in prior cases, approved multiple rate incentives for particular projects as long as each incentive satisfies the nexus test.

a. Transource Filing

21. Transource states that it meets the nexus test because its requested incentives are narrowly tailored to the significant risks and challenges the Project presents.\textsuperscript{27} Transource states that it will face considerable risks and challenges in developing and constructing the Project, such as: (1) financial challenges; (2) regulatory and site control challenges; and (3) risks related to the Designated Entity Agreement (DEA) with PJM.

22. Transource states that the Project presents financial risks and challenges because it will be the first transmission facility that Transource will construct.\textsuperscript{28} Transource states that since this is the first Project that it is developing, it will have no other source of

\textsuperscript{25}See Potomac-Appalachian Transmission Highline L.L.C., 122 FERC ¶ 61,188, at P 29 (2008) (“Projects that are identified as ‘baseline’ projects in the PJM RTEP process are those that benefit customers in one or more transmission owner zones for the purpose of maintaining reliability or mitigating congestion on the PJM grid,”); see also Order No. 679, FERC Stats. & Regs. ¶ 31,222 at P 58; Order No. 679-A, FERC Stats. & Regs. ¶ 31,236 at P 49.

\textsuperscript{26}Order No. 679-A, FERC Stats. & Regs. ¶ 31,236 at P 115.

\textsuperscript{27}Transource Transmittal at 39.

\textsuperscript{28}Id. at 18.
regular cash flow, and that the absence of established financial strength indicators would cause lenders to closely review the expected future cash flows under Commission approved rates.\textsuperscript{29}

23. Next, Transource states that the Project faces regulatory and site control challenges because portions of the Project are located in Pennsylvania and Maryland, requiring Transource to get approvals from both the Pennsylvania Public Utility Commission (PPUC) and the MDPSC. Transource also states it will also need to obtain permits from the U.S. Army Corps of Engineers; water quality certifications from Pennsylvania and Maryland; other approvals from the Maryland Department of the Environment and the Pennsylvania Department of Environmental Protection; authorizations or approvals from the U.S. Fish and Wildlife Service if the Project route impacts protected species;\textsuperscript{30} a determination from the Federal Aviation Administration that there is no hazard to aviation navigation; archaeological and historic surveys based on consultation with the Pennsylvania Historical and Museum Commission and the Maryland Historic Trust; permits from the Maryland State Highway Administration and the Pennsylvania Departments of Transportation; and various approvals from local governments or other entities. According to Transource, these regulatory challenges are compounded by the fact that Transource may need to obtain these approvals from parallel agencies in two states within a tight timeframe, and obtaining these permits will likely require a significant amount of coordination among various federal, state, and local agencies.

24. Moreover, Transource states that it will need to work with individual landowners to acquire the necessary land and easements to construct the 42-mile combined route of the two new 230 kV lines. Transource notes that the required easements are expected to cross approximately 300 parcels, including state game lands owned by the Pennsylvania Game Commission. In addition, Transource does not expect that it will be able to use any existing rights of way (ROW).\textsuperscript{31} Transource states that Transource Maryland cannot

\textsuperscript{29} Id.

\textsuperscript{30} Transource states that an Independent Cost Review White Paper conducted by PJM’s independent consultant found that the East and West Lines, rebuild project, and associated substation expansions and installations are all within the range of rare bat species. Surveys could be required that have time of year requirements, and time of year restrictions on tree clearing could be implemented pending coordination with U.S. Fish and Wildlife Service and the results of surveys. Transource Transmittal at 19, n. 109.

\textsuperscript{31} Transource Transmittal at 22.
obtain electric utility status under applicable Maryland law, because it does not serve retail customers and thus will not have the authority to use eminent domain to acquire ROW along the approved route. Transource states that this lack of eminent domain authority presents significant additional risk to the Project development schedule.

25. Transource also states that it faces several categories of risks associated with the DEA entered into between PJM and Transource Energy, because it contains binding obligations not generally required of utilities undertaking non-competitive transmission development. Transource explains that Schedule C of the DEA contains a development schedule with mandatory project milestones and provides that the failure to meet any of the milestone dates would constitute a breach of the DEA, which could result in default of the DEA, and if not cured, could result in the termination of the DEA. Transource further explains that this type of risk is significant, considering the many regulatory and site control challenges in the Project, and that potential investors in the Project would need to evaluate the risk of termination when determining whether to allocate capital to this type of project.32

26. Furthermore, Transource states that there is a risk for economic projects such as this because PJM could later find, based on changing conditions, that the Project is no longer needed to relieve congestion.33 Transource states that this risk is compounded by the long development lead time for the Project.

b. Protest and Answer

27. Protesters request that the Commission reject Transource’s filing in its entirety as unjust and unreasonable. Alternatively, if the Commission does not reject the filing outright, then Protesters request that the Commission reject the requested incentives, accept the Formula Rate and Protocols, suspend the filing for the maximum period and make it effective subject to refund, and establish hearing and settlement judge procedures.34

28. In its Answer, Transource urges the Commission to deny Protesters’ request to reject or suspend the filing, and to find that no hearing or settlement judge procedures are needed to resolve the issues raised by Protesters. Transource states that its filing was

32 Id. at 23.

33 Id. at 24.

34 Protest at 1-2.
fully supported by numerous testimonies and exhibits, and provides sufficient information for the Commission to grant the relief requested therein.\textsuperscript{35}

c. Commission Determination

29. We deny Protesters’ request to reject the filing. As discussed further below, Transource has demonstrated that the scope of the Project poses significant risks and challenges. The Project will require a number of siting and permitting processes at multiple jurisdictional levels. Thus, we find that in applying the nexus test, Transource has sufficiently demonstrated that certain risk-reducing incentives are warranted, and we accept in part, and reject in part, the transmission rate incentives proposal. We also accept and suspend, for a nominal period, the Formula Rate, to become effective subject to refund, and establish hearing and settlement judge procedures for certain aspects of the Formula Rate.

4. Construction Work in Progress

30. In Order No. 679, the Commission established a policy that allows utilities to include, where appropriate, 100 percent of prudently-incurred transmission-related CWIP in rate base.\textsuperscript{36} The Commission noted in Order No. 679 that this rate treatment will further the goals of section 219 by providing up-front regulatory certainty, rate stability, and improved cash flow for applicants, thereby reducing the pressures on their finances caused by investing in transmission projects.\textsuperscript{37} The Commission has also found that allowing companies to include 100 percent of CWIP in rate base would result in greater rate stability for customers by reducing the “rate shock” when certain large-scale transmission projects come on line.\textsuperscript{38}

\textsuperscript{35} Transource Answer at 46.

\textsuperscript{36} Order No. 679, FERC Stats. & Regs. ¶ 31,222 at P 29, 117.

\textsuperscript{37} Id. P 115.


\textbf{a. Transource Filing}

31. Transource requests authorization to include 100 percent of CWIP in rate base during the development and construction phase of the Project. Transource notes that the Commission has authorized this incentive in a number of cases,\(^\text{39}\) and has found that the incentive “addresses the timing issue associated with the recovery of financing costs for large transmission investment and allows recovery of a return on construction costs during the construction period rather than delaying cost recovery until the plant is placed into service.”\(^\text{40}\)

32. Transource contends that there is a nexus between its request for CWIP and the risks and challenges associated with financing the Project. Specifically, Transource states that it will have no credit record to obtain financing for the construction of the Project. Transource contends that the CWIP incentive will improve cash flow during construction, which is instrumental in supporting financial integrity and attracting capital.\(^\text{41}\) In addition, Transource notes consumers will save because allowing CWIP in rate base will reduce the capital costs financed.\(^\text{42}\)

\textbf{b. Commission Determination}

33. We grant Transource’s request to include 100 percent of CWIP in rate base during the development and construction phase of the Project. We find that Transource has shown a nexus between the proposed 100 percent CWIP recovery and its investment in the Project. Transource has demonstrated that the size and scope of the Projects pose risks of not obtaining favorable investment ratings. We find that authorizing 100 percent CWIP recovery for the Project will enhance Transource’s cash flow, reduce interest expenses, assist it with obtaining favorable financing, and improve the coverage ratios used by rating agencies to determine Transource’s credit quality by replacing non-cash allowance for funds used during construction (AFUDC) with cash earnings. This, in turn,

\(^{39}\) Transource Transmittal at 29 (citing \textit{PJM Interconnection, LLC}, 152 FERC ¶ 61,180, at P 48 (2015); \textit{Xcel Energy Servs., Inc.}, 121 FERC ¶ 61,284, at PP 57-61 (2007); \textit{Otter Tail Power Co.}, 129 FERC ¶ 61,287, at PP 32-34 (2009); \textit{Great River Energy}, 130 FERC ¶ 61,001 (2010)).

