161 FERC ¶ 61,036
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Neil Chatterjee, Chairman;
Cheryl A. LaFleur, and Robert F. Powelson.

Republic Transmission, LLC Docket No. EL17-52-000

ORDER GRANTING PETITION FOR DECLARATORY ORDER

(Issued October 6, 2017)

1. On March 22, 2017, Republic Transmission, LLC (Republic) filed a petition for declaratory order (Petition) seeking certain transmission rate incentives, pursuant to section 219 of the Federal Power Act[1] (FPA), Order No. 679[2] and the Commission's November 15, 2012 policy statement on transmission incentives.[3] The Petition seeks transmission rate incentives for Republic's investment in the Duff-Coleman EHV 345 kV Competitive Transmission Project (Project). In this order, we grant Republic's request for certain rate incentives, as discussed below.

I. **Republic's Filing**

2. Republic is a transmission-only company whose business is to develop, own, and operate transmission facilities in the Midcontinent Independent System Operator, Inc. (MISO) region. Republic is organized under the laws of the State of Delaware. The membership interests of Republic are wholly owned by Republic Transmission Holdings, LLC (RT Holdings). RT Holdings is owned by LSP Transmission Holdings, LLC.

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[1] 16 U.S.C. § 824s (2012).

[2] *Promoting Transmission Investment through Pricing Reform*, Order No. 679, FERC Stats. & Regs. ¶ 31,222, *order on reh'g*, Order No. 679-A, FERC Stats. & Regs. ¶ 31,236 (2006), *order on reh'g*, 119 FERC ¶ 61,062 (2007).

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

Hoosier Electric Cooperative, Inc. (Hoosier) will own between 10 percent and 20 percent of RT Holdings.[4]

3. Republic was selected to develop the Project through MISO's Order No. 1000[5] competitive transmission project developer selection process.[6] The Project was approved as a market efficiency project as part of the 2015 MISO Transmission Expansion Plan (MTEP15). The Project consists of an approximately 30-mile, single-circuit 345 kV transmission line from the existing Duff substation in southern Indiana to Big River Electric Coop's existing Coleman substation in Western Kentucky.

4. Republic requests a return on equity (ROE) adder of 50 basis points for participation in a Regional Transmission Organization (RTO) (RTO Participation Incentive) and certain incentives for the Project, pursuant to Order No. 679, effective May 15, 2017. Republic requests authorization pursuant to Order No. 679 for the following incentive rate treatments for the Project: (1) deferred recovery of prudently incurred pre-commercial costs through creation of a regulatory asset (Regulatory Asset Incentive); (2) full recovery of prudently-incurred costs if the Project is abandoned for reasons beyond Republic's control (Abandoned Plant Incentive); and (3) use of a hypothetical capital structure consisting of 55 percent debt and 45 percent equity until the Project achieves commercial operation (Hypothetical Capital Structure Incentive). Republic also requests, pursuant to Order No. 679, a 50 basis point RTO Participation Incentive for its participation in MISO, subject to the base ROE plus the RTO Participation Incentive being within the zone of reasonableness and the ROE cap that Republic committed to in its competitive solicitation.[7] Republic also notes that it seeks no other ROE incentives for the Project.

5. On August 15, 2017, Republic filed an update to the Petition (August 15 Update). Republic states that as of May 31, 2017, Hoosier is the owner of 10 percent of the membership interests in RT Holdings. Republic states that LSP Transmission Holdings,

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[4] Petition at 2-4.

[5] *See Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities*, Order No. 1000, FERC Stats. & Regs. ¶ 31,323 (2011), *order on reh'g and clarification*, Order No. 1000-A, 139 FERC ¶ 61,132, *order on reh'g and clarification*, Order No. 1000-B, 141 FERC ¶ 61,044 (2012), *aff'd sub nom.*, *S.C. Pub. Serv. Auth. v. FERC*, 762 F.3d 41 (D.C. Cir. 2014).

[6] Petition at 1-2. Republic states that the Project is the first project of any kind subject to MISO's competitive process. *Id*. at 5.

[7] *Id*. at 8-9.

