134 FERC ¶ 61,181
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Marc Spitzer, Philip D. Moeller,
John R. Norris, and Cheryl A. LaFleur.

Southern California Edison Company Docket No. EL11-10-000

ORDER ON PETITION FOR DECLARATORY ORDER

(Issued March 11, 2011)

1. On December 9, 2010, Southern California Edison Company (SoCal Edison) filed a petition for a declaratory order (Petition) pursuant to Rule 207 of the Commission's Rules of Practice and Procedure.[1] SoCal Edison requests Commission approval of certain incentive rate treatments pursuant to section 205 of the Federal Power Act (FPA)[2] for four proposed transmission projects, as well as a determination that the transmission facilities are network facilities eligible for rolled-in rate treatment. The proposed projects include: (1) expansion of Whirlwind Substation (Whirlwind); (2) expansion of Colorado River Substation (Colorado River); (3) the South of Kramer transmission project (South of Kramer); and (4) the West of Devers transmission project (West of Devers) (collectively, Transmission Projects).

2. In this order, as discussed below, we deny in part and grant in part SoCal Edison's Petition. We find that the Whirlwind expansion is not eligible for incentive rate treatment as a component of the Tehachapi transmission project (Tehachapi) and deny the requested incentives under the 2007 Incentive Order.[3] However, in the alternative, we find that SoCal Edison has justified the requested incentives for Whirlwind and the other three Transmission Projects under section 205 of the FPA in light of a combination of policy reasons, including the deadlines imposed by the American Recovery and

[1] 18 C.F.R. § 385.207 (2010).

[2] 16 U.S.C. § 824d (2006).

[3] *Southern Cal. Edison Co.,* 121 FERC ¶ 61,168 (2007) (2007 Incentive Order), *reh'g denied,* 123 FERC ¶ 61,293 (2008).

Reinvestment Act (ARRA),[4] the potential that the ARRA funding may foster renewable project development, the public policy benefits that the Transmission Projects will provide in terms of the integration of location-constrained renewable resources and their contributions to meeting California's Renewable Portfolio Standard (RPS) requirements, and the scope and risks associated with the Transmission Projects. Therefore, consistent with these public policy considerations, we grant SoCal Edison's requests for recovery of 100 percent construction work in progress (CWIP) and recovery of 100 percent of prudently-incurred abandoned plant costs if the Transmission Projects are either cancelled or abandoned for reasons beyond SoCal Edison's control. We also find that SoCal Edison's proposed Transmission Projects constitute network facilities eligible for rolled-in rate treatment.

I. Background

A. Description of Transmission Projects

1. Whirlwind

3. According to SoCal Edison, Whirlwind, located near Rosamond, California, in Kern County, will be used to interconnect new renewable generation resources into the California Independent System Operator (CAISO)-controlled grid. The expansion at Whirlwind will provide capacity for an additional 2,000 megawatts (MW) of new generation resources at Whirlwind and will include the following: (1) expansion of the Whirlwind 220 kV switchrack; (2) installation of two additional 500/220 kV transformer banks; (3) equipping of 500 kV and 220 kV positions to terminate the two new transformer banks; (4) equipping multiple 220 kV positions to support interconnection of new generation; and (5) use of a special protection system.[5] SoCal Edison states that the expansion will cost approximately $141 million, and is expected to be placed into service in 2013.

4. SoCal Edison explains that Whirlwind was originally planned as part of the Tehachapi project to which the Commission granted incentive rate treatment in 2007, in

[4] ARRA constitutes "an act making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for the fiscal year ending September 30, 2009, and for other purposes." Preamble, Pub. L. No. 111-5 (2009).

[5] Petition, Exhibit E, Affidavit of Jorge Chacon at 7-8 (Chacon Affidavit).

Docket No. EL07-62-000.[6] While Whirlwind was originally designed for eventual expansion, SoCal Edison states that, at the time of SoCal Edison's petition in Docket No. EL07-62-000, the generators requesting interconnection at Whirlwind required a smaller subset of facilities to be constructed. Since then, however, additional generation resources have requested interconnection at Whirlwind, including four renewable generation projects,[7] with a total capacity of 1,550 MW in the transition cluster,[8] and an additional eight wind and solar generation projects, with a total capacity of 2,451 MW.[9] SoCal Edison maintains that these additional resources have triggered the need for an expansion of Whirlwind. SoCal Edison states that the Whirlwind expansion has already been approved by CAISO and the California Public Utilities Commission (CPUC) as part of the Tehachapi project.[10]

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[6] In the 2007 Incentive Order, the Commission determined that Tehachapi, along with two other transmission projects, met the rebuttable presumption of eligibility for incentive rate treatment under section 219 of the FPA and satisfied the nexus requirement, consistent with Orders Nos. 679 and 679-A. Accordingly, the Commission granted SoCal Edison's petition for a declaratory order, approving, *inter alia*, 100 percent abandoned plant recovery, 100 percent CWIP in rate base, and a 125-basis point adder for the Tehachapi project. 2007 Incentive Order, 121 FERC ¶ 61,168.

[7] SoCal Edison notes that three of the four renewable generation projects are seeking ARRA financing. Petition at 12.

[8] The transition cluster is comprised of interconnection requests that were submitted on or before June 2, 2008, which are studied under a slightly modified version of the generation interconnection process reform. *See Cal. Indep. Sys. Operator Corp.*, 124 FERC ¶ 61,031, at P 5 (2008); *see also Cal. Indep. Sys. Operator Corp.*, 129 FERC ¶ 61,124, at P 4 (2009).

[9] SoCal Edison notes that Whirlwind as it was originally configured will enable the interconnection of 1,050 MW of new generation capacity. Currently, there is over 4,000 MW of additional generation in the CAISO queue requesting interconnection at Whirlwind; however, SoCal Edison and CAISO have only studied and planned for the addition of the 1,550 MW of generation interconnection requests in the CAISO's transition cluster study group. Petition at n.77.

[10] *Id.* at 4.

2. Colorado River

5. According to SoCal Edison, Colorado River will be located near Blythe, California, in Riverside County, and will be used to interconnect new renewable generation resources into the CAISO-controlled grid. According to SoCal Edison, the Colorado River expansion will provide capacity for up to 2,000 MW of new generation resources at Colorado River. The expansion will include both reliability network upgrades and delivery network upgrades, composed of the following: (1) construction of the Colorado River 220 kV switchrack; (2) installation of two 500/220 kV transformer banks; (3) equipping of 500 kV and 220 kV positions to terminate the two new transformer banks; (4) equipping 220 kV positions to support interconnection of new generation projects; and (5) use of a special protection system.[11] SoCal Edison notes that the estimated cost for Colorado River is approximately $163 million. The expected in-service date of the 220 kV switchrack and one of two 500/220 kV transformer banks is 2013 and the expected in-service date of the second of two 500/220 kV transformer banks is 2015.[12]

6. According to SoCal Edison, Colorado River was originally proposed to be configured as a 500 kV switchyard, as a component of the Devers-Palo Verde 2 transmission project (DPV2),[13] and designed to be expanded as additional resources requested interconnection to the substation. SoCal Edison states that additional renewable generation projects are requesting interconnection to the Colorado River 500 kV switchyard, including three projects in the transition cluster comprising 1,650 MW of solar generation and four additional interconnection requests comprising 1,685 MW of solar generation in subsequent queue clusters.[14] Consequently, SoCal Edison states that Colorado River needs to be expanded to accommodate such requests. Further, it notes that the CPUC has previously approved Colorado River; however, the proposed expansion will require enlargement of the previously-approved project's footprint. Therefore, SoCal Edison states that it has applied for a new Permit to Construct (PTC) and expects a decision in 2011.[15]

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[11] Chacon Affidavit at 10.

[12] *Id.* at 12.

[13] 2007 Incentive Order, 121 FERC ¶ 61,168 at P 4-5.

[14] SoCal Edison states that three of the projects are seeking ARRA financing. Petition at 16.

[15] *Id.* at 17.

3. **South of Kramer**

7. The South of Kramer project will be located in the Mojave Desert region of southern California. According to SoCal Edison, South of Kramer will provide capacity for up to 1,000 MW of new generation resources and will include the following: (1) 220 kV substation facilities at the existing Cool Water Generation Station Switchyard; (2) 220 kV and 500 kV substation facilities at the existing CAISO-controlled Lugo Substation; (3) approximately 47 miles of new 220 kV transmission lines and 16 miles of new 500 kV transmission lines, between the Cool Water Generation Station Switchyard and the Lugo Substation; (4) a new 220 kV switching station, to be called the Jasper Switching Station; (5) related telecommunications facilities; and (6) a new special protection system.[16] According to SoCal Edison, South of Kramer will cost approximately $542 million and will be developed over seven years, and is expected to be in service in 2018.[17]

8. SoCal Edison maintains that the South of Kramer is a set of network upgrades necessary to provide increased transmission capacity to accommodate multiple generation projects in the CAISO interconnection queue, including five projects that constitute 591 MW of solar and wind generation.[18] SoCal Edison states that its existing transmission facilities are inadequate to handle the proposed development of renewable generation in the area and, thus, it is proposing South of Kramer to ensure reliability and full delivery of the renewable generation in the area as it is integrated into the grid.

4. **West of Devers**

9. West of Devers will be located in eastern Riverside County, California. SoCal Edison states that West of Devers will provide for the full delivery of all transition cluster generation projects seeking interconnection within SoCal Edison’s eastern bulk system and will include the following: (1) rebuilding of existing Devers-Vista No. 1 and No. 2 220 kV transmission lines and existing Devers-San Bernardino No. 1 and No. 2 220 kV transmission lines with a new bundled-1590 ACSR conductor supported on two sets of double circuit towers; (2) upgrades to the terminal equipment at SoCal Edison’s Devers, San Bernardino and Vista 220 kV substations, in order to support the new Devers-Vista

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[16] *Id.* at 13-14; Chacon Affidavit at 2.