\(^{40}\) \textit{Id.} (citing Transmission Incentives Policy Statement at P 12).

\(^{41}\) \textit{Id.}

\(^{42}\) \textit{Id.} at 30.
will reduce the risk of a downgrade in Transource’s investment ratings. These factors are comparable to those that the Commission has taken into consideration in authorizing the inclusion of CWIP in rate base for other utilities.\(^{43}\) We also find that allowing Transource to include 100 percent of CWIP in rate base will further the goals of FPA section 219 as it “removes a disincentive to construction of transmission, which can involve very long lead times and considerable risk to the utility that the project may not go forward.”\(^{44}\)

34. Further, Transource states that it will not accrue AFUDC in FERC Account 107, CWIP, for the Project during any period when the companies are earning a current return on CWIP using the CWIP incentive.\(^{45}\) We find, as we explain below, that Transource has demonstrated that it has appropriate accounting procedures in place to prevent recovery of AFUDC on CWIP costs that are also included in the rate base.

35. We accept Transource’s proposed accounting procedures and use of footnote disclosures to its financial statements to provide comparability of financial information.\(^{46}\) We note that Commission policy requires Transource to also have sufficient accounting controls and procedures to ensure that unpaid accruals properly recorded in the work orders are excluded from transmission rate base.\(^{47}\)

36. A public utility may accrue AFUDC on eligible construction expenditures properly recorded in Account 107, CWIP, or include such amounts in rate base when authorized by the Commission. This practice compensates a public utility for its out-of-pocket construction costs. However, it would be inappropriate to accrue AFUDC or include in rate base and earn a return on amounts charged to Account 107 that have not been paid. Additionally, we note that Transource’s accounting controls and procedures are subject to scrutiny through Commission audit and rate review.

\(^{43}\) \textit{Xcel}, 121 FERC ¶ 61,284 at P 59.

\(^{44}\) Order No. 679, FERC Stats. & Regs. ¶ 31,222 at P 117.

\(^{45}\) Transource Exhibit No. TMP-500 at 8-9.

\(^{46}\) \textit{See Transource Missouri}, 141 FERC ¶ 61,075, at P 52 (2012); \textit{American Transmission Co.}, 107 FERC ¶ 61,117, at PP 16-17 (2004).

5. **Regulatory Asset for Pre-Commercial and Formation Costs**

a. **Transource Filing**

37. Transource requests authorization to recover all prudently-incurred pre-commercial and formation costs that are not capitalized and included in CWIP,\(^48\) and to establish a regulatory asset, in Account 182.3, Other Regulatory Assets, that will include such costs incurred up to the date charges are first assessed to customers under Transource’s Formula Rate.\(^49\) Transource states that such costs include costs that ordinarily would be booked to expense when incurred, including attorney and consultant fees, entity formation costs, administrative and managerial expenses, taxes (other than income taxes), other expenses related to corporate structure, travel expenses, development surveys, costs related to technical studies, bid preparation and submission costs, and regional planning activities, and costs to support regional activities that have been or will be undertaken with respect to Transource’s participation in PJM’s transmission planning.\(^50\)

\(^{48}\) Transource Transmittal at 24.

\(^{49}\) Transource uses the term “regulatory asset incentive” to describe the rate and accounting approvals that Transource seeks for the deferral of pre-commercial and formation costs in Account 182.3, Other Regulatory Assets. The deferral and subsequent recovery in rates of pre-commercial costs are the incentives. See Order No. 679, FERC Stats. & Regs. ¶ 31,222 at PP 103-122, 175-178. Regulatory asset accounting treatment is not an incentive, but rather, an accounting treatment resulting from the actions of regulatory agencies which covers a broader array of costs, such as costs that cannot be passed through in rates due to a retail rate freeze. Nor does regulatory asset accounting treatment need to be contemporaneous with a section 205 rate request. See, for example, the regulatory asset accounting treatment of certain costs unrelated to transmission incentives addressed in *Midwest Indep. Transmission Sys. Operator, Inc.*, 103 FERC ¶ 61,205, at P 22 (2003), and in *PJM Interconnection, L.L.C.*, 109 FERC ¶ 61,012, at P 54 (2004). But in denying petitions for rehearing and clarification, the Commission has observed it has made no finding regarding “the recoverability of a regulatory asset.” *PJM Interconnection, L.L.C.*, 110 FERC ¶ 61,234, at P 41 (2005); aff’d, *Virginia State Corporate Comm’n v. FERC*, 468 F.3d 845 (2006).

\(^{50}\) Transource Exhibit No. TPM-500 at 11.
38. Transource also requests authorization to amortize the regulatory asset for the Project over five years, starting from the date Transource begins to recover the regulatory asset as part of the revenue requirement under its Formula Rates.  

b. **Commission Determination**

39. We grant Transource’s request to defer all prudently-incurred pre-commercial and formation costs specific to the Project that are not capitalized and to include these costs as a regulatory asset in Account 182.3, Other Regulatory Assets. We find that this incentive appropriately addresses certain risks and challenges of the Project because it will provide Transource with upfront certainty, reduce interest expenses, improve coverage ratios, and assist in the construction of the Project.

40. We grant Transource’s request to accrue a carrying charge on the unamortized balance of the regulatory asset until the asset is included in rate base. We also approve Transource’s request to record the carrying charges by debiting Account 182.3 and crediting Account 421, Miscellaneous Nonoperating Income, consistent with Commission precedent.

41. Consistent with Commission precedent, we authorize Transource to amortize the regulatory asset and related carrying charges associated with the Project by debiting Account 566, Miscellaneous Transmission Expenses, and crediting Account 182.3. Further, the appropriate carrying charge should not result in a higher amount of interest than is allowed for construction expenditures that accrue AFUDC. We restrict the compounding of interest to no more frequently than semi-annually consistent with the Commission’s requirements. Accordingly, we accept, subject to the directive discussed

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51 Transource Transmittal at 25.

52 See, e.g., TransCanyon DCR, LLC, 152 FERC ¶ 61,017, at P 32 (2015); NextEra Energy Transmission West, LLC, 154 FERC ¶ 61,009, at PP 32-33 (2016) (NEETWest).

53 See, e.g., South Central MCN, LLC, 153 FERC ¶ 61,099, at PP 17 (2015); TransCanyon DCR LLC, 152 FERC ¶ 61,017 at P 32; NEETWest, 154 FERC ¶ 61,009 at P 33.

54 See e.g., TransCanyon DCR LLC, 152 FERC ¶ 61,017 at P 32; NEETWest, 154 FERC ¶ 61,009 at P 33.

55 See NEETWest, 154 FERC ¶ 61,009 at P 33.
directly below, Transource’s proposed effective date of February 1, 2017 to allow it to record a regulatory asset for the pre-commercial and formation costs and begin accruing carrying charges.

42. While we authorize Transource to record its prudently-incurred costs as a regulatory asset, Transource must make a section 205 filing to demonstrate that the pre-commercial and formation costs are just and reasonable before it includes them in its rate base. In that filing, Transource 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. Entities may challenge the reasonableness of these costs at that time.

6. **Hypothetical Capital Structure**

   a. **Transource Filing**

43. Transource requests authorization to use a hypothetical capital structure consisting of 60 percent equity and 40 percent debt until the Project goes into service. Transource states that it will begin to use its actual capital structure once the Project goes into service. Transource further states that it commits in the DEA to cap the equity share of the capital structure for the Project at 50 percent once permanent financing is in place.  

44. Transource states that the use of 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 or unamortized regulatory asset balance, during the period prior to the time its first project is placed into service. Transource contends that a more predictable cash flow resulting from the use of the hypothetical capital structure will support its efforts to obtain at least a BBB investment grade credit quality, which will in turn help it to obtain capital at more reasonable costs and ultimately result in lower rates for customers.

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56 Transource Transmittal at 26, n. 141.

57 *Id.* at 26.

58 *Id.*
b. Protest and Answer

45. Protesters point out that the equity to debt ratio is different between Transource’s DEA filing (50/50) and the interim equity to debt ratio (60/40) requested in this incentive filing, which would be followed by the use of Transource’s actual capital structure once the project is placed in service. Protesters aver that if a 50/50 capital structure is acceptable with permanent financing in place, then it should also be acceptable as a hypothetical capital structure.\(^{59}\)

46. Transource explains that a hypothetical capital structure with 60 percent equity will provide it higher cash flows during the construction period, which results in a healthier debt service coverage ratio, an important metric for debt investors. Transource also contends that failure to adopt the hypothetical capital structure would increase the magnitude of Transource’s net negative cash flow during this critical period.\(^{60}\) In response to Protesters’ argument that Transource should cap the equity component at 50 percent once permanent financing is in place, Transource states the competitive concession offered by it for the Project was specifically limited to the permanent financing period, and did not limit capital structure during construction.\(^{61}\) Transource notes that the Commission has granted a 60 percent equity/40 percent debt hypothetical capital structure for a number of other new entrant developers pursuant to both Order No. 679 and section 205 of the FPA.\(^{62}\)

\(^{59}\) Protest at 30-31.