LLC remains the owner of all other membership interests in Republic. In addition, Republic expresses concern about its requested effective date. Republic states that it is on the cusp of undertaking significant expenditures in furtherance of development of the Project, including entering into real estate, equipment, and other significant development contracts. Noting that the Commission was unable to address the Petition by the requested May 15, 2017 effective date due to the Commission's lack of a quorum at the time, Republic states that it will continue to move forward with development of the Project and expenditure of significant funds in order to ensure it meets its obligations under the Selected Developer Agreement with MISO as the Project's developer.[8] Republic reiterates its request for an effective date of May 15, 2017 rather than a later date due to the lack of a Commission quorum.[9] Republic states that, although it sees no indication that the Project is likely to be terminated for reasons beyond Republic's control, Republic's investors entered into the Selected Developer Agreement and agreed to rate concessions with an expectation that the Project would qualify for, and receive, the limited incentive rates requested prior to the expenditure of significant funds. Republic states that it will continue further development of the Project under that same assumption.[10]

II. Notices of Filings and Responsive Pleadings

6. Notice of the Petition was published in the *Federal Register*, 82 Fed. Reg. 15,357 (2017), with interventions and protests due on or before April 14, 2017. Notices of intervention were filed by the Missouri Public Service Commission and the Organization of MISO States. Timely motions to intervene were filed by DATC LLC, Ameren Transmission Company of Illinois, and MISO. On April 17, 2017, Northern Indiana Public Service Company (NIPSCO) and Hoosier filed late motions to intervene.

7. Notice of the August 15 Update was published in the *Federal Register*, 82 Fed. Reg. 39,988 (2017), with interventions and protests due on or before August 22, 2017. None were filed.

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[8] August 15 Update at 2-3.

[9] *Id*. at 4 (citing *San Diego Gas & Elec. Co.*, 154 FERC ¶ 61,158, *reh'g denied*, 157 FERC ¶ 61,056 (2016), *pet'n for review docketed sub nom. San Diego Gas & Elec. Co. v. FERC*, Case No. 16-1433 (D.C. Cir. Dec. 23, 2016) (*San Diego Gas & Electric*)).

[10] Id.

III. Discussion

A. Procedural Matters

8. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2017), the notices of intervention and timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

9. Pursuant to Rule 214(d) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214(d) (2017), the Commission will grant NIPSCO's and Hoosier's late-filed motions to intervene given their interests in the proceeding, the early stage of the proceeding, and the absence of undue prejudice or delay.

B. Substantive Matters

1. Section 219 Requirement

10. In the Energy Policy Act of 2005,[11] Congress added section 219 to the FPA, directing the Commission to establish, by rule, incentive-based rate treatments to promote capital investment in certain transmission infrastructure. The Commission subsequently issued Order No. 679, which sets forth processes by which a public utility may seek transmission rate incentives pursuant to section 219, including the incentives requested here by Republic. Additionally, in November 2012, the Commission issued the 2012 Incentives Policy Statement providing additional guidance regarding its evaluation of applications for transmission rate incentives under section 219 and Order No. 679.

11. Pursuant to Order No. 679, an applicant may seek to obtain incentive rate treatment for a 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

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

congestion."[12] Order No. 679 established the process for an applicant to demonstrate that it meets this standard, including a rebuttable presumption that the standard is met if:

> (1) the transmission project results from a fair and open regional planning process that considers and evaluates the project for reliability and/or congestion and is found to be acceptable to the Commission; or (2) a project has received construction approval from an appropriate state commission or state siting authority.[[13]]

The Commission also stated that "other applicants not meeting these criteria may nonetheless demonstrate that their project is needed to maintain reliability or reduce congestion by presenting [to the Commission] a factual record that would support such a finding."[14]

a. Republic's Filing

12. Republic states that the Project meets the first prong of the rebuttable presumption test (i.e., the transmission project results from a fair and open regional planning process that considers and evaluates the project for reliability and/or congestion and is found to be acceptable to the Commission) because it has been approved by MISO for inclusion in MTEP15, through MISO's Commission-approved regional transmission planning process. Republic states that the Project was approved as a market efficiency project, providing more than $1 billion in net benefits.[15]

b. Commission Determination

13. The Commission has previously found that projects approved through a transmission planning process that evaluated whether the identified transmission projects will enhance reliability and/or reduce congestion are entitled to the rebuttable

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

[13] *Id*.

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

[15] Petition at 10.

presumption established under Order No. 679.[16] In this case, the MTEP transmission planning process, through which the Project was approved, evaluated whether identified transmission projects will enhance reliability and/or reduce congestion. Therefore, we find that the Project is entitled to the rebuttable presumption that it meets this requirement of FPA section 219.