[17] Petition at 14.

[18] SoCal Edison states that three of the five projects are seeking ARRA financing. *Id.* at 14. In addition, SoCal Edison states that South of Kramer will provide incremental transfer capability for other generation projects in the greater Mojave Desert region located near the Cool Water-Lugo and Lugo-Pisgah corridors. *Id.*

No. 1 and No. 2 220 kV and new Devers-San Bernardino No. 1 and No. 2 220 kV transmission line capabilities; (3) upgrades to the Mira Loma-Vista No. 2 220 kV line drop at SoCal Edison's Vista substation; and (4) installation of telecommunication facilities, including a new communications room at the Devers and Vista substations.[19] According to SoCal Edison, the project is expected to cost approximately $651 million, and is expected to be in service in 2017.

10. SoCal Edison states that five generation projects have entered the CAISO interconnection process seeking interconnection that trigger the need for West of Devers, including solar generation projects of about 2,200 MW of generation.[20] Based on Phase II interconnection studies, SoCal Edison explains that West of Devers has been identified as a key path to enable SoCal Edison to deliver renewable generation from resources located in the eastern Riverside County area to load centers in southern California. It notes that CAISO performed Phase II deliverability studies and determined that, without West of Devers, the generation projects in the queue utilizing West of Devers would not be fully deliverable. SoCal Edison states that because West of Devers entails the removal and rebuilding of four existing 220 kV lines to expand the transfer capability, West of Devers does not directly interconnect any new sources of generation; however, the upgrades are needed to allow full delivery of multiple generation projects interconnecting at SoCal Edison's new Colorado River and Red Bluff substations.

B. SoCal Edison's Petition and Proposed Incentives

11. SoCal Edison states that its request for incentives in this Petition is made based upon public policy reasons and is consistent with Commission precedent[21] and its authority under section 205 of the FPA to grant policy-based incentives.[22] Specifically, for the Colorado River, South of Kramer, and West of Devers Projects, SoCal Edison requests: (1) 100 percent recovery of its prudently incurred costs if the projects are cancelled or abandoned for reasons beyond SoCal Edison's control; and (2) 100 percent recovery of CWIP in transmission rate base during the construction period. As to the

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[19] Chacon Affidavit at 12-13.

[20] SoCal Edison states that three of the five projects are seeking ARRA financing. Petition at 15.

[21] *Southern Cal. Edison Co.*, 112 FERC ¶ 61,143 (2005) (Antelope Order); *Southern Cal. Edison Co.*, 133 FERC ¶ 61,108 (2010) (EITP Compliance Order); and *Southern Cal. Edison Co.*, 133 FERC ¶ 61,107 (2010) (Lugo-Pisgah/Red Bluff Order) (together, 2010 Public Policy Incentive Orders).

[22] 16 U.S.C. § 824d (2006).

expansion of Whirlwind, SoCal Edison seeks confirmation that the package of transmission incentives previously approved for SoCal Edison's Tehachapi transmission project under the 2007 Incentive Order will apply to the expanded facilities. If the Commission does not agree that the Whirlwind expansion is eligible for the incentive rate treatment previously granted to Tehachapi, then SoCal Edison requests, in the alternative, that the Commission grant Whirlwind the same policy-based incentives as requested for the three transmission projects stated herein.[23]

12. SoCal Edison notes that CAISO identified and approved the Transmission Projects as needed network facilities through the CAISO generation interconnection process (LGIP).[24] According to SoCal Edison, the Transmission Projects will provide the electrical facilities necessary to deliver over the CAISO grid in excess of 3,700 MW of new solar and wind generation proposed by independent power producers. Additionally, SoCal Edison states that the Transmission Projects will allow for the interconnection and delivery of needed renewable generation projects seeking funding through the ARRA.

13. Additionally, SoCal Edison also requests that the Commission determine that each of the Transmission Projects is a network facility, entitled to rolled-in rate treatment and that the costs of these facilities are recoverable through SoCal Edison's Transmission Revenue Requirement (TRR).

14. Further, SoCal Edison requests that the Commission act upon its Petition within 60 days. Also, pursuant to sections 388.112 and 388.113 of the Commission's Rules and Regulations,[25] SoCal Edison requests critical energy infrastructure information treatment for Attachments 5-18 to Exhibit E of its Petition. Finally, SoCal Edison states that it is not at this time requesting rate changes pursuant to section 205 of the FPA and it will make the appropriate section 205 filings to implement the applicable incentive rate treatments granted by the Commission in this filing.

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[23] Petition at 8.

[24] SoCal Edison and CAISO have executed large generator interconnection agreements (LGIAs) with: Abengoa Solar, Inc. and Granite Wind LLC (which trigger the need for South of Kramer); Palo Verde Solar II, LLC (which triggers the need for the Colorado River Substation expansion and West of Devers); and AV Solar Ranch One, LLS (which triggers the need for Whirlwind Substation expansion). These LGIAs have been conditionally accepted by the Commission. *Southern Cal. Edison Co.,* 134 FERC ¶ 61,032 (2011); *Southern Cal. Edison Co.,* 134 FERC ¶ 61,087 (2011); *Southern Cal. Edison Co*., 134 FERC ¶ 61,108 (2011); *Southern Cal. Edison Co*., 134 FERC ¶ 61,107 (2011).

[25] 18 C.F.R. §§ 388.112 and 388.113 (2010).

II. Notice of Filings and Responsive Pleadings

15. Notice of SoCal Edison's Petition was published in the *Federal Register*, 75 Fed. Reg. 81,265 (2010), with interventions and comments due on or before January 10, 2011.

16. Timely motions to intervene were filed by Sacramento Municipal Utility District; California Municipal Utilities Association (CMUA); and Cities of Anaheim, Azusa, Banning, Colton, Pasadena, and Riverside, California (collectively, Six Cities). Timely motions to intervene, comments, and protests were filed by City of Los Angeles Department of Water and Power (LADWP); the M-S-R Public Power Agency and the City of Santa Clara (together, MSR/Santa Clara); Modesto Irrigation District (Modesto);[26] the State Water Contractors (SWC) and the Metropolitan Water District of Southern California (together, SWC/Metropolitan); Transmission Agency of Northern California (TANC); California Department of Water Resources State Water Project (SWP); CAISO;[27] and Northern California Power Agency (NCPA).

17. Timely motions to intervene and comments in support of the Petition were filed by Granite Wind, LLC (Granite Wind); Desert Southwest Power, LLC (Desert Southwest); Abengoa Solar, Inc. (Abengoa Solar); The Large-Scale Solar Association (Solar Association); Solar Millennium, LLC (Solar Millennium); and SunPower Corporation (SunPower). Also, the Governor of California submitted a letter to the Commission in support of Commission approval of the LGIA between SoCal Edison, the CAISO and Solar Millennium LLC, in Docket No. ER11-2316-000[28] and SoCal Edison's request for abandoned plant incentive associated with that LGIA. SoCal Edison, Solar Millennium, and AV Solar Ranch 1, LLC (AV Solar) filed answers in response to the comments and protests. MSR/Santa Clara filed an answer to SoCal Edison's answer.

18. In addition, CMUA filed a motion to consolidate in this and certain other proceedings.[29] The motion to consolidate explains that the Commission is presently

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[26] Modesto states that, as a member of the M-S-R Public Power Agency, it adopts and incorporates the issues raised by MSR/Santa Clara.

[27] CAISO states that it incorporates by reference its comments submitted in Docket No. EL10-1-000.

[28] *Southern Cal. Edison Co.*, 134 FERC ¶ 61,087 (2011).

[29] Specifically, the dockets for which CMUA seeks to consolidate are: (1) Docket No. ER11-2204-000; (2) Docket No. ER11-2177-000; (3) Docket No. ER11-2316-000; (4) Docket No. ER11-2322-000; (5) Docket No. ER11-2411-000; (6) Docket No. EL11-10-000; (7) Docket No. ER11-2318-000; (8) Docket No. ER11-2368-000; and (9) Docket No. ER11-2369-000. TANC filed a motion to intervene out of time and answer in

(continued …)

considering a number of large generator interconnection agreements between SoCal Edison and generators that involve network upgrades to the SoCal Edison transmission system. The motion to consolidate states that each of the interconnection agreements relates to facilities proposed for rate incentive treatment by SoCal Edison in the instant docket, and that the relief requested by SoCal Edison in this proceeding is mirrored in these non-conforming interconnection agreements. Therefore, the motion to consolidate argues, there is a direct and necessary link between the terms of the interconnection agreements and the relief requested by SoCal Edison in this proceeding. Accordingly, CMUA and TANC request that the Commission consolidate these proceedings to facilitate a complete evaluation of all relevant facts, and request that the Commission establish the comment date of January 10, 2011 for all relevant dockets to further administrative efficiency and to allow parties to fully assess the recent Commission order regarding CAISO's revised transmission planning process.

III. Discussion

A. Procedural Matters

19. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2010), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

20. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2010), prohibits an answer to a protest and/or answer unless otherwise ordered by the decisional authority. We will accept the answers filed by AV Solar, Solar Millennium, SoCal Edison, and MSR/Santa Clara because they have provided information that assisted us in our decision-making process.