\(^{60}\) Transource Answer at 30.

\(^{61}\) Id.

c. **Commission Determination**

47. We grant Transource’s request to use a hypothetical capital structure of 60 percent equity and 40 percent debt until either permanent financing is in place or until the Project achieves commercial operation, whichever is sooner, consistent with Commission precedent. The requested hypothetical capital structure will aid Transource in raising capital during the construction phase of the Project, and will assist it in maintaining low debt costs. As part of our acceptance of the hypothetical capital structure, we note that Transource has committed in the DEA to cap the equity share of the capital structure for the Project at 50 percent once permanent financing is in place.

48. The Commission has held that 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. We find that a hypothetical capital structure furthers the policy goal of facilitating the participation of nonincumbent transmission developers in the Order No. 1000 solicitation process, thereby encouraging competition.

7. **Abandoned Plant Incentive**

a. **Transource Filing**

49. Transource requests the ability to recover 100 percent of prudently incurred costs in the event that all or part of the Project must be abandoned for reasons beyond the

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63 See, e.g., XEST, 149 FERC ¶ 61,182 at P 22 (45/55 debt/equity ratio); Xcel Energy Transmission Dev. Co., LLC, 149 FERC ¶ 61,181, at P 13 (2014)(XETD) (45/55 debt/equity ratio); Transource Kansas, LLC, 151 FERC ¶ 61,010 at P 25 (Transource Kansas) (40/60 debt/equity ratio).

64 Transource Transmittal at 16.

65 See NEETWest, 154 FERC ¶ 61,009 at P 37; XEST, 149 FERC ¶ 61,182 at P 22; XETD, 149 FERC ¶ 61,181 at P 13.

66 See NEETWest, 154 FERC ¶ 61,009 at P 37; ATX Southwest, LLC, 152 FERC ¶ 61,193, at P 30 (2015) (ATX Southwest) (citing Transmission Planning and Cost Allocation by Transmission Owners and Operating Public Utilities, Order No. 1000-A, 139 FERC ¶ 61,132, at P 87 (2012)).
control of Transource (Abandoned Plant Incentive). Transource explains that the Abandoned Plant Incentive helps to address risk in undertaking the Project, by eliminating the risk that lenders and shareholders may have to bear the costs incurred on transmission projects that are abandoned for reasons outside the developer’s control. Transource notes that the Commission has stated that allowing an applicant to recover 100 percent of prudently incurred abandoned plant if the applicant can demonstrate risk that a project might be abandoned for reasons outside the applicant’s control is “an effective means to encourage transmission development by reducing the risk of non-recovery of costs.” In addition, Transource notes that the Commission has found that “in addition to the challenges presented by the scope and size of a project, factors like various federal and state siting approvals introduce a significant element of risk” that can be mitigated by the Abandoned Plant Incentive. Transource explains that the Project faces significant risk that could lead to eventual abandonment, including the lack of eminent domain for siting in Maryland.

b. Commission Determination

50. We find that Transource has demonstrated a nexus between the Project risk and the need for the Abandoned Plant Incentive. As we have emphasized in other proceedings, an Abandoned Plant Incentive is an effective means to encourage transmission development by reducing the risk of non-recovery of costs. Accordingly, we will grant Transource’s request for recovery of 100 percent of prudently-incurred costs associated with abandonment, provided that abandonment is a result of factors beyond Transource’s control. This incentive is effective February 1, 2017, as requested.

51. However, we note that, before Transource can collect any abandonment costs, Transource will need to make a section 205 filing demonstrating the prudence of the costs

67 Transource Transmittal at 27.

68 Id.

69 Id. (citing Order No. 679, FERC Stats. & Regs. ¶ 31,222 at P 163).

70 Id. (citing Transmission Incentives Policy Statement at P 14).

71 Id. at 27-29.

72 Order No. 679, FERC Stats. & Regs. ¶ 31,222 at P 163.
incurred.\textsuperscript{73} Order No. 679 specifically requires every utility seeking abandonment recovery to submit such a section 205 filing.\textsuperscript{74} In such a proceeding, abandoned plant cost recovery is available for 100 percent of prudently incurred project costs expended on or after the issuance of this order.\textsuperscript{75}

8. **Risks and Challenges Adder**

a. **Transource Filing**

52. Transource requests authorization for a 50 basis point incentive ROE adder to address what it claims are unique risks and challenges it confronts in developing and constructing the Project. Transource argues the adder is appropriate because these risks and challenges are not already addressed through traditional ratemaking policies or risk-reducing incentives.\textsuperscript{76}

53. Transource explains that, as a start-up company, it will have no credit rating, no debt repayment history, and no earnings history. In order to meet the Project milestones outlined in the DEA with PJM, Transource will need to expend significant funds for the engineering, procurement, ROW acquisition, permitting, and overall development of the Project.\textsuperscript{77}

54. In addition, Transource notes that part of the Project will be in Pennsylvania and part will be in Maryland. Therefore, Transource will need to obtain approvals from both the PPUC and the MDPSC. Specifically, Transource Pennsylvania will need to obtain a Certificate of Public Convenience to provide electric service to the public and approval of all contracts with affiliates, as well as approval of a Full Siting Application from PPUC. In addition, Transource Maryland will need to obtain a Certificate of Public Convenience and Necessity from the MDPSC. Moreover, Transource states that Transource Maryland

\begin{itemize}
    \item \textsuperscript{73} Primary Power LLC, 131 FERC ¶ 61,015, at P 124.
    \item \textsuperscript{74} Order No. 679, FERC Stats. & Regs. ¶ 31,222 at PP 165-166.
    \item \textsuperscript{75} PJM Interconnection, L.L.C., 140 FERC ¶ 61,197, at P 24 (2012); see also New England Power Co., Opinion No. 295, 42 FERC ¶ 61,016, at 61,075-178, order on reh’g, Opinion No 295-A, 43 FERC ¶ 61,285 (1988).
    \item \textsuperscript{76} Transource Transmittal at 30-32.
    \item \textsuperscript{77} Id. at 33.
\end{itemize}
cannot obtain electric utility status under applicable Maryland law, because it does not serve retail customers. Therefore, Transource Maryland will not have the authority to use eminent domain to acquire ROW along the approved route.\(^{78}\)

55. Transource further explains that it will need to obtain: permits from the U.S. Army Corps of Engineers; water quality certifications from Pennsylvania and Maryland; other approvals from the Maryland Department of the Environment and the Pennsylvania Department of Environmental Protection; authorizations or approvals from the U.S. Fish and Wildlife Service if the Project route impacts protected species; a determination from the Federal Aviation Administration that there is no hazard to aviation navigation; archaeological and historic surveys based on consultation with the Pennsylvania Historical and Museum Commission and the Maryland Historic Trust; permits from the Maryland State Highway Administration and the Pennsylvania Departments of Transportation; and various approvals from local governments or other entities. In addition to the above, Transource states that it will need to work with individual landowners to acquire the necessary land and easements associated with approximately 300 parcels.\(^{79}\)

56. Transource indicates that PJM has concluded that each component of Market Efficiency Project 9A, including the Project and the non-competitive components, are necessary for the Project to achieve its full anticipated benefits, and PJM could conclude that the Project should not proceed if one segment or part of one segment cannot go forward. For example, Transource notes that in the 2016 PJM Whitepaper, PJM staff stated that:

\[
\text{[t]he combination of both western and eastern transmission provides significant benefits because it allows energy to divert from the regional high voltage system to lower voltage load areas. If only the western transmission was included…than [sic] increased congestion will occur on the eastern portion of PJM because of new energy flow patterns and available generation.}\(^{80}\)
\]

57. In addition to the above discussed risks and challenges, Transource states that there are risks related to the DEA with PJM, such as meeting milestone dates. For instance, Transource states that if it misses a milestone, it could constitute a breach and

\(^{78}\) *Id.* at 19-20, 31.

\(^{79}\) *Id.* at 20-22, 31.