2. Order No. 679 Nexus

14. In addition to satisfying the section 219 requirement of ensuring reliability and/or reducing the cost of delivered power by reducing congestion, Order No. 679 requires an applicant to demonstrate that there is a nexus between the incentive sought and the investment being made.[17] In Order No. 679-A, the Commission clarified that the nexus test is met when an applicant demonstrates that the total package of incentives requested is "tailored to address the demonstrable risks or challenges faced by the applicant."[18] The Commission requires a project-specific demonstration of the nexus between the requested incentives and the risks and challenges of the project.[19]

a. Republic's Filing

15. Republic states that it has specifically tailored the incentives requested to the risks faced and does not seek an ROE incentive based on the risks and challenges of the Project. Republic claims that there are a variety of financial risks and challenges facing Republic in the development of the Project.[20] Specifically, Republic explains that it currently has no rate base and no revenue. Therefore, Republic contends, the initial investments in development and construction of the project will represent negative cash flow for Republic and the Project will represent 100 percent of Republic's plant in service. In addition, Republic states that regulatory risk can also affect financial stability and result in higher capital costs. Republic argues that the Project faces competition for investment from other projects in its effort to obtain financial commitments from third

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[16] *See, e.g.*, *TransCanyon DCR, LLC*, 152 FERC ¶ 61,017, at P 17 (2015) (*TransCanyon*); *Pacific Gas and Elec. Co.*, 148 FERC ¶ 61,195, at P 14 (2014); *Midcontinent Independent Sys. Operator, Inc.*, 151 FERC ¶ 61,246, at P 15 (2015); *Southern Indiana Gas & Elec. Co.*, 125 FERC ¶ 61,124, at P 28 (2008)).

[17] Order No. 679, FERC Stats. & Regs. ¶ 31,222 at P 48.

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

[19] *See* 18 C.F.R. § 35.35(d) (2017).

[20] Petition at 11-12.

party investors and lenders. According to Republic, this competition can be greater for entities that have agreed to cost containment provisions for their projects, as Republic has, which inure to the benefit of ratepayers but which place increased financial risk on such project developers, particularly where other transmission projects are not subject to such limitations. Republic also states that significant changes, beyond the control of Republic, in the projected economic benefits to be derived from the Project could result in efforts by MISO to cancel the Project. Republic states such risks could be in the millions of dollars, or even tens of millions of dollars.

16. In addition, Republic submits that the Project faces numerous regulatory risks and challenges at the federal, state and local government levels.[21] Republic states that: (1) the Project includes an interconnection between two utilities in two states, with a significant crossing of the Ohio River, which will require federal permits, and with potential intermediate connection to PJM Interconnection, L.L.C.; (2) because the Project has portions in both Kentucky and Indiana, additional state and local permits will need to be coordinated to avoid discontinuities in the Project; and (3) Republic will need to secure land rights for the Project from landowners in Indiana and Kentucky, which will require state level permits and approvals to be issued in each state.

17. Republic also states that the Project faces construction risks and challenges.[22] Republic explains that the crossing of the Ohio River requires significant clearance over that navigable waterway and that there are sensitive species including the endangered Indiana bat. In addition, Republic states that the Project faces many risks and challenges that face any construction project, including the cost and availability of materials, cost and availability of specialized skilled labor, cost and availability of specialized equipment, adverse weather, vandalism and theft, and earthquakes.[23]

b. <u>Commission Determination</u>

18. We consider, below, whether the total package of incentives requested satisfies the nexus test. In applying the nexus test, we find that Republic has sufficiently

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[21] *Id*. at 12-13.

[22] *Id*. at 13.

[23] Republic also provides an advanced technology statement, stating that it anticipates employing a high-tension low-sag conductor for the crossing of the Ohio River and optical ground wires. Republic is not seeking any additional incentives for use of these technologies. *Id*. at 14.

demonstrated that its total package of requested incentives is tailored to address the demonstrable risks or challenges faced by Republic.[24]

3. <u>Regulatory Asset Incentive</u>

19. Republic requests authorization to defer recovery of all prudently incurred pre-commercial costs for the Project, incurred to date and going forward, that cannot be capitalized and would otherwise be expensed and that such deferred pre-commercial costs be booked as a regulatory asset for subsequent recovery.[25] Republic also proposes to accrue carrying charges on the regulatory asset, from the effective date of the asset until such time as it is included in rate base, at which time Republic proposes to amortize the asset over five years.[26] Republic further states that, consistent with Commission precedent, it commits that it will restrict the compounding of interest to ensure that such compounding does not result in a higher interest than is allowed for the allowance for funds used during construction (AFUDC).[27]