21. We deny the motion to consolidate. The various LGIA proceedings which are sought to be consolidated have been acted on by the Commission and motions to consolidate therein have been denied.[30] As we stated in the LGIA proceedings, while we agree that there may be common issues of fact and law in the various proceedings for which CMUA seeks consolidation, we conclude that administrative efficiency would not

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support of the motions to consolidate. Solar Association's comments include opposition to the motion to consolidate. AV Solar filed a motion to intervene, comment and answer in opposition to the motion to consolidate. CAISO and SoCal Edison filed answers in opposition to the motion to consolidate.

[30] *See, e.g., Southern Cal. Edison Co.,*134 FERC ¶ 61,032 at P 43; *Southern Cal. Edison Co.,* 134 FERC ¶ 61,087 at P 52; *Southern Cal. Edison Co*., 134 FERC ¶ 61,108 at P 54; *Southern Cal. Edison Co*., 134 FERC ¶ 61,107 at P 42.

be served by consolidation. The various proceedings which are sought to be consolidated were submitted at differing times and are subject to review and decision based upon the Commission's conduct of business. As a result, we are concerned that consolidation could unreasonably truncate and complicate the Commission's review of the interconnection agreements in other proceedings, as well as SoCal Edison's petition for declaratory order in the instant proceeding.

B. Order No. 679

22. In Order No. 679,[31] the Commission stated that an applicant for transmission rate incentives pursuant to FPA section 219[32] must demonstrate that the facilities for which it seeks incentives satisfy the requirements of FPA section 219 by either ensuring reliability or reducing the cost of delivered power by reducing transmission congestion.[33] The Commission established a rebuttable presumption that a project is eligible for incentives under section 219 if it: (1) 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) has received construction approval from an appropriate state commission or state siting authority.[34] However, the Commission has stated that a project that does not qualify for the rebuttable presumption may nevertheless satisfy the section 219 standards if the project sponsor presents a factual record supporting a finding that the project is needed to maintain reliability or reduce congestion.[35]

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[31] *Promoting Transmission Investment through Pricing Reform*, Order No. 679, FERC Stats. & Regs. ¶ 31,222, at 57-58 (2006), *order on reh'g*, Order No. 679-A, FERC Stats. & Regs. ¶ 31,236, *order on reh'g*, 119 FERC ¶ 61,062 (2007).

[32] 16 U.S.C. § 825s (2006).

[33] Order No. 679, FERC Stats. & Regs. ¶ 31,222, at P 57-58.

[34] *Id*. In Order No. 679-A, the Commission 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. Order No. 679-A, FERC Stats. & Regs. ¶ 31,236 at P 49.

[35] *Id*. P 57. In order to meet this requirement, a project sponsor may present detailed studies, engineering affidavits, or state siting approvals demonstrating that the section 219 criteria are met. *See Duquesne Light Co.*, 118 FERC ¶ 61,087, at P 68 (2007); *see also Green Power Express LP*, 127 FERC ¶ 61,031, at P 41 (2009).

23. In addition to satisfying the requirement that a project ensures reliability or reduce the cost of delivered power by reducing congestion, an applicant must demonstrate that there is a nexus between the incentive sought and the investment being made. In Order No. 679-A, the Commission clarified that the nexus test is met when an applicant demonstrates that the total package of incentives requested is "tailored to address the demonstrable risks or challenges faced by the applicant."[36]

1. Comments and Protests

24. Protesters argue that the Transmission Projects are not eligible for incentives because they do not satisfy the requirements under Order No. 679.[37] They contend that SoCal Edison has not demonstrated that its Transmission Projects promote reliability and/or reduce congestion, nor provided any indication that the Transmission Projects have been studied or approved through the CAISO transmission planning process, or alternatively obtained state approvals, and are therefore entitled to a presumption of eligibility for incentive rate treatment, as required under FPA section 219.[38] SWC/Metropolitan and TANC argue that the LGIP does not satisfy the rebuttable presumption for this requirement, emphasizing that the Commission has held that the LGIP does not constitute the kind of open and transparent regional planning process contemplated by Order No. 679 for the purpose of qualifying for a rebuttable presumption.[39] MSR/Santa Clara states that eligibility under Order No. 679 is still important even if a utility is seeking incentives on policy grounds.[40]

25. Additionally, protesters argue that SoCal Edison's Petition fails to demonstrate a nexus between the incentives sought and the investment being made, as required under Order No. 679-A. MSR/Santa Clara assert that the Transmission Projects are routine investments in the CAISO transmission grid, rather than new projects that present special risks or challenges. Further, some protesters argue that SoCal Edison has not provided sufficient information to individually analyze the scope and effect of each project or to

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

[37] *See, e.g.*, SWC/Metropolitan at 10-13; TANC at 8-13; MSR/Santa Clara at 11-26.

[38] SWC/Metropolitan at 11; MSR/Santa Clara at 15; TANC at 8-9.

[39] SWC/Metropolitan at 11; TANC at 9-10.

[40] MSR/Santa Clara at 21.

analyze whether the incentive requested under its Petition are tailored to the risks and challenges confronted by SoCal Edison for each project.[41]

2. Answers

26. SoCal Edison asserts that it is not basing its request for incentive rate treatment for the Transmission Projects on Order No. 679 or section 219 of the FPA. Rather, SoCal Edison contends that its request is based on the Commission's ratemaking authority under section 205.[42] SoCal Edison argues that any argument that its request for incentives does not meet the standards under Order No. 679 is inapplicable to the Petition. Thus, SoCal Edison asserts that protesters' evaluation of its Petition on Order No. 679 grounds is misplaced and unfounded.

3. Commission Determination

27. We find that analysis under Order No. 679 and section 219 of the FPA is not necessary here. SoCal Edison's Petition relies on the Commission's authority under section 205 of the FPA to grant incentive rate treatment to its Projects based on public policy reasons, as noted above.[43] Therefore, we conclude that the protesters' arguments regarding Order No. 679 and section 219 are misplaced. Having so found, we need not make any determinations with respect to the specific arguments regarding Order No. 679 and section 219 of the FPA.

C. Whirlwind

1. SoCal Edison's Proposal

28. According to SoCal Edison, the expansion at Whirlwind was originally planned as part of Tehachapi and was identified as a component of Tehachapi in its petition in Docket No. EL07-62-000 (2007 Petition).[44] While Whirlwind was initially designed to be expanded as SoCal Edison's need demanded,[45] SoCal Edison claims, it did not

[41] TANC at 9; LADWP at 5 (citing *PJM Interconnection, LLC,* 133 FERC ¶ 61,273, at P 45 (2010); *Okla. Gas & Elec. Co.,* 133 FERC ¶ 61,274, at 39 (2010)).

[42] SoCal Edison Answer at 5.

[43] Petition at 5.

[44] Petition at 18. For instance, SoCal Edison notes that in the 2007 Petition, it described the proposed "Whirlwind Substation to be located in Kern County west of Rosamond" as segment 9 of Tehachapi. 2007 Petition at 18-19.

[45] Petition at 18 (citing 2007 Petition at 14).

explicitly identify the full expanded scope of the Whirlwind Substation in the 2007 Petition. SoCal Edison argues that the Commission has never required exact specificity of every component of every proposed transmission project. Since the 2007 Petition, SoCal Edison states that additional generation resources have requested interconnection at Whirlwind, which trigger the need for the expansion.[46] SoCal Edison notes that the construction of the Whirlwind expansion will occur simultaneously with the initial substation construction. According to SoCal Edison, as a component of Tehachapi, for which the Commission granted incentives in the 2007 Incentive Order, the Commission has already concluded that rate incentives are appropriate for Whirlwind. Thus, SoCal Edison asserts the proposed Whirlwind expansion should be deemed eligible for the incentives granted by the Commission to SoCal Edison for Tehachapi.[47]

29. Additionally, SoCal Edison asserts that granting the requested incentives here, as awarded in the 2007 Incentive Order, would be consistent with the Commission's determination in *PacifiCorp*.[48] SoCal Edison argues that in *PacifiCorp*, the Commission's approval of the requested incentive rate treatment for the project included future upgrades of the project. However, if the Commission does not agree that the Whirlwind expansion is not eligible for the incentive rate treatment previously granted for Tehachapi, SoCal Edison requests, in the alternative, that the Commission grant 100 percent abandoned plant recovery and CWIP rate treatment.

2. Comments and Protests

30. Protesters argue that the Whirlwind expansion is not eligible for incentive rate treatment under the 2007 Incentive Order. MSR/Santa Clara and TANC contend that there is no evidence that SoCal Edison provided notice in the 2007 Petition that Whirlwind was capable of expansion.[49] Similarly, SWC/Metropolitan maintain that SoCal Edison failed to include a possibility for Whirlwind expansion in the 2007 Petition.[50] TANC asserts that SoCal Edison did not include the currently defined scope

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[46] SoCal Edison notes that 12 renewable generation projects, with a total capacity of 4,001 MW have entered into the CAISO interconnection process subsequent to the original group of interconnection requests that triggered the need for the Tehachapi project, all requesting interconnection to Whirlwind Substation. *Id.* at 12; Exhibit B, Affidavit of Gary J. Holdsworth at 29-30 (Holdsworth Affidavit).

[47] Petition at 8.

[48] *PacifiCorp*, 125 FERC ¶ 61,076 (2008).

[49] MSR/Santa Clara at 11; TANC at 11-12.