\(^{80}\) *Id.* at 23 (citing 2016 PJM Whitepaper at 20).
default of the DEA, and the Project could be terminated. Transource notes that this is a significant risk in light of the regulatory and site control challenges, which have the potential to delay the Project. Moreover, Transource states that PJM can seek to terminate the DEA if PJM “determines pursuant to Regional Transmission Expansion Planning Protocols in Schedule 6 of the Operating Agreement that the Project is no longer required to address the specific need for which the Project was included in the Regional Transmission Expansion Plan.” In addition, Transource states that there is the potential risk that another project proposal sponsor that was not designated to construct a project may seek to have PJM reconsider its selection of the Project or its designation of Transource, or may file some other Commission or judicial action that would affect Transource’s development of the Project.  

b.  **Protest and Answers**

58. Protesters state that Transource has not met the Commission criteria for justifying the risks and challenges adder.  

82 For instance, Protesters state that the requested ROE and other incentives should adequately address any legitimate risks faced by Transource in constructing the Project, and that Transource has failed to demonstrate that the 10.4 percent base ROE, plus incentives and the requested 50 basis point RTO participation adder, are insufficient to mitigate its risk.

59. Protesters take exception to Transource using the DEA as evidence of risk, stating the requirement to execute a DEA is not unique to Transource, and that the milestone risks of the DEA are commonplace for any project.  

84 Protesters further state that the escalation compounded adjustment of 3 percent per year to account for inflation as measured from the bid submission date of February 27, 2015 and the project in-service date provides generous risk mitigation, and substantially lessens Transource’s claims of DEA-related risk.

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81 Id. at 23-24.

82 Protest at 29 (citing Transmission Incentives Policy Statement, 141 FERC ¶ 61,129).

83 Id. at 30.

84 Id. at 26 (citing *PJM Interconnection, L.L.C.*, 148 FERC ¶ 61,187 (2014)).

85 Id. at 27.
60. Protesters argue that the high benefit/cost ratios provided to the PJM system by the proposed Project would make risk of project cancellation minimal and that contingency should have limited consideration as justification for risk-based incentives.  

61. Transource maintains that its request for the risks and challenges ROE adder fully satisfies the Transmission Incentive Policy Statement and the protest raises no specific objections to this request. Transource states that it meets the Transmission Incentive Policy Statement’s requirements that the Project faces substantial risks and challenges that are not reflected in the requested base ROE or mitigated through risk-reducing incentives, and which support fully the requested risks and challenges ROE adder. Transource states that the Project will address chronic operational issues that have had demonstrated cost impacts on customers, and thus qualifies as one of the types of projects that the Commission anticipated in the Transmission Incentive Policy Statement. In addition, Transource claims Market Efficiency Project 9A, of which its Project is part, will provide financial benefits to ratepayers, noting that PJM has calculated an approximately $620 million reduction in PJM congestion payments.

62. Transource states that the other requested incentives and RTO participation adder would not adequately address these risks and challenges. Transource states that the other requested incentives do not mitigate fully the risks and challenges associated with the need to support such investments in the face of delays, or other consequences of the required permits and other approvals and authorizations.

63. Transource reiterates that the Project also will present numerous financial risks and challenges for Transource. Transource also asserts that its requested base ROE does not address these residual risks and challenges. Transource states that the 10.4 percent base ROE is derived from a discounted cash flow (DCF) analysis that relies on a proxy group comprised of large, incumbent electric utilities with investment grade credit ratings. Transource states that, while a large, incumbent utility may undertake a new construction project, the new investment would typically be small relative to the larger

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86 Id. at 29.
87 Transource Answer at 19.
88 Transource Transmittal at 32.
89 Transource Answer at 25-27.
90 Id. at 27.
overall utility rate base and present minimal risk for investors and lenders. Transource states that because it is, as a nonincumbent developer, building its first project through the Commission’s Order No. 1000 competitive process, it entails more risk than the utilities in the proxy group, which have large portfolios of existing assets and current cash flow. Transource argues that the Commission’s ROE determination would result in an unrealistically low estimate of a nonincumbent developer’s true cost of equity, particularly where the nonincumbent developer’s first project is complex and faces substantial risks.\(^{91}\) As a result, Transource states that the base ROE does not account for these risks, which are more appropriately reflected in an incentive ROE adder.\(^ {92}\)

64. Transource states that, as the Transmission Incentive Policy Statement requires, it is taking all appropriate steps to reduce the risks associated with development of the Project.\(^ {93}\) Transource contends that the Project satisfies the Transmission Incentive Policy Statement’s requirement that alternatives to the Project were considered through a transmission planning process because PJM carefully considered and evaluated a wide range of alternatives to the Project through the RTEP process. Transource states that the Commission consistently has held that projects evaluated and approved by Order No. 890- or Order No. 1000-compliant transmission planning processes, which would include the Project, satisfy fully this requirement.\(^ {94}\)

65. Transource also notes that the Commission should reject Protesters’ argument that the DEA risk should not be considered merely because Transource “voluntarily” entered into the DEA. Transource states that the DEA was required by PJM for competitive transmission development. Therefore, Transource argues that it should not be penalized for competing in PJM’s competitive process and following the rules associated with that process.\(^ {95}\) Transource further states while it is possible that milestone deadlines could be extended, PJM would make that determination. Transource notes that if a DEA milestone is not extended, missing that milestone would constitute a breach by

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\(^{91}\) Id.

\(^{92}\) Id. at 28, n. 77.

\(^{93}\) Id. at 25.

\(^{94}\) Transource Transmittal at 38.

\(^{95}\) Transource Answer at 22.
Transource, which could lead to PJM re-evaluating the Project’s inclusion in the RTEP or Transource’s designation as the Project developer.  

66. Finally, Transource states that it will limit the risks and challenges ROE adder to the construction cost cap applicable to the Project to satisfy the Transmission Incentive Policy Statement. Unlike traditional ratemaking policies, which permit a public utility to recover through cost-of-service rates the costs of all prudently-incurred transmission investments, Transource has committed to cap the construction costs it may include in its Formula Rate at $197 million, subject to certain conditions and exclusions.

   c. Commission Determination

67. We deny Transource’s request for a 50 basis point incentive ROE adder based on the Project’s risks and challenges. As discussed below, we find that Transource has not provided adequate support for that requested incentive because it has failed to demonstrate that the adder is “tailored to addresses demonstrable risks and challenges” in light of the guidance provided in the Transmission Incentives Policy Statement.

68. The Transmission Incentives Policy Statement describes four showings that the Commission “expects applicants seeking an incentive ROE based on a project’s risks and challenges to make … as part of their application for that incentive.” The first of those showings is that “[w]hen applying for an incentive ROE based on the project’s risks and challenges, applicants will first be expected to demonstrate that the proposed project faces risks and challenges that are not either already accounted for in the applicant’s base ROE or addressed through risk-reducing incentives.” Placing this demonstration into context, the Transmission Incentives Policy Statements then states that “to make this demonstration, the Commission suggests that applicants identify risks and challenges

96 Transource Answer to Answer at 4-5.

97 Id. at 38.

98 Transmittal at 4.


100 Id. P 19.

101 Id. P 20.
specific to the project for which an incentive ROE is being requested.” 102 The Transmission Incentives Policy Statement further identifies three types of transmission projects that, consistent with that expectation and based on the Commission’s experience and expertise with respect to industry trends and system investment needs, may warrant an incentive ROE based on a project’s risks and challenges. 103 As relevant here, one such type of transmission project is transmission that “relieve[s] chronic or severe grid congestion that has had demonstrated cost impacts to consumers.” 104

69. We find that Transource has not demonstrated that the Project faces risks and challenges either not already accounted for in the applicant’s base ROE or addressed through risk-reducing incentives. While Transource has identified significant risks and challenges associated with the Project, Transource has not demonstrated how these risks and challenges are not adequately accounted for in Transource’s requested base ROE or addressed through the risk-reducing incentives that we are granting here.

70. Similarly, we disagree with Transource’s argument that the Project falls within one of the types of transmission projects that the Transmission Incentives Policy Statement stated may warrant an incentive ROE based on a project’s risks and challenges. Transource states that the Project will relieve chronic or severe congestion that has had demonstrated cost impacts to consumers. We find that, in contrast to circumstances in which the Commission has granted an incentive ROE adder based on a project’s risks and challenges following issuance of the Transmission Incentives Policy Statement, the congestion-related benefits associated with this Project are noteworthy but insufficient to warrant the requested incentive ROE adder. 105

102 Id.

103 Id. P 21-22.

104 Id. P 21. The other types of transmission projects identified for this purpose are “projects that unlock location constrained generation resources that previously had limited or no access to the wholesale electricity markets” and “projects that apply new technologies to facilitate more efficient and reliable usage and operation of existing or new facilities.”