20. Republic states that, as a nonincumbent transmission developer, it has no transmission tariff and thus does not have any current ability to recover its prudently-incurred development costs. Republic states that granting the Regulatory Asset Incentive will provide Republic with up-front regulatory certainty regarding the recovery of such costs, prevent the non-recovery of prudently-incurred development costs and facilitate financing. Republic states that assurance of recovery of prudently incurred development costs is necessary for the investors in Republic to commit the funds necessary to develop the project.[28]

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[24] We note that, while Republic's application references cost containment measures (*id*. at 8), it justifies its request for incentives on the basis of Order No. 679 and the 2012 Incentives Policy Statement. The Commission's review of Republic's request for incentives is on that basis.

[25] *Id*. at 15.

[26] *Id*. at 16.

[27] *Id*.

[28] *Id*. at 16-17. Republic states that it will address any questions regarding the actual treatment of the amortization upon the filing of its subsequent formula rate filing rate protocols or at such other appropriate time. *Id*. at 16, n.31.

Commission Determination

21. We will grant Republic's request for the Regulatory Asset Incentive. This will allow Republic to defer recovery of pre-construction costs, as well as start-up and development costs, and recover them later. We find that this incentive appropriately addresses the risks and challenges of the Project, because it will provide Republic with added upfront regulatory certainty and can reduce interest expense and facilitate the financing of the Project on reasonable terms.[29]

22. We also will grant Republic's request for authorization to accrue a carrying charge from the effective date of the asset until the asset is included in its rate base. We also will grant Republic's request for authorization to amortize the regulatory asset over five years, consistent with rate recovery.[30]

23. Consistent with Commission precedent, we will authorize Republic 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, Other Regulatory Assets.[31] Further, the appropriate carrying charge should not result in a higher amount of interest than is allowed for construction expenditures that accrue AFUDC.[32] We restrict the compounding of interest to no more frequently than semi-annually consistent with the Commission's requirements. Accordingly, we will accept, subject to the directive discussed directly below, Republic's proposed effective date of May 15, 2017 to allow it to record a regulatory asset for the pre-commercial and formation costs and begin accruing carrying charges.

24. We will not determine the justness and reasonableness of Republic's recovery of pre-commercial expenses, if any, until Republic seeks recovery in a filing under section 205 of the FPA.[33] We have previously held that entities receiving this incentive

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[29] *See, e.g.*, *Green Energy Express LLC*, 129 FERC ¶ 61,165, at P 41 (2009) (*Green Energy Express*). *See also DesertLink, LLC*, 156 FERC ¶ 61,118, at P 21 (2016) (*DesertLink*); *DCR Transmission, LLC*, 153 FERC ¶ 61,295, at P 36 (2015).

[30] *See, e.g., Green Power Express LP*, 127 FERC ¶ 61,031, at P 61 (2009).

[31] *See, e.g., South Central MCN LLC*, 153 FERC ¶ 61,099, at P 17 (2015); *TransCanyon*, 152 FERC ¶ 61,017 at P 32; *NextEra Energy Transmission West, LLC* (*NEETWest*), 154 FERC ¶ 61,009, at P 33.

[32] *See e.g., TransCanyon*, 152 FERC ¶ 61,017 at P 32; *NEETWest*, 154 FERC ¶ 61,009 at P 33.

[33] 16 U.S.C. § 824d (2012).

must demonstrate that the costs were prudently incurred and just and reasonable in a subsequent section 205 filing.[34]

4. Abandoned Plant Incentive

25. Republic seeks authorization to recover 100 percent of prudently-incurred costs, including pre-commercial expenses and construction costs, if the Project is abandoned due to an event beyond Republic's control. Republic contends that the Project faces substantial abandonment risk, noting that the Project remains subject to multiple layers of regulatory review at the federal, state, and local levels. In addition, Republic argues that it would be difficult for it to commit its investors' equity and its resources to the development of the Project without the Abandoned Plant Incentive.[35]

Commission Determination

26. We will grant Republic's request for the Abandoned Plant Incentive. In Order No. 679, the Commission found that the Abandoned Plant Incentive is an effective means of encouraging transmission development by reducing the risk of non-recovery of costs.[36]

27. We agree that Republic faces certain financial, regulatory, environmental, and siting risks that could lead to abandonment of the Project. In addition, we find that Republic has demonstrated that approval of the Abandoned Plant Incentive will both attract financing for the Project and protect Republic if the Project is cancelled for reasons beyond Republic's control.