[50] SWC/Metropolitan at 11-12.

of the Whirlwind expansion in the 2007 Petition and now is asking the Commission to "grandfather-in incentives, including a 125-basis point [ROE] adder, that were previously awarded on a case-specific basis, but which did not include the size, details and scope of the newly expanded Whirlwind."[51]

31. Protesters also argue that grandfathering the Whirlwind expansion under incentives granted to Tehachapi pursuant to the 2007 Incentive Order would be inconsistent with *PacifiCorp*. They argue that, unlike SoCal Edison in the 2007 Petition, PacifiCorp explicitly stated that its facilities could potentially be expanded, noting that certain segments could be upgraded at a later date.[52]

32. In addition, SWP argues that SoCal Edison's request for a 125-basis point ROE adder for the Whirlwind expansion is contrary to Commission policy. SWP notes that in recent orders regarding SoCal Edison's request for incentive rate treatment on transmission projects similar to Whirlwind, the Commission denied SoCal Edison's request for ROE adders of 150 and 100-basis points for two projects, and revoked a previous granting of a 150-basis point ROE adder of another.[53] SWP states that in both orders the Commission reasoned that SoCal Edison was not entitled to ROE adders because the risks to SoCal Edison on those projects, which involved generator interconnections and related network upgrades, were less than would exist for other more speculative transmission projects. Thus, SWP asks the Commission not to give authorization to SoCal Edison's unsupported attempt to circumvent the Commission's current policy and precedent by creating a loophole for retroactive approvals such as SoCal Edison's request for grandfathered status for the Whirlwind ROE adder.

33. Further, protesters argue that granting incentives to Whirlwind under the 2007 Incentive Order would contravene Order No. 679, which requires either a new petition or a section 205 filing for incentives "if an applicant obtains a declaratory order and the proposal changes from the facts on which the declaratory order was issued."[54] They state that the expansion of Whirlwind is different from the facts that the Commission relied on in granting the incentives for Tehachapi in the 2007 Incentive Order. For instance, MSR/Santa Clara emphasizes that the Whirlwind has substantially expanded to include

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[51] TANC at 11-12.

[52] MSR/Santa Clara at 11-12; TANC at 12; SWC/Metropolitan at 12.

[53] SWP at 7 (citing *Southern Cal. Edison Co.*, 121 FERC ¶ 61,168, at P 100 (2007) (denying the requested ROE adders)); *Southern Cal. Edison Co*, 133 FERC ¶ 61,108, at P 97 (2010) (revoking the granted ROE adders)).

[54] Order No. 679, FERC Stats. & Regs. ¶ 31,222 at P 78.

two additional 500/220 kV transformer banks and the extension of the 220 kV bus by nine additional positions after incentives were granted under the 2007 Incentive Order. Thus, protesters argue that the Commission should reject the argument that the existing incentives apply to the revised Whirlwind.

34. SunPower asserts that the rate incentives for Tehachapi approved in the 2007 Incentive Order should apply to the Whirlwind expansion. SunPower notes that, as a component of Tehachapi, Whirlwind has already been planned by SoCal Edison and approved by the CPUC and by CAISO. SunPower argues that the Commission did not restrict the applicability of the incentives approved in the 2007 Incentive Order to only those specific plans outlined by SoCal Edison at the time it filed its 2007 Petition. SunPower also adds that precedent supports finding that Whirlwind qualifies for the incentives approved in the 2007 Incentive Order.[55]

3. Answers

35. SoCal Edison argues that the proposed project at Whirlwind is an expansion of the existing substation to accommodate additional renewable generation. According to SoCal Edison and AV Solar, SoCal Edison's 2007 Petition in Docket No. EL07-62-000 identified and attached support for such an expansion. For instance, the 2007 Petition noted CAISO's South Regional Transmission Plan for 2006, which directly addressed and discussed the eventual expansion of Whirlwind.[56]

36. Contrary to protesters' arguments, SoCal Edison and AV Solar contend that SoCal Edison should not be required to request the same incentives anew for Whirlwind. While the full scope of Tehachapi was not known at the time of the 2007 Petition, SoCal Edison and AV Solar note that the Commission has recognized that there will necessarily be refinement of plans after incentives are granted. SoCal Edison and AV Solar argue that the Commission has not required parties that have been granted incentives to request new declaratory orders as the projects underlying the incentives received evolve.

4. Commission Determination

37. We find that the incentives granted to Tehachapi under the 2007 Incentive Order are not applicable to the expansion of Whirlwind as proposed in the instant Petition. We do not agree with the assertion that Whirlwind and its future expansion were included in the 2007 Petition and were part of Tehachapi when the Commission approved the incentives under the 2007 Incentive Order. In the 2007 Petition, SoCal Edison described

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[55] SunPower at 5 (citing *PacifiCorp*, 125 FERC ¶ 61,076 at P 6, n. 5,6).

[56] SoCal Edison Answer at 9 (citing 2007 Petition at 27).

Whirlwind as a component of Tehachapi's eleven segments,[57] but did not identify any upgrades or expansion specifically related to Whirlwind.[58] For instance, while SoCal Edison mentioned the possibility of an "additional transmission upgrade" for Tehachapi from Whirlwind to Midway, its upgrade was in relation to the need to eliminate subsequent transmission constraint on Path 26, but did not discuss future expansion to Whirlwind.

38. Also, while the 2007 Petition mentioned CAISO's South Regional Transmission Plan for 2006, which noted benefits of Tehachapi, including the provision for future low-cost expansion capabilities,[59] the description did not specifically mention any upgrade and/or expansion of Whirlwind as proposed in the instant Petition. We find that to extend

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[57] 2007 Petition at 18 (describing Whirlwind as segment 9 of Tehachapi).

[58] SoCal Edison stated in the 2007 Petition:

> Additional transmission upgrades beyond those identified as part of [SoCal Edison's] Tehachapi Project will be needed to eliminate the subsequent transmission constraint on Path 26, such as reconductoring of the [Pacific Gas & Electric] transmission line section of the existing Midway-Vincent No. 3 500 kV transmission line or the construction of a new transmission line from Whirlwind to Midway.

Id. at 14.

[59] SoCal Edison stated in the 2007 Petition:

> The CAISO found that in addition to interconnecting several projects in the interconnection queue, the Tehachapi Project will provide system reliability and efficiency benefits. Specifically, the CAISO found that the benefits of the Tehachapi Project include: provision for the future low cost expansion capability for Path 26 by removing one of the limiting components of the existing Midway-Vincent No. 3 500 kV transmission line . . . ; provision for the future expansion of transmission capability to integrate planned renewable resources in Inyo and northern San Bernardino counties by expanding the system and extending [SoCal Edison's] 500 kV backbone closer toward the Inyo and northern San Bernardino counties . . . .

Id. at 28.

the incentives granted to Tehachapi to the expansion of Whirlwind would, by definition, extend previously granted incentives to all new related facilities. Such a result is not consistent with our intent regarding transmission incentives as the Commission has clearly stated in Order No. 679 that "if an applicant obtains a declaratory order and the proposal changes from the facts . . . the applicant may seek another declaratory order . . . ."[60]

39. This position is also consistent with our findings in *PacifiCorp*, where the company described with specificity how its project would be upgraded and requested that any incentives awarded in that proceeding would apply in the future if the subject project was upgraded from the original proposed project.[61] As stated above, SoCal Edison did not make such a case in its 2007 Petition. Thus, we deny the requested incentives for Whirlwind pursuant to the 2007 Incentive Order.[62] In the alternative, however, as SoCal Edison requests in its Petition, Whirlwind will be included in the public policy analysis for abandoned plant recovery and CWIP, as discussed below.

D. Public Policy Analysis

1. SoCal Edison's Proposal

40. SoCal Edison states that, under section 205 of the FPA, the Commission has inherent authority to approve transmission rate incentives when they would promote Commission policies. The Commission has exercised this authority, SoCal Edison notes, where, as here, it would encourage the construction of transmission facilities needed to interconnect new generation.[63] In doing so, SoCal Edison states that the Commission has considered whether a project assists in fostering access to renewable energy needed to

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[60] Order No. 679, FERC Stats. & Regs. ¶ 31,222 at P 78.

[61] PacifiCorp specified in its petition that certain segments of the project could be "upsized" to higher voltage or with additional facilities if circumstances warranted and stated its understanding that "any incentive rate treatment granted by the Commission in [that] proceeding would be applied to any variation in capital expenditure and Project scope." PacifiCorp Petition, Docket No. EL08-75-000, at n.9.

[62] We note that the Commission's denial here would be without prejudice to SoCal Edison making a filing to independently justify incentives for the Whirlwind expansion pursuant to Order No. 679.

[63] Petition at 21 (citing *Pacific Gas & Elec. Corp.*, 123 FERC ¶ 61,067 (2008); Antelope Order, 112 FERC ¶ 61,143).

meet a state's renewable goals and whether the generation projects that trigger the transmission construction projects are receiving ARRA financing.[64]

41. In support of its public policy arguments and consistent with the 2010 Public Policy Incentive Orders, SoCal Edison contends that the Commission should approve the requested incentive rate treatment because the Transmission Projects: (1) support the timely development of generation projects seeking ARRA financing; (2) interconnect renewable resources that will help California achieve its renewable energy goals and provide substantial benefits to California and the West by fostering the development of location-constrained renewable solar and wind generations; and (3) are not routine in either scope or effect and face significant financial, regulatory, environmental and siting challenges.

42. SoCal Edison states that as with the transmission projects addressed in the 2010 Public Policy Incentive Orders, the need for these Transmission Projects was identified in the interconnection studies sponsored by CAISO in connection with CAISO's interconnection planning process and the development of the LGIAs, which are approved and executed by CAISO.[65]

43. Additionally, SoCal Edison states that given the challenges of financing large-scale solar and wind generation facilities, the developers are unable or unwilling to assume responsibility for the upfront financing of the Transmission Projects, as the generators would otherwise be required to do under the CAISO's *pro forma* LGIA and Tariff.[66] Thus, SoCal Edison states that it is prepared to provide upfront financing for the Transmission Projects if the Commission unconditionally grants SoCal Edison's requested rate incentives, particularly the abandoned plant approval incentive to remove the regulatory and financial risk to SoCal Edison in the event it moves forward with the Transmission Projects, but they are cancelled for reasons outside of SoCal Edison's control. Further, SoCal Edison adds that it has developed a milestone process to minimize the expenditures that would be at risk in the event of abandonment.