105 In N.Y. Indep. Sys. Operator, Inc., 151 FERC ¶ 61,004 (2015), the Commission determined that the Edic-to-Pleasant Valley 345 kV line possessed the characteristics of the types of projects that warranted an incentive ROE based on the project’s risks and challenges that were not already accounted for in the applicant’s base ROE. The Edic-to-

(continued …)
9. **RTO Participation Adder**

a. **Transource Filing**

Transource notes that the Commission has determined in Order No. 679 that it will approve the RTO Participation Adder “for public utilities that join and/or continue to be a member of an Independent System Operator (ISO), RTO, or other Commission-approved Transmission Organization.”

Transource states that the RTO Participation Adder provides an important incentive for newly established transmission developers to participate in an RTO, and the Commission has repeatedly rejected requests to eliminate the continued application of the 50 basis point adder for RTO participation. Therefore, Transource requests authorization for a 50 basis point ROE RTO Participation Adder for participation in PJM, stating that it will become transmission-owning members of PJM, transfer functional control of transmission facilities to PJM once placed into service, and recover the costs of projects from customers through the inclusion of its Formula Rates in the PJM Tariff.

b. **Commission Determination**

We grant Transource’s request for a 50 basis point RTO Participation Adder for its participation in PJM, in addition to its base ROE, consistent with previous Commission decisions.

Pleasant Valley 345 kV Line was an investment of over $1 billion in capital, a major financial risk. The Commission found persuasive NYISO’s 2013 CARIS report, which identified more than $200 million in production cost savings associated with the construction of the Edic-to-Pleasant Valley 345 kV Line alone, and transmission congestion relief across existing lines by 41 percent in 2022. The Commission also noted that the Edic-to-Pleasant Valley 345 kV Line was expected to reduce transmission congestion costs by more than $400 million, reduce transmission line losses by $139 million, and reduce installed capacity costs between $739 million and $4.2 billion on a net present value basis over ten years.

Transource Transmittal at 11 (citing Order No. 679, FERC Stats. & Regs. ¶ 31,222 at P 331).


Id. at 11-12.
orders,\textsuperscript{109} and subject to the ROE zone of reasonableness established pursuant to the hearing and settlement judge procedures established herein. We note that our approval of this adder is contingent on Transource’s commitment to become a member of PJM and transfer operational control of the Project to PJM once the Project has been placed in service.

73. We reiterate that the basis for the incentive adder is a recognition of the benefits that flow from membership in an RTO, ISO, or other Commission-approved Transmission Organization and that continuing membership is generally voluntary.\textsuperscript{110} Therefore, consistent with the policy in Order No. 679,\textsuperscript{111} we find that the requested 50-basis point RTO Participation Adder is appropriate, subject to the resulting, total ROE—i.e., the base ROE plus the ROE incentive adder—being capped by the zone of reasonableness determined at hearing.

C. Transmission Formula Rate

1. Base ROE

\hspace{1em} a. Transource Filing

74. Transource requests a 10.40 percent base ROE.\textsuperscript{112} Transource states that it used the Commission’s two-step DCF methodology to estimate the cost of equity for a proxy group of other electric utilities under the methodology adopted in Opinion No. 531.\textsuperscript{113} Using the two-step DCF methodology, Transource states that the range of reasonable returns is 6.41 percent to 11.71 percent, with a median of 8.37 percent.\textsuperscript{114}

\textsuperscript{109} See \textit{NEETWest}, 154 FERC ¶ 61,009 at P 39; Transource Kansas, 151 FERC ¶ 61,010 at P 46; \textit{California Transco}, 147 FERC ¶ 61,179 at P 45; Transource Missouri, 141 FERC ¶ 61,075 at P 75; \textit{XEST}, 149 FERC ¶ 61,182 at P 64.


\textsuperscript{111} Order No. 679, FERC Stats. & Regs. ¶ 31,222 at P 331.

\textsuperscript{112} Transource Transmittal at 9.

\textsuperscript{113} \textit{Id.} at 10.

\textsuperscript{114} \textit{Id.}
75. Transource states that, to test the validity of the DCF methodology’s measure of central tendency, it considered alternative benchmarks. Specifically, Transource states that the following additional approaches were evaluated: (1) risk premium approach, (2) the Capital Asset Pricing Model; (3) the expected earnings approach; and (4) state-approved ROEs. Transource notes that the Commission relied on these alternative benchmark methodologies in Opinion Nos. 531 and 551 in evaluating the placement of the base ROE within the zone of reasonableness implied by the two-step DCF analysis. Transource contends that each of the alternative benchmarks demonstrate that the 8.37 precedent median value resulting from the two-step DCF methodology is far below the return needed to attract investor capital, and that the anomalous capital market conditions that prompted the Commission to approve an ROE within the top half of the DCF zone in Opinion Nos. 531 and 551 persist. Transource states that, considering the need to meet the Hope and Bluefield standards, the persistence of anomalies in the capital markets, and the results of alternative methods for determining cost of equity, Transource request a base ROE of 10.4 percent.

**b. Protest and Answer**

76. Protesters argue that Transource’s requested base ROE of 10.4 percent is substantially overstated and has not been developed in accordance with applicable Commission precedent, and thus recommend that the Commission reject it. Protesters argue that the amalgam of different empirical analyses performed inflates the proposed ROE above that calculated through the proper application of the Commission’s preferred two-step DCF method, is contrary to Commission policy and precedent for determining

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115 Id.

116 Id. (citing Association of Business Advocating Tariff Equity, Opinion No. 551, 156 FERC ¶ 61,234, at PP 127, 135, 136, 165, 191, 239, 250 (2016)).

117 Id.

118 Id. at 11 (citing Fed. Power Comm’n v. Hope Nat. Gas Co., 320 U.S. 591 (1944)).

119 Id. (citing Bluefield Waterworks & Improvement Co. v. Pub. Serv. Comm’n of W. Va., 262 U.S. 679 (1923)).

120 Protest at 1-2.
the just and reasonable ROE for a stand-alone transmission company like Transource, and results in an unjust and unreasonable proposed ROE.\footnote{Id. at 2.}

77. Protesters recognize that Transource performed a two-step DCF analysis for a national proxy group of electric utilities, but they argue that the analysis does not conform to Commission precedent and departs from Opinion Nos. 531 and 551 in ways that improperly inflate the results. Protesters dispute Transource’s selection of a proxy group of 28 utilities that includes Avangrid, explaining that its DCF ROE is a clear outlier. Protesters claim that Transource incorrectly used the Commission’s mechanism for reflecting the quarterly payment of dividends by using only the short-term Institutional Brokers’ Estimate System (IBES) earnings per share growth rate as the “g” in the \(1+0.5g\) formulation that is used to adjust the dividend yield rather than the composite growth rate as used by the Commission in Order Nos. 531 and 551. Further, Protesters assert that after applying the two-step DCF method, Transource’s witness Mr. McKenzie erroneously applied the Commission’s low-end ROE test and excluded the ROE results of two utilities (Edison International, and Public Service Enterprise Group) that should have been retained.\footnote{Id. at 4-5.}

78. Protesters further argue that Transource improperly applied the Commission’s guidance on the dividend yield adjustment factor in its DCF analysis, that Transource failed to demonstrate the existence of anomalous market conditions, and that the use of the short-term growth rate to adjust the dividend yield is contrary to the Commission’s preferred methodology.\footnote{Id. at 8.}

79. Protesters argue that Transource incorrectly used the midpoint rather than the median as the measure of the central tendency of the DCF results, and further erred by basing the 10.4 percent ROE on the central tendency of the upper half. Protesters state that simply using the median of the upper half of the DCF results, which is the same as the 75th percentile value, would reduce the ROE from 10.4 percent to 9.0 percent. Protesters argue that, following Commission precedent, either the 8.37 percent median for the full range, or the 9.00 percent upper half median, would be more appropriate
measures of central tendency for determining Transource’s cost of common equity capital than Transource’s midpoint-based 10.4 percent ROE proposal.\textsuperscript{124}

80. In its Answer, Transource disputes Protesters’ contentions that Avangrid is not followed by \textit{Value Line} and it is a high-end outlier. First, Transource states that Avangrid became a publicly traded company in 2015 and is indeed covered by \textit{Value Line}. Second, Transource states that Avangrid is not a high-end outlier because its composite growth rate of 7.45 percent and DCF value of 11.71 percent are both below thresholds the Commission had previously identified in Opinion No. 531.\textsuperscript{125} Additionally, Transource points out that Opinion No. 531 found it to be unnecessary to screen the proxy group for unsustainable growth rates because the two-step methodology assumes that the long-term growth rate for each company is equal to gross domestic product (GDP).\textsuperscript{126} With regard to Protesters’ attempt to apply a natural break test to eliminate Avangrid, Transource notes that the Commission has previously rejected the use of such a test.\textsuperscript{127}

81. Transource next contends that it reasonably excluded Edison International and Public Service Enterprise Group as low-end outliers. While the yields for these companies are 120 and 171 basis points above Baa-rated utilities bonds, Transource contends they are low relative to historical bond yields and fall below the average expected yield on utility bonds over the next five years. Therefore, Transource states that these values are sufficiently low under the logic of the Commission’s low-end test and should be excluded.\textsuperscript{128}

82. Transource argues that it properly applied the Commission’s guidance on the dividend yield adjustment factor in its DCF analysis. Specifically, Transource states that recent Commission precedent finds that the adjustment to the dividend yield should be

\textsuperscript{124} Id. at 11-12.