28. We will not determine the justness and reasonableness of Republic's recovery of costs for abandoned electric transmission facilities, if any, until Republic seeks such recovery in a future section 205 filing that a public utility is required to make if it seeks abandoned plant recovery.[37]

29. Although Republic requests that recovery of abandoned plant be awarded at 100 percent for all prudently-incurred costs expended effective May 15, 2017, it is

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[34] *See, e.g., DesertLink*, 156 FERC ¶ 61,118 at P 23; *Green Energy Express*, 129 FERC ¶ 61,165 at P 42 (citing *Green Power Express*, 127 FERC ¶ 61,031 at P 59).

[35] Petition at 17-18.

[36] Order No. 679, FERC Stats. & Regs. ¶ 31,222 at P 163; *see also, e.g., Midcontinent Indep. Sys. Operator, Inc.*, 153 FERC ¶ 61,296, at P 28 (2015); *TransCanyon*, 152 FERC ¶ 61,017 at P 41.

[37] Order No. 679, FERC Stats. & Regs. ¶ 31,222 at PP 165-166.

Commission policy to award abandoned plant recovery at 100 percent of prudently-incurred project costs only for those costs expended on or after the date of the Commission order granting the incentive.[38] As the Commission has explained, to "grant full recovery of these costs pursuant to the Abandonment Incentive would be contrary to the general policy rationale that incentives are designed to encourage future transmission investments."[39] In the event Republic seeks abandoned plant recovery for the Project for the period of time prior to the issuance of this order, Republic would be eligible to recover 50 percent of its prudently-incurred costs.[40]

5. Hypothetical Capital Structure Incentive

30. Republic requests authorization to use a hypothetical capital structure consisting of 45 percent equity and 55 percent debt until the Project is placed in service.[41] Republic states that the Hypothetical Capital Structure Incentive mitigates financing risks present during the permitting and construction phase of the project. Republic further states that it will initially fund the Project with equity contributions and, prior to or during construction, it will also arrange debt financing. Republic explains that it is a nonincumbent transmission developer with no existing assets and its actual capitalization will fluctuate significantly during the development and construction phases of the Project, based on the amount, timing, and frequency of capital infusions (borrowings and equity infusions) that are needed to fund construction. Republic argues that adopting a hypothetical capital structure during the construction period will help it raise capital at more reasonable costs and remain competitive with its cost of capital in the new

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[38] *See Pacific Gas & Elec. Co.*, 160 FERC ¶ 61,018, at P 63 (2017) (citing *DCR Transmission, LLC*, 153 FERC ¶ 61,295 at P 42 (2015) (*DCR Transmission*) (finding that abandoned plant recovery is available for 100 percent of prudently-incurred project costs expended on or after the issuance of the order); *see also PJM Interconnection, L.L.C.*, 142 FERC ¶ 61,156, at PP 52-54 (2013); *PJM Interconnection, L.L.C.*, 140 FERC ¶ 61,197, at P 24 (2012); *New England Power Co.*, Opinion No. 295, 42 FERC ¶ 61,016, at 61,075-078, *order on reh'g*, Opinion No. 295-A, 43 FERC ¶ 61,285 (1988)).

[39] *San Diego Gas & Elec.*, 154 FERC ¶ 61,158 at P 20 ("[i]ncentive regulation is focused on making efficient behavior potentially more profitable for utilities because they can retain a share of the benefits of any new cost savings. Incentive regulation is not designed to reward past efficient, cost-saving behavior. To do so would violate the objective of benefitting customers." (quoting *Incentive Ratemaking for Interstate Natural Gas Pipeline, Oil Pipelines, and Electric Utilities*, 61 FERC ¶ 61,168, at 61,589 (1992))).

[40] *See DCR Transmission*, 153 FERC ¶ 61,295 at n.60.