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[64] *Id.* (citing EITP Compliance Order, 133 FERC ¶ 61,108; Lugo-Pisgah/Red Bluff Order, 133 FERC ¶ 61,107).

[65] *Id.* at 5.

[66] *Id.* at 7 (citing CAISO Fourth Replacement Tariff, Standard Large Generator Interconnection Agreement § 11.3 and 11.4.1).

a. <u>ARRA Policy Considerations</u>

44. SoCal Edison states that the Transmission Projects satisfy the ARRA considerations that the Commission relied on in granting the requested abandoned plant and CWIP in the 2010 Public Policy Incentive Orders. SoCal Edison notes that some of the renewable generation projects are seeking Federal stimulus funding provided by the U.S. Treasury Department and/or the U.S. Department of Energy (DOE), under programs implemented by the ARRA.[67] According to SoCal Edison, the generation developers have stated that they are under extremely aggressive licensing timelines, because they are seeking ARRA-based financial incentives, and must commence construction either by December 31, 2010 for the U.S. Treasury grant in lieu of investment tax credit program (Treasury Cash Grant), or September 30, 2011, for the DOE loan guarantee programs.[68] SoCal Edison argues that the exigencies of ARRA funding deadlines relied on by the Commission in the 2010 Public Policy Incentive Orders are equally applicable with respect to each of the requested Transmission Projects in the instant Petition. Thus, SoCal Edison states that the sooner that the Commission issues its order on this Petition, the sooner it can commit to unconditionally finance network upgrades and thus provide the certainty that generators need in order to secure ARRA and other forms of project financing.

b. <u>Critical Elements in Satisfying Renewable Energy Goals</u>

45. SoCal Edison argues that the Transmission Projects are not routine in their effects. Specifically, SoCal Edison states that its proposed Transmission Projects will provide substantial regional benefits by advancing the Commission's and California's expressed interest in fostering development of renewable energy resources and location-constrained renewable solar and wind generation projects,[69] as well as contribute to the ability of SoCal Edison and others to meet the California RPS targets. SoCal Edison states that the California RPS is one of the most ambitious renewable energy standards in the United States. The existing RPS sets a target for California's load serving entities to utilize renewable resources in supplying 20 percent of their customers' electricity requirements. Moreover, SoCal Edison indicates that the Governor of California has issued an

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[67] *Id.* at 23, Holdsworth Affidavit at 18-22, Tables 8-11.

[68] *Id*. at 23 (citing EITP Compliance Order, 133 FERC ¶ 61,108 at P 79; Lugo-Pisgah/Red Bluff Order, 133 FERC ¶ 61,107 at P 68).

[69] SoCal Edison notes that the Commission has previously recognized that "construction or enhancement of transmission facilities to provide access to remote location-constrained renewable resources is not routine." *Id.* at 30 (citing *Green Power Express*, 127 FERC ¶ 61,031 at P 46; *PacifiCorp*, 125 FERC ¶ 61,076 at P 45).

executive order increasing the RPS target to 33 percent by 2020 and the executive order has been put into regulation by the California Air Resources Board as a renewable electricity standard.[70]

46. According to SoCal Edison, the Transmission Projects will assist SoCal Edison in achieving the current 20 percent RPS target and the 33 percent renewable energy goal, as well as reduce congestion over key corridors for renewable energy. SoCal Edison believes that the Transmission Projects are consistent with, and fully supported by the California Transmission Planning group (CTPG)[71] and California Renewable Energy Transmission Initiative (RETI).[72]

47. SoCal Edison states that the Transmission Projects will provide the electrical facilities necessary to deliver over the CAISO grid in excess of 3,700 MW of new solar and wind generation proposed by independent power producers. According to SoCal Edison, these Transmission Projects are network upgrades that will benefit the entire CAISO grid and are being built to access renewable-rich Competitive Renewable Energy Zones (CREZ) that have been identified by the RETI. It notes that these Transmission Projects will benefit any entity that contracts for the renewable generation, not just SoCal Edison's bundled retail customers.

i. <u>Whirlwind</u>

48. SoCal Edison states that the Whirlwind expansion is fully supported by RETI and CTPG. SoCal Edison states that, as part of Tehachapi, Whirlwind addresses a well-

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[70] *Id*. at 6 (citing California Executive Order S-21-09, September 15, 2009, *available at* http://gov.ca.gov/index.php?/executive-order/13269/).

[71] According to SoCal Edison, CTPG is a California regional transmission planning organization, organized consistent with Order No. 890, charged with developing a conceptual plan for expanding the State's electric transmission grid to provide access to renewable energy resource areas necessary to meet State energy goals. SoCal Edison states that CTPG participants include CAISO, investor-owned utilities, publicly owned utilities, generation developers and many other interested stakeholders. *Id.* at 24.

[72] According to SoCal Edison, RETI is a statewide initiative developed in order to help identify the transmission projects needed to accommodate renewable energy goals, support future energy policy and facilitate transmission corridor designation and transmission and generation siting and permitting. SoCal Edison states that RETI stakeholders include the CPUC, CAISO, California Energy Commission, investor-owned utilities, publicly owned utilities, generation developers, environmental groups, the Federal government, Native American tribes, as well as other interested parties. *Id.*

established need, which was confirmed in the RETI Phase 2A Report.[73] Moreover, SoCal Edison maintains that two 500/220 kV transformer banks included in the expansion for Whirlwind are identified in the CTPG final Phase 3 Report as "high potential" upgrades, demonstrating the important contribution of the Whirlwind expansion to the reliable operation of the transmission system in California.[74]

ii. Colorado River

49. SoCal Edison states that the expansion of Colorado River is consistent with, and fully supported by, RETI and CTPG. SoCal Edison states that both RETI and CTPG acknowledged the importance of additional 500 kV transmission facilities between the eastern Riverside County area and the Palm Springs area. SoCal Edison notes that the Colorado River is located near the California/Arizona border and serves as an "on-ramp" for renewable resources to interconnect to existing and proposed high-voltage bulk power transmission facilities in this corridor. Additionally, SoCal Edison states that CTPG's Final Phase 3 Report listed Colorado River as a "high potential" transmission upgrade, demonstrating the important contribution of Colorado River to the reliable operation of the transmission system in California.

50. In addition to CTPG, SoCal Edison explains that the RETI in its Phase 2A Report presented a conceptual transmission plan for California that identified a need for several 500 kV line segments, spanning the I-10 corridor from Colorado River area to SoCal Edison's Devers and Valley bulk-power substations in order to provide transmission interconnection to the Riverside East CREZ and to deliver that generation to SoCal Edison's load centers.[75] Furthermore, SoCal Edison adds that Colorado River will be useful for future generator interconnections, noting that 10,550 MW of potential solar generation in the East Riverside CREZ, the photovoltaic and solar thermal generation in

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[73] According to SoCal Edison, the RETI Phase 2A Report stated that segments 1-3 and 4-11 of Tehachapi, on a combined bases, were required to deliver power from the Tehachapi and nearby CREZs to multiple load centers in California. *Id.* at 26 (citing RETI Phase 2A Report, April 2010, at 1-3).

[74] *Id.* (citing CTPG Final Phase 3 Report, September 10, 2010, at 171). SoCal Edison notes that the CTPG Final Phase 3 Report classified certain upgrades as either "high potential" or "medium potential." CTPG recommended the "high potential" upgrades for immediate regulatory approval and to receive environmental authorization, as required by applicable laws and regulations.

[75] *Id.* at 27 (citing RETI Final Phase 2A Report, September 2009, at G-67-70).

the queue proposing to interconnect to Colorado River, would represent about 32 percent of the resource potential in the region, as identified by RETI.[76]

iii. South of Kramer

51. SoCal Edison states that the scope of the network upgrade included in South of Kramer is consistent with and fully supported by RETI. According to SoCal Edison, South Kramer will allow for delivery and integration of at least 591 MW of new solar and wind generation resources. It notes that the Cool Water-Lugo 220 kV transmission line, which is part of South of Kramer, traverses renewable-rich areas identified by RETI reports as the Barstow and San Bernadino-Lucerne CREZs, comprising 4,566 MW of resources on a combined basis, with 1,535 MW of wind and 2,940 MW of solar capability. SoCal Edison further states that the 591 MW of generation utilizing South of Kramer constitutes only 13 percent of the RETI-identified resource potential, demonstrating the possibility of further utilization by future generation as it develops in the Barstow, San Bernadino and Lucerne areas of California but which generation has to enter the CAISO interconnection process.[77]

iv. West of Devers

52. SoCal Edison notes that West of Devers is consistent with, and fully supported by, RETI and CPTG. SoCal Edison further states that CPTG listed West of Devers as a "high potential" transmission upgrade, the highest ranking given to upgrades evaluated by the CPTG. This demonstrates, according to SoCal Edison, the important contribution of West of Devers to the reliable operation of the transmission system in California. SoCal Edison also notes that CAISO will use the CTPG Final Phase 3 Report as a key input to its Revised Transmission Planning Process (RTPP). Additionally, SoCal Edison maintains that the RETI in its Phase 2A Report, dated September 2009, presented a conceptual transmission plan for California that identified the need to upgrade the four 220 kV transmission lines West of Devers to reduce congestion in this key corridor and to provide transmission interconnection in the Riverside East CREZ.[78]

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[76] *Id.*; Holdworth Affidavit at 27.