\textsuperscript{125} Transource Answer at 4-6.

\textsuperscript{126} Id. at 5.

\textsuperscript{127} Id. at 6-7 (citing Martha Coakley, Massachusetts Attorney General, Opinion No. 531-B, 150 FERC ¶ 61,165, at P 79 (2015)).

\textsuperscript{128} Id. at 7-8.
based on the near-term IBES growth rate, not composite growth rate.\textsuperscript{129} Transource contends that Protesters failed to provide a valid reason why the Commission’s recent conclusion in \textit{Seaway} that “the short-term IBES growth rate is far more representative of the growth investors expect over the coming year than is the two-stage growth rate’ and that investors would be unlikely to place much weight on a long-term GDP estimate for this purpose” is not equally applicable when applying the dividend yield adjustment factor for the DCF analysis for Transource.\textsuperscript{130}

83. Transource contends that it persuasively demonstrated the existence of anomalous market conditions and therefore appropriately recommended an upward adjustment to its proposed ROE based on analyzing alternative benchmarks consistent with Opinion Nos. 531 and 551 and the requirements of \textit{Hope} and \textit{Bluefield}.\textsuperscript{131} Transource states that the Commission has concluded that “the fact that these conditions have persisted over the approximately two years since the end of the study period adopted in Opinion No. 531 does not, in and of itself, mean that these conditions are not anomalous.”\textsuperscript{132} Transource supports the placement of the ROE at the midpoint of the upper half of the zone because using the median of the upper half of the range would not produce an ROE sufficient to meet the requirements of \textit{Hope} and \textit{Bluefield}, and that an ROE of 10.4 percent is more appropriate given the market conditions and the Commission-approved benchmarks.\textsuperscript{133} Transource also contends that requiring the use of the upper median, rather than the upper midpoint, would have the effect of unjustly and unreasonably depressing the ROE of Transource by more than 100 basis points relative to a group of utilities, merely because they filed as a single filer rather than as a group. Transource notes that it must compete for capital with utilities across the nation, including those in MISO and New England regions, and Protesters can posit no reason why constructing and owning transmission assets is any riskier in these regions than in PJM.\textsuperscript{134}

\begin{footnotesize}
\begin{enumerate}
\item \textsuperscript{129} \textit{Id.} at 8-9 (citing \textit{Seaway Crude Pipeline Co. LLC}, 154 FERC ¶ 61,070, at P 198).
\item \textsuperscript{130} \textit{Id.} at 9 (citing \textit{Seaway Crude Pipeline Co. LLC}, 154 FERC ¶ 61,070 at P 198).
\item \textsuperscript{131} Transource Answer at 13.
\item \textsuperscript{132} \textit{Id.} at 9-10 (citing Opinion No. 551, 156 FERC ¶ 61,234 at P 112).
\item \textsuperscript{133} Transource Answer at 14-15.
\item \textsuperscript{134} Transource Answer at 16.
\end{enumerate}
\end{footnotesize}
84. Transource clarifies that the alternative methodologies were not relied on directly to establish an ROE range or point estimate, but merely to confirm and test that the proposed ROE is reasonable and fair.\textsuperscript{135}

c. **Commission Determination**

85. We accept and suspend Transource’s proposed base ROE, for a nominal period, to become effective February 1, 2017, subject to refund, as discussed below. Our preliminary analysis indicates that Transource’s 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 find that Transource’s proposed base ROE raises issues of material fact that cannot be resolved on the record before us, and we set it for hearing and settlement judge procedures.

86. While we are setting these matters for a trial-type evidentiary hearing, we encourage the parties to make every effort to settle their disputes 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.\textsuperscript{136} If the parties desire, they may, by mutual agreement, request a specific judge as the settlement judge in the proceeding.\textsuperscript{137} The Chief Judge, however, may not be able to designate the requested settlement judge based on workload requirements, which determine judges’ availability. The settlement judge shall 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.

87. While we set Transource’s proposed base ROE for hearing and settlement judge procedures, we find Transource’s proposed Formula Rate and Protocols sections of the

\textsuperscript{135} Id. at 17.

\textsuperscript{136} 18 C.F.R. § 385.603 (2016).

\textsuperscript{137} If the parties decide to request a specific judge, they must make their joint request to the Chief Judge by telephone at (202) 502-8500 within five days of this order. The Commission’s website contains a list of Commission judges and a summary of their background and experience (http://www.ferc.gov/legal/adr/avail-judge.asp).
PJM Tariff\textsuperscript{138} to be just and reasonable, subject to a compliance filing due within 30 days of the date of this order to address the matters discussed below.

2. Protocols

a. Transource Filing

88. Transource explains that its Protocols are transparent, consistent with the Commission’s latest guidance on protocols for forward-looking formula rates, and will provide customers with sufficient information and procedural safeguards to facilitate the annual review of the inputs to the Formula Rate.\textsuperscript{139} Transource claims that the Protocols are consistent with the Commission’s guidance in the MISO formula rate protocols proceedings,\textsuperscript{140} as well as additional more recent Commission guidance,\textsuperscript{141} and also are similar to the protocols of Northeast Transmission Development, LLC, which the Commission accepted in Docket No. ER16-453. Transource states that the proposed Protocols satisfy the Commission’s concerns with respect to: (1) scope of participation in Transource’s information exchange process; (2) the transparency of the information exchange; and (3) the ability of interested parties to challenge Transource’s implementation of its Formula Rates as a result of the information exchange.\textsuperscript{142}

89. Transource explains that the Protocols govern the specific procedures for notice, requests for information, and review and challenge to the Annual Update and Annual Projection. Transource further explains that each company will hold remotely-accessible open meetings to provide an opportunity for interested parties to seek information and clarification after the posting of the Annual Update, and again after the posting of the Annual Projection. In addition, Transource states that there will be a discovery period and review period where parties may seek additional information or clarification from

\textsuperscript{138} Attachments H-29, H-29A, H-29B, H-30, H-30A, and H-30B.

\textsuperscript{139} Transource Transmittal at 13-14.

\textsuperscript{140} Id. at 14.

\textsuperscript{141} Id. (citing Transource Wisconsin, LLC, 155 FERC ¶ 61,302, at P 14 (2016); PJM Interconnection, L.L.C., 155 FERC ¶ 61,097, at P 127).

\textsuperscript{142} Id. (citing Empire Dist. Elec. Co., 148 FERC ¶ 61,030, at P 6 (2014)).
Transource. Transource states that if parties are not satisfied with its responses, they may file a formal challenge with the Commission.\textsuperscript{143}

\textbf{b. Protest and Answer}

90. Protesters request that the Commission require Transource to add the following language to its protocols, which the Commission has accepted in other cases: (i) “If [Transource], in its sole discretion, cannot respond within the fifteen (15) business day timeframe, it shall notify the requesting party and shall provide an estimate of when Transource shall provide the requested information. To the extent Transource objects to an Information Request or requires clarification, it shall notify Protesters within five (5) business days of receipt. To the extent Transource cannot timely respond to an information request, Transource shall notify Protesters no later than ten (10) business days of receipt of such request.”; (ii) “If a response to a particular question(s) requires additional time to prepare, Transource shall submit all other responses within the good faith effort of fifteen (15) business days and submit responses that need additional time to prepare as soon as possible, but in no event later than thirty (30) calendar days from the request.” and (iii) “For any information requests submitted during the last thirty-five (35) days of the Discovery Period to which Transource has not responded within fifteen (15) business days, the Discovery Period shall be extended equal to the greatest number of days beyond the fifteen (15) business day timeframe that it takes Transource to provide the requested information in response a single information request or set of information requests.”\textsuperscript{144}

91. In its Answer, Transource contends that the discovery timing provisions in its protocols are fully consistent with the MISO Protocols and provide adequate opportunity for interested parties to submit and receive responses to information requests.\textsuperscript{145} Transource states that the Commission did not require any additional procedures in the MISO Protocols, and explicitly rejected the idea that it is necessary to “toll” the deadline for making information requests in the event of a delay in the transmission owner’s provision of responses to information requests, noting that “[i]t is important to hold all parties accountable to a structured timeline, such as the one proposed, in order to ensure that the entire process is completed before the beginning of the next year’s posting and

\textsuperscript{143} Id. at 14-15.