[41] Petition at 19.

competitive transmission solicitation environment. Further, Republic contends that a stated capital structure will also provide more stable inputs to the rate for the allowance for funds used during construction, which will improve the predictability of Republic's accruals and project costs.[42]

Commission Determination

31. We will grant Republic's request for the Hypothetical Capital Structure Incentive. We find that Republic has demonstrated that the requested incentive is tailored to the risks and challenges faced by the Project. Specifically, as Republic states, Republic has no existing assets and its actual capitalization will fluctuate significantly during the development and construction phases of the Project, based on the amount, timing, and frequency of capital infusions (borrowings and equity infusions) that are needed to fund construction. We find that approval of the Hypothetical Capital Structure Incentive will aid Republic in raising capital during the construction phase of the Project, and will assist Republic in financing the Project at reasonable rates while its actual debt-to-equity ratio varies.[43] It also furthers the policy goal of facilitating the participation of nonincumbent transmission developers in the Order No. 1000 competitive solicitation process, thereby encouraging competition.[44]

6. RTO Participation Incentive

32. Republic requests a 50 basis point RTO Participation Incentive, based upon its membership in MISO, contingent on Republic's overall ROE being within the zone of reasonableness – inclusive of the RTO Participation Incentive – and subject to the overall cap of 9.8 percent on ROE included in Republic's proposal for the Project.[45] In support,

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[42] *Id*. at 20-21.

[43] *See, e.g., DesertLink*, 156 FERC ¶ 61,118 at P 36*; Green Energy Express*, 129 FERC ¶ 61,165 at P 64.

[44] *See, e.g., DesertLink*, 156 FERC ¶ 61,118 at P 37; *NEETWest*, 154 FERC ¶ 61,009 at P 37; *ATX Southwest, LLC*, 152 FERC ¶ 61,193, at P 30 (2015) (citing Order No. 1000-A, 139 FERC ¶ 61,132 at P 87).

[45] Republic states that in its formula rate filing, Republic will address application of the cap to ensure that the base ROE plus incentives does not exceed 9.8 percent. Petition at 18 n.39.

Republic states that it committed as part of its proposal to the MISO competitive process to become a transmission owner and to turn over operational control of the Project to MISO.[46]

Commission Determination

33. Consistent with previous Commission orders,[47] we will grant Republic's request for a 50 basis point RTO Participation Incentive for its participation in MISO, to be bound by the zone of reasonableness, and subject to the overall cap of 9.8 percent on ROE included in Republic's proposal for the Project, to be determined by Republic's future section 205 filing. We note that our approval of this incentive is based on Republic's commitment to become a member of MISO and transfer operational control of the Project to MISO once the Project has been placed in service.

7. Total Package of Incentives

a. Republic's Proposal

34. Republic states that its requested incentives are narrowly tailored to the risks faced in the development and construction of the Project and will allow Republic to attract the capital necessary to move forward with the Project in the most efficient and cost-effective manner.[48]

b. Commission Determination

35. As noted above, in Order No. 679-A, the Commission clarified that its nexus test is met when an applicant demonstrates that the total package of incentives requested is tailored to address the demonstrable risks or challenges faced by the applicant. The Commission noted that this nexus test is fact-specific and requires the Commission to review each application on a case-by-case basis. Consistent with Order No. 679,[49] the Commission has, in prior cases, approved multiple rate incentives for particular

[46] *Id*. at 18-19.

[47] *See*, *e.g*., *Midwest Power Transmission Arkansas, LLC*, 152 FERC ¶ 61,210, at P 24 (2015); *MidAm. Cent. Cal. Transco, LLC*, 147 FERC ¶ 61,179, at P 45 (2014).

[48] Petition at 2, 15.

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

projects as long as each incentive satisfies the nexus test.[50] This is consistent with our interpretation of section 219 authorizing the Commission to approve more than one incentive rate treatment for an applicant proposing a new transmission project, as long as each incentive is justified by a showing that it satisfies the requirements of section 219 and that there is a nexus between the incentives proposed and the investment made. We find that the total package of incentives that we are approving is tailored to address the risks and challenges that Republic faces in constructing the Project. As discussed above, Republic has demonstrated that each of the requested incentives will reduce the risks that Republic faces and will remove potential obstacles to the construction of the Project.

The Commission orders:

Republic's request for the Regulatory Asset Incentive, the Hypothetical Capital Structure Incentive, the Abandoned Plant Incentive and the RTO Participation Incentive is hereby granted, as discussed in the body of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.

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