[77] Petition at 25.

[78] SoCal Edison notes that the Riverside East CREZ is the largest single CREZ in the RETI study, with a potential output of 10,550 MW. *Id.* at 26.

c. Scope and Risks Associated with the Transmission Projects

53. SoCal Edison states that in the 2010 Public Policy Incentive Orders, the Commission did not require a direct nexus showing, as required under section 219 analysis, to conclude that the project qualified for incentives on policy grounds under the Commission's FPA section 205 authority. However, SoCal Edison maintains that the Commission did cite as a specific policy consideration underlying its decision the scope of the projects and the specific risks faced by them.[79] In particular, SoCal Edison notes that the Commission cited the risks associated with the proposed generation not developing, the unforeseen circumstances affecting long lead-time projects, the significant regulatory risks, and the other numerous financial, regulatory, environmental and siting challenges the projects face as bases for granting the requested incentives on policy grounds.

54. SoCal Edison contends that it faces extraordinary commercial and licensing risks. Specifically, SoCal Edison stresses that: (1) as stated above, developers face aggressive licensing timelines as they seek ARRA-based financial incentives; (2) each of the Transmission Projects will need multiple regulatory approvals, including either a Certificate of Public Convenience and Necessity (CPCN) or a PTC from the CPUC, as well as a Record of Decision from the U. S. Department of the Interior Bureau of Land and Management (BLM).[80] SoCal Edison also argues that the Transmission Projects create a significant financial challenge, emphasizing that: (1) the combined cost for the Transmission Projects is approximately $1.5 billion; and (2) it is planning to invest $5.5 billion in its transmission system over the next five years, which is over three times the $1.5 billion of SoCal Edison's CAISO-controlled net transmission plant as of the end of 2008.[81] Accordingly, based upon these factors, SoCal Edison asserts that the Transmission Projects are not routine either in scope or with respect to the risks they face.

i. Whirlwind

55. SoCal Edison contends that the cost for the expansion at Whirlwind is not routine, noting that the expansion is expected to cost about $141 million. SoCal Edison also asserts that Whirlwind will have an impact on the CAISO and regional transmission grids that is not routine. As described above, SoCal Edison states that the expansion at

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[79] *Id.* at 28 (citing EITP Compliance Order, 133 FERC ¶ 61,108 at P 76-77; Lugo-Pisgah/Red Bluff Order, 133 FERC ¶ 61,107 at P 66-67).

[80] *Id.* at 6.

[81] *Id.* at 5.

Whirlwind will permit the interconnection of at least 1,550 MW of new generation (all renewable) into the CAISO grid, thereby providing a path to market for a number of potential renewable resources and contributing to the ability of SoCal Edison and others to meet the California renewable targets.[82]

56. Additionally, SoCal Edison states that Whirlwind faces numerous challenges and risks that are not faced by routine projects. For instance, SoCal Edison claims that it will need to require multiple approvals from governmental authorities and regulatory agencies, as well as federal agencies, for the Whirlwind expansion. For instance, beyond the required CPCN approval, which SoCal Edison has already received, SoCal Edison expects that it will need to obtain permits and/or approvals from the California Department of Fish and Game, the California Department of Transportation, the California Department of Transportation, Division of Occupational Health and Safety within the California Department of Industrial Relations (CAL/OSHA), the Department of Toxic Substances Control, and the California Water Resources Board Permits 402-Storm Water Pollution Protection Plan.[83] In addition to the state-level permits, SoCal Edison states that it must obtain ministerial permits from the county and local jurisdictions affected by Whirlwind. Additionally, SoCal Edison states that it may need to obtain a permit under the Clean Water Act from the U.S. Army Corps of Engineers. Further, according to SoCal Edison, it will be exposed to the risks that the generation projects that the expansion at Whirlwind is designed to serve may not materialize. Finally, SoCal Edison argues that the Whirlwind expansion will have a considerable adverse effect on its cash flow and financial metrics, particularly when considered in conjunction with the financing requirements of its other ongoing projects.[84]

ii. <u>Colorado River</u>

57. SoCal Edison states that the Colorado River expansion is not routine. SoCal Edison states that Colorado River will cost about $163 million. According to SoCal Edison, Colorado River is a key transmission project that will provide for interconnection of significant solar resources in the East Riverside area. Additionally, although Colorado River had received a permit as part of DPV2, because the size of the substation has to be expanded to interconnect new renewable generation projects, SoCal Edison states that it must obtain a PTC from the CPUC.[85] SoCal Edison notes that it may need to obtain

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[82] *Id.* at 29.

[83] Petition, Exhibit C, Affidavit of Charles B. Adamson at 8.

[84] Petition at 30.

[85] SoCal Edison filed a preliminary PTC for the Colorado River expansion on November 3, 2010, and anticipates a final determination in 2011. *Id.* at 32.

permits from the California Department of Fish and Game, the California Department of Transportation, CAL/OSHA, and the Department of Toxic Substances Control, and the Office of Historic Preservation. In addition to these state-level permits, SoCal Edison maintains that it must obtain ministerial permits from the various local jurisdictions affected by the projects. Further, SoCal Edison states that Colorado River will also require complex environmental reviews under both state and federal laws because it will be sited near the habitats of several protected species.[86]

iii. South of Kramer

58. SoCal Edison asserts that South of Kramer is not routine. The project will cost about $542 million. SoCal Edison states that the South of Kramer project will make possible the development of a number of renewable solar resources in the Barstow, San Bernardino and Lucerne area by providing a key path to load centers in southern California. SoCal Edison states that it needs to obtain multiple permits and licenses from governmental authorities and regulatory agencies across multiple jurisdictions. Within California, SoCal Edison states that it must obtain a CPCN from the CPUC[87] and permits from the California Department of Fish and Game, the California Department of Transportation, CAL/OSHA, the Department of Toxic Substances Control, and the Office of Historic Preservation. In addition to state level permits, SoCal Edison notes that it must obtain ministerial permits from the various local jurisdictions affected by the project. SoCal Edison states that it must acquire a new right-of-way for the transmission line length necessary for South of Kramer. Finally, SoCal Edison notes that South of Kramer will cross near the habitats of several protected species and will require complex environmental reviews under both state and federal laws and, thus will require a record of decision from the BLM, the lead federal agency coordinating review under the National Environmental Policy Act (NEPA), authorizing construction of those portions of South of Kramer that implicate federal land.[88] SoCal Edison states that it will require additional approvals from BLM, as well as permits or approvals from the United States Fish and Wildlife Service and the Army Corps of Engineers.

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[86] *Id.* at 32.

[87] SoCal Edison expects to file a CPCN application by 2012 and anticipates a final determination in 2014. *Id.* at 31.

[88] SoCal Edison emphasizes that the process for obtaining a record of decision is lengthy and may take between 12 to 18 months from the time it submits its application. *Id.* at 31.

iv. West of Devers

59. According to SoCal Edison, West of Dever is not a routine project. SoCal Edison states that South of Kramer, which is expected to cost about $651 million, will be a key transmission project providing for the delivery of significant solar resources in the East Riverside area to load centers in southern California. Additionally, SoCal Edison argues that West of Devers presents significant risks and challenges in licensing and permitting. First, because South of Kramer is located on tribal land, SoCal Edison notes that it must obtain a record of decision from the Bureau of Indian Affairs (a lead federal agency coordinating review under NEPA), a right-of-way from the Morongo Band of Mission Indians. Further, SoCal Edison notes that West of Devers will be sited near the habitats of several protected species, requiring complex environmental reviews under both state and federal law. SoCal Edison states that it must obtain a CPCN from the CPUC[89] and may need to obtain permits from the California Department of Fish and Game, the California Department of Transportation, CAL/OSHA, the Department of Toxic Substances Control, and the Office of Historic Preservation. Finally, in addition to state level permits, SoCal Edison notes that it must obtain ministerial permits from the various local jurisdictions affected by the project.

2. Protests and Comments

60. Protesters argue that SoCal Edison has not made a sufficient showing in its Petition to warrant policy-based incentives. Also, TANC requests that the Commission decline to grant SoCal Edison's request to make public policy authority "the new normal" standard for granting incentives when the projects do not qualify for Order No. 679 incentives.[90]

61. With respect to ARRA financing, protesters argue that the exigencies of the ARRA deadline, which warranted incentives for policy reasons in the 2010 Public Policy Incentive Orders, are not found in the Petition.[91] They contend that the December 31, 2010 deadline tied to the Treasury Cash Grant has passed and the September 31, 2011 deadline tied to the DOE loan guarantee is three calendar quarters in the future. Accordingly, they assert that the urgency imposed on the projects in the 2010 Public Policy Incentive Orders is not present here and, thus, the requested incentives should not be granted on public policy reasons.

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[89] SoCal Edison expects to file a preliminary CPCN application in 2012 and anticipates a final determination in 2013. *Id.* at 32.

[90] TANC at 14.

[91] For example, TANC at 15; SWC/Metropolitan at 38; and LADWP at 9.

62. Protesters argue that SoCal Edison's Transmission Projects do not present any risks or challenges that are unique to warrant the policy-based incentives. For instance, MSR/Santa Clara argue that SoCal Edison's risk for the Transmission Projects is not significant considering that it is following the ordinary course of building transmission projects after it executed LGIAs with the developers and has already executed power purchase agreements (PPA) with several of the generators whose output is already committed to SoCal Edison and Pacific Gas and Electric Company (PG&E).[92] Thus, MSR/Santa Clara argue that any risks associated with the projects being abandoned and the costs associated with developing them should be shouldered by the entities purchasing the energy.