\textsuperscript{144} Protest at 38-39.

\textsuperscript{145} Transource Answer at 39.
information exchange.” Transource notes that the Commission found that it was sufficient to require the transmission owner to make a good faith effort to respond to information requests within 15 business days and to require them to respond to all information requests by a specific date in order to allow interested parties enough time to review those responses before Preliminary Challenges are due. Transource contends that its Protocols achieve both objectives because they require a good faith effort to respond within 15 business days, and ensure that responses to all information requests are received no later than 30 days after the end of the Discovery Period and at least 30 days prior to the deadline for Preliminary Challenges. Therefore, Transource argues that the Commission should reject Protesters’ attempt to impose additional burdensome procedural requirements that are unnecessary and were not required by the Commission in the MISO Protocol proceedings.

92. Transource states that it is unclear why Protesters believe that the Formal Challenge deadline must be shifted to allow interested parties to have sufficient time to evaluate Transource’s responses to information requests, as the current Formal Challenge deadline provides approximately 100 days between the deadline for responses to all information requests and the deadline to submit a Formal Challenge. Transource clarifies it must respond to all information requests within 30 days of the close of the Discovery Period (which closes 150 days after the posting of the Annual Update (Publication Date)). Transource states that the deadline to make Preliminary Challenges is then 210 days after the Publication Date or 30 days after the receipt of all responses to timely submit information requests, whichever is later. Transource states that its informational filings must then be made by March 15 or 45 days after the deadline to make Preliminary Challenges, whichever is later. Finally, Transource states that the deadline for Formal Challenges does not occur until April 15 or 30 days after the Informational Filing is made, whichever is later. Transource contends that the timeline provides interested

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146 Id. at 39-40 (citing Midcontinent Indep. Sys. Operator, 146 FERC ¶ 61,212, at P 60 (2014)).

147 Id. at 40 (citing Midcontinent Indep. Sys. Operator, 146 FERC ¶ 61, 212 at PP 27, 50).

148 Id.

149 Id. at 40-41.
parties more than enough time to evaluate responses to information requests before the deadline to make Formal Challenges.\textsuperscript{150}

93. Transource states that, without providing any support, Protesters identify a list of “Supplemental Problems” and corresponding requested changes.\textsuperscript{151} Transource contends that the provisions the Protestors propose were not required by the Commission in the MISO Protocols proceedings, and Protesters point to no subsequent proceedings in which the Commission has required such provisions. Therefore, Transource contends that the Commission should deny Protesters’ requests.\textsuperscript{152}

94. Transource contests Protesters’ attempt to “reserve” their right to raise “additional issues” concerning the filing at a later point in this proceeding following a Commission order. Transource contends that Protesters have had sufficient time to review the filing and raise to the Commission any issues that need to be resolved. Therefore, Transource argues that the request should be denied. While Transource believes the filing to be just and reasonable and there is no need for an evidentiary hearing, Transource states that to the extent that the Commission determines that hearing and/or settlement judge procedures are necessary to resolve a specific issue, the Commission should expressly limit the hearing to that particular issue, so as to streamline the proceeding and enhance the likelihood of a negotiated resolution.\textsuperscript{153}

c. \textbf{Commission Determination}

95. We reject Protesters’ arguments that Transource’s Protocols should be accepted, suspended, and made effective subject to refund and to the outcome hearing and settlement judge procedures. We find that, with the exception of those items requiring a compliance filing and the additional compliance requirements ordered herein, Transource has justified its proposed Protocols.

96. We accept Transource’s filing, subject to condition that Transource removes proposed Section 5.j., which attempts to define the scope of various section 205 filings. The Commission has found that provisions in formula rate protocols that attempt to

\textsuperscript{150} Id. at 41.

\textsuperscript{151} Id. at 42 (citing Protest at 40).

\textsuperscript{152} Id. at 42-45.

\textsuperscript{153} Id. at 45.
define the scope of future section 205 filings are inappropriate.\textsuperscript{154} In \textit{ATX Southwest}, the Commission rejected such a provision, stating that the scope of any future section 205 filing will be addressed when such a filing is made.

97. We agree with Transource that 100 days is sufficient time to file information requests, and note that, while the Commission has previously found 120 days to be sufficient, we have not found less than 120 days to be unreasonable. We find, therefore, that the deadlines proposed by Transource are reasonable.

98. Finally, Transource has acknowledged in its Answer several additional changes suggested by Protestors and offered to implement them on compliance. We therefore accept Transource’s Protocols, subject to condition and compliance filing revising the Protocols within 30 days of the date of this order.

3. \textbf{Formula Rate}

a. \textbf{Transource Filing}

99. Transource explains that, to calculate the annual transmission revenue requirement, it will forecast the values needed to populate the Formula Rate for each calendar year (Rate Year), and later, determine a true-up of the forecasted values after the actual data become available on the FERC Form No. 1 the year after the Rate Year.\textsuperscript{155} Transource further explains that any difference between the forecasted annual transmission revenue requirement and actual annual transmission revenue requirement for a Rate Year determined based on FERC Form No. 1 data will be reflected in an appropriate true-up adjustment to the following year’s annual transmission revenue requirement.\textsuperscript{156}

\textsuperscript{154} \textit{ATX Southwest, LLC}, 152 FERC ¶ 61,193, at P 85 (2015) (\textit{ATX Southwest}). The provision rejected in \textit{ATX Southwest}, similar to the provision in Transource’s protocols, stated, in part, that ATX Southwest may, “at its discretion and at a time of its choosing, make a limited filing pursuant to Section 205 to modify stated values in the Formula Rate . . .,” and that the sole issue of that proceeding would be whether the proposed change is just and reasonable.

\textsuperscript{155} Transource Transmittal at 8.

\textsuperscript{156} \textit{Id.} at 8-9.
100. Transource states that the Formula Rate provides for the recovery of a return on rate base, taxes other than income taxes, depreciation expense, and other operation and maintenance (O&M) expenses, less any revenue credits. Transource states that for transmission and general plant balances, land held for future use, materials and supplies, and prepayments, the formula rate uses the average of 13 monthly balances, whereas for accumulated deferred income taxes, the Formula Rate uses the average of the beginning and end of year balances.\textsuperscript{157} Transource further states that “the Formula Rate shall include a credit to rate base for all unfunded reserves (funds collected from customers)….”\textsuperscript{158}

101. Transource states that the tax obligations incurred through its operations will be passed through to and reported on the tax returns of its corporate parents. Accordingly, Transource states that, for ratemaking purposes, it will be treated as a corporation and will receive an income tax allowance. Transource states that this is consistent with Commission practice.\textsuperscript{159}

\textbf{b. Protest and Answer}

102. Protesters argue that Transource’s Formula Rate, at Attachment 4a – Projection ADIT, does not include a note that proration is specifically applicable to ADIT items which are related to the use of tax depreciation (accelerated depreciation) versus book depreciation. Therefore, Protesters argue that the Commission should require Transource to clarify the intent of the use of proration by including a note in this Attachment 4a. In addition, Protesters argue that the Commission should require Transource to include a detailed listing of ADIT items as part of its worksheet and functionalize each ADIT entry separately based on the nature of the activities giving rise to the deferred taxes.\textsuperscript{160} Protesters also argue that Transource should more granularly identify potential classes of unfunded reserves.\textsuperscript{161}

\textsuperscript{157} Id. at 9.

\textsuperscript{158} Transource Formula Rate, Attachment 4, note F.

\textsuperscript{159} Id. (citing Green Power Express LP, 127 FERC ¶ 61,031 at P 110, reh’g & clarification denied, 135 FERC ¶ 61,141).

\textsuperscript{160} Protest at 36.