63. Moreover, protesters argue that SoCal Edison's risks and challenges are mitigated by: (1) the LGIAs it has executed with some of the developers that will utilize the Transmission Projects; (2) SoCal Edison's development of a milestone deadline process that generators must meet for SoCal Edison to continue the development of the Transmission Projects;[93]and (3) the "backstop" cost mechanism under California Public Utilities Code, section 399.2.5, which allows utilities to recover through CPUC jurisdictional rates any costs of the facilities that are not approved by the Commission for recovery through transmission rates.[94]

64. Some commenters raise concerns with the use of the LGIP to build projects outside of CAISO's RTPP. NCPA states that it does not protest the incentives requested in the Petition; however, it notes that the RTPP is far more inclusive of the viewpoints and needs of regional load-serving entities and other stakeholders than the LGIP, which is essentially closed to all but CAISO, the participating transmission owner and the generator involved.[95] Also, MSR/Santa Clara notes that the LGIP provides no public comment period and fosters no region-wide dialog on the benefits of the proposed interconnection. They also argue that the transmission customers have no assurance as to how costs were evaluated for the Transmission Projects because the LGIP process does not provide interested parties the ability to intervene, review studies, propose alternatives

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[92] MSR/Santa Clara at 31.

[93] *See, e.g.,* SWC/Metropolitan at 14-15.

[94] *Id.*

[95] NCPA at 3-4.

or provide comments. Thus, MSR/Santa Clara argue that the Commission should initiate an investigation into the costs of the Transmission Projects before evaluating SoCal Edison's request for incentives.[96]

65. Granite Wind[97] and SunPower[98] urge the Commission to approve the requested incentives, emphasizing that SoCal Edison's Transmission Projects will: (1) support the development of over 3,700 MW of proposed solar and wind generation; and (2) integrate new, location-constrained renewable resources to facilitate California's aggressive RPS goal. Granite Wind argues that by granting the requested incentives, the Commission will directly reduce SoCal Edison's financing burdens and mitigate the risks faced by SoCal Edison in undertaking the Transmission Projects for the benefit of CAISO's customers. Additionally, Granite Wind states that Commission approval is essential to enable Granite Wind to develop its new, renewable and location-constrained project.[99]

66. Abengoa Solar states that it strongly supports SoCal Edison's Petition with respect to the South of Kramer project and urges the Commission to grant the requested transmission rate incentives.[100] Abengoa Solar asserts that the transmission incentives for South of Kramer are necessary to relieve transmission congestion and enable the many benefits of multiple renewable projects to be realized.[101] Abengoa Solar notes that after commercial operations begin, the Mojave Solar Project is expected to generate in excess of 600,000 MWh (net) per year with *de minimis* emission of greenhouse gases or

[96] MSR/Santa Clara at 41-42; MSR/Santa Clara Answer at 7-8 (reiterating that the Commission should initiate an investigation into the costs of the Transmission Projects because SoCal Edison has failed to justify its costs).

[97] Granite Wind is developing a proposed 60 MW wind generating facility to be located in San Bernardino County, California that will interconnect to SoCal Edison's transmission network at a new SoCal Edison-owned Jasper 220 kV Substation. Granite Wind at 2.

[98] SunPower is a vertically-integrated photovoltaic solar energy company, which is developing and intends to construct two photovoltaic solar energy generation projects of up to 325 MW generating capacity each, in Kern County, California. SunPower at 3.

[99] Granite Wind at 4-5.

[100] Abengoa Solar is constructing the Mojave Solar Project, which is one of five projects that have entered into the CAISO interconnection process seeking interconnection at South of Kramer.

[101] Abengoa Solar at 5.

other air pollutants. Abengoa Solar states that it is currently negotiating a loan guarantee with DOE in order to finance the construction of the Mojave Solar Project and will seek a Treasury Cash Grant for the same project. Abengoa Solar explains that a conditional commitment required under the DOE loan guarantee cannot be achieved in the absence of a valid LGIA, and the rate incentives requested herein are a condition of SoCal Edison to perform its obligations under the LGIA with respect to upfront financing and construction of delivery network upgrades. Accordingly, Abengoa Solar requests that the Commission grant the incentives with respect to South of Kramer without material modification or delay.[102]

67. Desert Southwest states that its project[103] and SoCal Edison's Transmission Projects, as well as additional projects, are necessary to provide transmission access to the significant renewable resources proposed for development in Eastern Riverside County, California. Desert Southwest adds that such transmission access to these renewable resources is critical for California's load serving utilities to meet the state's ambitious RPS goals. Desert Southwest states that investments in these projects are also necessary for the transmission grid to reliably support the state-mandated integration of renewable energy, as well as the projected growth in California's energy demand. Desert Southwest adds that its project and SoCal Edison's Transmission Projects will reduce the overall price of delivered power by alleviating existing and anticipated congestion in key congestion areas. Accordingly, Desert Southwest asserts that it supports the Transmission Projects as essential transmission upgrades that are complementary to the Desert Southwest Project and will benefit the system as a whole.[104]

68. Solar Millennium requests prompt approval of SoCal Edison's requested incentives.[105] Solar Millennium states that Blythe and Palen Projects will cost about

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[102] *Id.* at 8.

[103] Desert Southwest is the developer of the proposed Desert Southwest Transmission Project (Desert Southwest Project), a 118-mile 500 kV transmission line that will bring new renewable and other energy from the desert are in eastern Riverside County, California to load pocket areas in southern California. Desert Southwest at 1; *see also* Desert Southwest Power, LLC, Docket No. EL10-54-000 (filed March 30, 2010).

[104] Desert Southwest at 2-3.

[105] Solar Millennium's subsidiary interconnection customers, Palo Verde Solar II, LLC and Palen Solar II, LLC, have signed LGIAs with SoCal Edison and CAISO for the 1000 MW Blythe Solar Power Project (Blythe Project) and the 500 MW Palen Solar Power Project (Palen Project). Solar Millennium at 1.

$8 billion and will constitute the largest solar facilities in the world. When completed, Solar Millennium states that the facilities will supply California ratepayers with 1,500 MW of renewable energy capacity, furthering California's RPS goals. Solar Millennium states that the first 500 MW of the Blythe Project will be financed, in part, through a loan from the Federal Financing Bank, a branch of the U.S. Treasury Department, and the loan will be guaranteed by the DOE under the DOE loan guarantee program of the ARRA. Solar Millennium argues that if the Petition is not approved, then its current LGIAs with SoCal Edison and CAISO will be void and will need to be renegotiated. Solar Millennium asserts that such a delay could comprise its ability to meet deadlines under the DOE loan guarantee program, resulting in economic harm for Solar Millennium. Thus, Solar Millennium states that approval of the Petition will be a condition precedent to the financial close for all units within the Blythe and Palen Projects.[106]

3. <u>Answers</u>

69. SoCal Edison reiterates that its Petition is consistent with Commission precedent and that approval of the Transmission Projects falls within the Commission's public policy authority to grant policy-based incentives under section 205 of the FPA. SoCal Edison argues that its Petition established that, due to their size and the attendant risks, the Transmission Projects warrant rate incentives.

70. SoCal Edison asserts that the Transmission Projects identified in the Petition are substantially similar to the projects in the 2010 Public Policy Incentive Orders that were recently granted incentives by the Commission pursuant to its section 205 authority.[107] For instance, like the EITP, Lugo-Pisgah and Red Bluff projects in the 2010 Public Policy Incentive Orders, SoCal Edison contends that the Transmission Projects in the instant Petition are a collection of facilities planned to access location-constrained renewable resources, many of which are seeking ARRA funding. SoCal Edison emphasizes that in approving the EITP, Lugo-Pisgah and Red Bluff projects, the Commission recognized the important public policy in favor of promoting new renewable generation and stressed the urgency to its public policy evaluation to enable developers to qualify for ARRA financing. SoCal Edison adds that similar to the EITP, Lugo-Pisgah and Red Bluff projects, the Transmission Projects face similar risks of regulatory disapproval and cancellation of the underlying generation projects. Thus, given that the requested incentive rate treatments for the Transmission Projects are correspondingly

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[106] *Id.* at 5.

[107] SoCal Edison Answer at 7.

similar to those received by EITP, Lugo-Pisgah and Red Bluff projects, SoCal Edison argues that the protesters have provided no basis for the Commission to reverse course here.[108]

71. SoCal Edison asserts that MSR/Santa Clara's argument that the Transmission Projects are being built to interconnect generation whose output is under contract and that those costs should be solely allocated to the generation customers that benefit from the project contradicts Commission precedent. SoCal Edison states that the Commission has established that the costs of network upgrades are to be borne by all users of the transmission system because such upgrades benefit all users of the transmission system.[109] SoCal Edison also refutes MSR/Santa Clara's argument that all of the available transmission capacity will be utilized by generation projects that have PPAs with SoCal Edison. SoCal Edison asserts that such a contention is false given the differences between the capacity that will be available when the Transmission Projects are constructed and the PPAs that relate to them.[110]

72. Regarding concerns raised about the LGIP, SoCal Edison notes that there is no other way for it to gain approval for the Transmission Projects other than the LGIP process that leads to the execution of an LGIA, which thereby evidences CAISO approval of the transmission facilities as network upgrades.[111] SoCal Edison adds that CAISO has

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[108] *Id.* at 8.

[109] For instance, SoCal Edison notes that CAISO's tariff provides that the costs of all high voltage transmission facilities (CAISO-controlled transmission facilities over 200 kV) are assessed equally to transmission customers across the CAISO-controlled grid. *Id.* at 14 (citing CAISO Fifth Replacement Tariff, Appendix F, Schedule 3).