\textsuperscript{161} Protest at Attachment B, No. 13 and Protesters’ Answer at 12-13.
103. Transource states that, if directed to on compliance, it agrees to make the modifications to the Formula Rate as specified in the table in its Answer, with the exception of the following:

a. Transource does not agree with Protesters that Payments in Lieu of Taxes (PILOTs) are inapplicable, and ask that the Commission reject Protesters’ request. Transource states that its affiliates, which are not municipal utilities, have encountered development projects before where localities with taxation authority have negotiated alternative payment mechanisms to payment of taxes on the assessed value of real estate. Transource asserts that PILOTs are not solely applicable to municipal utilities, and Protestors cite no Commission precedent that would preclude an investor owned utility from recovering a PILOT. Transource states that these PILOT payments are recorded in Account 408.1 with traditionally levied property taxes when they occur.

b. Transource does not agree that “Permanent Differences Tax Adjustments” could not be included until after Commission approval, and ask that the Commission reject Protesters’ request. Transource asserts the Commission has accepted revisions to the formula rate templates of other transmission owners in PJM to address the recovery of deferred tax liability.

c. Transource states that the labor dollars on Line 5 of Attachment 7 include both capitalized and expensed labor dollars for each company. Transource asserts that, therefore, the calculation of a fixed dollar per labor dollar PBOP expense on Line 6 appropriately includes capitalized labor in the denominator. Transource states that, if directed on compliance, it would propose to amend Note B to read: “Amounts on line 5 reflect the actual AEP and KCP&L straight-time labor, including both capitalized and expensed labor, loaded for nonproductive load. KCP&L’s labor is $243,676,962, as provided on the 2015 Form No. 1 on page 354.96.d, less

162 Transource Answer at 33-36.

163 Id. at 33.

$51,943,652 of labor dollars associated with the Wolf Creek Nuclear Facility." Transource also states that it prefers not to speculate regarding the types of reserves that might be recorded in the accounts noted by the Protestors because it does not at this time know what reserves might be required. Transource further states that the parties will have a chance to review the inclusion of reserves in the cost of service during the annual update discovery period.

**c. Commission Determination**

104. We accept Transource’s Formula Rate (other than the proposed base ROE, as discussed above), subject to a compliance filing revising the Formula Rate within 30 days of the date of this order.

105. We agree with Transource that PILOTs are not inapplicable and deny Protesters’ request in this regard. Transource should record these PILOT payments in Account 408.1 with traditionally levied property taxes when they occur.

106. We disagree with Protesters that “Permanent Differences Tax Adjustments” could not be included until after Commission approval, and deny Protesters’ request. The Commission has accepted revisions to the formula rate templates of other transmission owners in PJM to address the recovery of deferred tax liability.

107. We interpret Transource’s statements in its Answer to mean that it commits to include new unfunded reserves, such as those identified by Protesters, in the Formula Rate and that parties can seek any clarification during the annual review process, and we accept that commitment. Transource has agreed to several corrections related to Protesters’ concerns in the Formula Rate and indicated that it would make further corrections in its compliance filing, if directed by the Commission, as specified in the

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165 Id. at 36.

166 Transource Answer at 38.


168 Transource Answer at 33-36.
table in its Answer.\textsuperscript{169} The Commission directs Transource to make such corrections in its compliance filing.

4. Depreciation Rates

a. Transource Filing

108. Transource states that, consistent with Commission precedent, its Formula Rate include stated depreciation rates for transmission and general plant.\textsuperscript{170} Transource states that, as new entities with no assets yet in service, it lacks an operating history upon which to base a depreciation study. Transource explains that, in such instances, the Commission has found that it is appropriate to use the depreciation study or rates of an affiliate as a proxy for the new entity in determining its proposed depreciation rates.\textsuperscript{171} Therefore, Transource proposes to use the depreciation rates, to the extent they are available, of its affiliate, Appalachian Power Company (APCo).\textsuperscript{172} Transource states that the Project will be located in an area within PJM that is geographically similar to the areas where APCo’s facilities are located.\textsuperscript{173} Transource states that the depreciation rates used in Attachment 10 of the Formula rate were determined using the depreciation study prepared by AEP (Depreciation Study) and filed with the Public Service Commission of West Virginia (PSCWV) in Case No. 14-1151-E-D by Transource’s affiliate, APCo. APCo’s proposed depreciation rates for transmission and general plant, based on the Depreciation Study, were accepted by the PSCWV by order dated May 26, 2015.\textsuperscript{174} In addition, on April 15, 2016, FERC also accepted the depreciation rates established for APCo in PSCWV Case

\textsuperscript{169} Id.

\textsuperscript{170} Transource Transmittal at 12.

\textsuperscript{171} Id. (citing NextEra Energy Transmission West, LLC, 154 FERC ¶ 61,009 at P 103; XEST, 149 FERC ¶ 61,182 at P 66.

\textsuperscript{172} Id. at 13.

Transource contends that it is appropriate to use these depreciation rates because the competitive projects that it develops will be similar to existing APCo transmission facilities. In addition, Transource notes that it will rely on the same service provider as APCo, AEP Service Corporation, and will follow the same practices as APCo when construction, operating, and maintaining its own facilities in the future. Moreover, Transource expects to have the same mortality characteristics on its facilities as APCo.\textsuperscript{176}

\textbf{b. Protest and Answer}

109. Protesters state that because Transource does not currently have any assets in operation, the proposed use of depreciation rates based upon the Appalachian Power Depreciation Study is inappropriate without adequate discovery and the proposed rates could be unjust and unreasonable. Therefore, Protesters contend that the proposed depreciation rates should be set for hearing.\textsuperscript{177}

110. Transource states that its proposed depreciation rates are just and reasonable and comply with Commission precedent.\textsuperscript{178} Transource points out that although Protesters assert that the Commission should set Transource’s depreciation rates for hearing, they raise no justification and no issue of material fact that would justify such treatment. Transource argues that the Commission has approved the use of an affiliate’s – APCo – depreciation parameters based on a depreciation study performed for that affiliate without setting them for hearing provided that affiliate served as a reasonable proxy.\textsuperscript{179}

\begin{footnotesize}

\textsuperscript{176} Transource Transmittal at 12-13.

\textsuperscript{177} Protest at 31 -32.

\textsuperscript{178} Transource Answer at 31.

\textsuperscript{179} Id. at 32 (citing PJM Interconnection, 155 FERC ¶ 61,097 at P 164 (“In the past, the Commission has accepted formula rates that use a corporate affiliate’s Commission-approved depreciation rates for a transmission joint venture startup, and we do so here. We find that, as Cross Texas is an affiliate company with other transmission facilities, Cross Texas’s depreciation rates would be an appropriate proxy for NTD to adopt in determining that its proposed depreciation rates are just and reasonable.”) (footnote omitted); Transource Kan., 151 FERC ¶ 61,010 at P 51 (“We accept Transource Kansas’ proposed depreciation rates. We recognize that, because Transource

(continued …)
c.  **Commission Determination**

111. We accept Transource’s proposed depreciation rates. We recognize that, because Transource does not currently have transmission assets, there is no historical data to support a depreciation study. In the past, the Commission has accepted formula rates that use a corporate affiliate’s Commission-approved depreciation rates for a transmission joint venture start-up, and we do so here.\(^{180}\) We find that, as APCo is an affiliate company with other transmission facilities, APCo’s depreciation rates would be an appropriate proxy for Transource to adopt in determining that its proposed depreciation rates are just and reasonable. We therefore disagree with Protestors that the proxy rates must be set hearing.

112. In *Ameren Illinois Co.*\(^{181}\), we noted: “the change to the depreciation accrual rates does not change the value of the asset, and would not result in any over- or under-recovery of costs,” but rather only affects the timing of collection of the investment. We therefore reject the protest.

**The Commission orders:**

(A) Transource’s requested incentives of a hypothetical capital structure, recovery of deferred pre-commercial and corporation formation cost through the creation of a regulatory asset, CWIP, abandoned plant recovery, and RTO participation adder for the Project are hereby granted, as discussed in the body of this order.

(B) Transource’s proposed risks and challenges ROE adder incentive is hereby denied, as discussed in the body of this order.

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\(^{180}\) See e.g. *NEETWest*, 154 FERC ¶ 61,009 at P 103; *XEST*, 149 FERC ¶ 61,182 at P 124.

\(^{181}\) 141 FERC ¶ 61,264, at P 32 (2012) (*Ameren*).
(C) Transource’s proposed Formula Rate (other than the proposed base ROE) is hereby accepted, subject to compliance, to become effective February 1, 2017, as discussed in the body of this order.

(D) Transource’s proposed Protocols are hereby accepted, subject to condition and compliance, effective February 1, 2017, as discussed in the body of this order.

(E) Transource’s proposed depreciation rates are hereby accepted, effective February 1, 2017, as discussed in the body of this order.

(F) Transource is hereby directed to submit a compliance filing within 30 days of the date of this order, as discussed in the body of this order.

(G) 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 Transource’s proposed base ROE. However, the hearing shall be held in abeyance to provide time for settlement judge procedures, as discussed in Ordering Paragraphs (H) and (I) below.

(H) Pursuant to Rule 603 of the Commission’s Rules of Practice and Procedure, 18 C.F.R. § 385.603 (2016), the Chief Administrative Law Judge is hereby directed to appoint a settlement judge in this proceeding within 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 5 days of the date of this order.

(I) Within 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 60 days thereafter, informing the Commission and the Chief Judge of the parties’ progress toward settlement.

(J) 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 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 Commission’s Rules of Practice and Procedure.

By the Commission.

( S E A L )

Nathaniel J. Davis, Sr.,
Deputy Secretary.