[110] For instance, SoCal Edison states that (1) South of Kramer will provide capacity for up to 1,000 MW of new generation resources and currently has only approximately 300 MW under contract; (2) Whirlwind expansion will allow an additional 2,000 MW to be interconnected to the CAISO-grid and currently has less than 1,000 MW under contract; (3) Colorado River expansion will provide capacity for up to 2,000 MW of new generation resources and currently has less than 900 MW under contract; and (4) West of Devers will provide deliverability for 2,200 MW of new generation in the transition cluster and currently has less than 900 MW under contract. *Id.* at 15.

[111] *Id.* at 17. CAISO explained in its comments in Docket No. EL10-1-000 that:

> Network upgrades are determined to be needed to accommodate a generator interconnection request through the performance of generator interconnection studies. An LGIA is then executed that establishes the commitment of the

(continued …)

made clear in its comments that by executing the LGIAs, CAISO has approved the need for the projects described in the LGIAs.[112]

73. AV Solar argues that protestors are incorrect in assuming that the extension in the deadline for qualifying tax incentives provided by the ARRA undermines the rationale behind the Commission's decisions to award incentives on public policy grounds. AV Solar explains that it has a need to obtain prompt unconditional approval of its LGIA to be able to finance its project on the schedule provided to the DOE for a loan guarantee program and to meet its obligations under its PPA. AV Solar states that the DOE requirements state that its due diligence cannot conclude until all application materials have been received in final form and have been properly evaluated. AV Solar states, therefore, that the Commission's unconditional acceptance of the LGIA is necessary for DOE to deem the application complete and continue its due diligence. AV Solar states that its application to DOE and its processing assume that AV solar will secure 100 percent of its financing in the second quarter of 2011.[113]

74. Solar Millennium disagrees with protestors who argue that exigencies justifying action based upon public policy consideration are not present in the instant Petition. Solar Millennium argues that the protestors' argument is based on a faulty inference that complex and interrelated contracting and loan qualification contingencies can be resolved at a moment's notice. Solar Millennium states that because the Blythe and Palen LGIAs are contingent upon approval of SoCal Edison's upfront financing of the West of Devers network upgrades, the current LGIAs will be void and the ability to meet financing deadlines compromised if SoCal Edison's Petition is not approved.[114]

75. Solar Millennium contends that: (1) the economic harm of missing the ARRA deadline could be ten percent or more of the face value of the loan, or hundreds of millions of dollars; (2) the Treasury Cash Grant program of the ARRA requires that physical work of a significant nature commence prior to December 31, 2011, and preparation of that work depends on elimination of pending contingencies; and (3) a

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> parties to construct these network upgrades. Once the LGIA is executed, the network upgrades identified in it are considered by [CAISO] to be needed and are incorporated into the modeling assumptions (base case) for transmission planning studies for the next annual planning cycle.

[112] SoCal Edison Answer at 16 (citing CAISO's comments in Docket No. EL10-1-000).

[113] AV Solar at 5-6.

[114] Solar Millennium Answer 2-3.

delay in a Commission decision on the SoCal Edison Petition could jeopardize Solar Millennium's access to critical sources of long-term financing, which could also affect its ability to secure equity financing and proceed with construction on schedule. Solar Millennium argues that it has already expended and irrevocably committed tens of millions of dollars in developing the Blythe and Palen projects and, thus, these investments will be at risk unless the Commission issues a timely decision approving SoCal Edison's Petition.

76. In response to SoCal Edison's answer, MSR/Santa Clara argue that the lack of generation signed up to use the capacity of proposed transmission facilities does not disprove the fact that all of the generation that has signed up to use the transmission lines is under contract with either SoCal Edison or PG&E. Also, MSR/Santa Clara contend that SoCal Edison's comparison of the Transmission Projects' capacity and the actual capacity under contract highlights SoCal Edison's decision to oversize the interconnection facilities based on speculation that additional generation projects will be built. Consequently, transmission customers will be forced to fund that risk, according to MSR/Santa Clara. Moreover, MSR/Santa Clara adds that decisions to build excess capacity to serve potential future generation should be made through the transmission planning process, rather than the LGIP process.[115]

4. Commission Determination

77. Prior to Order No. 679, we recognized our inherent authority to approve rate incentives when they would promote the Commission's policies.[116] The Commission has exercised this authority and approved requests for abandoned plant recovery to encourage the construction of transmission facilities needed to interconnect new generation.[117] In exercising this authority before the issuance of Order No. 679, when determining whether it was just and reasonable to grant recovery of 100 percent of abandoned plant costs, we considered, among other factors, whether the incentive encourages the development of much-needed transmission facilities, improves the performance of the grid by increasing the transfer capability of the grid and providing reliability benefits to the grid, and is intended to increase the supply of energy to the grid.[118] Further, outside the context of

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[115] MSR/Santa Clara Answer at 5-6.

[116] *See, e.g.*, *San Diego Gas & Elec. Co.*, 98 FERC ¶ 61,332, *reh'g denied*, 100 FERC ¶ 61,073 (2000) (Commission to allow full recovery of abandoned transmission project costs where appropriate).

[117] *See, e.g.*, *Pacific Gas & Elec. Co.*, 123 FERC ¶ 61,067.

[118] *Southern California Edison Co.*, 113 FERC ¶ 61,143 at P 12.

incentives granted pursuant to FPA section 219, we have considered whether the proposed project helps to access renewable energy to meet state RPS requirements.[119]

78. Of significance, Order No. 679 did not extinguish, and in fact expressly preserved, this pre-existing Commission authority.[120] The Commission has exercised this inherent authority under section 205 of the FPA to allow rate treatments that promote public policy goals. The Commission applied this approach most recently in SoCal Edison's 2010 Public Policy Orders where the Commission considered a combination of policy reasons, including whether: (1) the generation projects that trigger the need for transmission facilities are seeking ARRA funding; (2) the transmission project assists in fostering access to renewable energy needed to meet a state's RPS goal and access to location-constrained renewable generation projects; and (3) the size, scope, and risks involved in the transmission projects are sufficient to demonstrate that the projects are not routine.[121]

79. As discussed below, for policy reasons associated with ARRA funding, location-constrained renewable resources and California's RPS requirement, along with the risks, challenges, and scope of the Transmission Projects, pursuant to FPA section 205, we grant SoCal Edison's request for inclusion of 100 percent CWIP in rate base and recovery of 100 percent of prudently-incurred abandoned plant costs if the Transmission Projects are cancelled for reasons beyond SoCal Edison's control. Also, we have made clear in the past that when we consider policy-based incentive requests, our policy is to review each request for incentives on its own merits and on a case-by-case basis. Thus, in granting the CWIP and abandoned plant incentives requested by SoCal Edison, we emphasize that our actions are limited to the unique circumstances presented in this docket.[122]

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[119] *Id., see also Pacific Gas & Elec. Co.*, 123 FERC ¶ 61,067 at P 33-34.

[120] In Order No. 679-A, the Commission stated that:

> [T]he Commission retains its discretion to provide policy-based incentives. As the courts have said, even prior to our new authority in section 219, the Commission's incentive rate determinations "involve matters of rate design . . . [and] policy judgments [that go to] the core of [the Commission's] regulatory responsibilities."

Order No. 679-A, FERC Stats. & Regs. ¶ 31,236 at P 21 n.37 (citations omitted).

[121] *See, e.g.,* Lugo-Pisgah/Red Bluff Order, 133 FERC ¶ 61,107 at P 3, 64-68.

[122] *See Pacific Gas & Elec. Co.,* 123 FERC ¶ 61,067 at P 39 (citations omitted).

80. First, as noted above, each of the Transmission Projects is closely related to several projects that are seeking financial incentives under ARRA. We are aware of the time pressures faced by some of the solar and wind developers who are seeking those ARRA financial incentives. Despite the recent extension of an ARRA deadline, discussed further below, some of those developers are under extremely aggressive timelines in order to meet the qualifications to receive ARRA funding eligibility. Those developers emphasize that their ability to secure ARRA funding could be jeopardized if we do not grant the incentives that SoCal Edison has requested in this proceeding.

81. Previously, the Commission noted that the impending ARRA funding deadline added urgency to our public policy evaluation of the incentives. The Commission noted that "we would be remiss in our responsibilities were we to disregard the rapidly-approaching ARRA deadline the solar developers have stated they face . . . ."[123] While we recognize that one of the deadlines for the ARRA funding (U.S Treasury Cash Grant) has been extended, we nevertheless find that ARRA funding deadlines are crucial to the instant Petition. These developers have stated that they must clear many contingencies before construction can begin prior to September 31, 2011 for the DOE loan guarantee program or December 31, 2011 for the Treasury Cash Grant. They also emphasize that if the requested incentives were to be denied, developers, SoCal Edison and CAISO would have to renegotiate their LGIAs, which would require additional time, jeopardizing the timeline for ARRA deadlines. Thus, we disagree with the protesters' argument that incentives are not warranted here because one of the deadlines for ARRA funding (Treasury Cash Grant) has been extended.

82. Second, in light of California's aggressive RPS goals, we note that each Transmission Project in the instant Petition represents a significant investment that would deliver significant amounts of otherwise location-constrained renewable solar and wind energy. As SoCal Edison states, the Transmission Projects will provide the electrical facilities to deliver over the CAISO grid in excess of 3,700 MW of new solar and wind energy into loads in California.

83. Third, we are also aware of the risks and uncertainties relevant to the development of each Transmission Project. For example, because South of Kramer and West of Devers are not expected to be in service until 2018, SoCal Edison will have exposure to uncertainties arising from future unforeseen circumstances during this time period. Also, SoCal Edison is proposing to expend substantial monies prior to obtaining all necessary approvals for the Transmission Projects, thereby exposing itself to the risk that the proposed generation projects that Transmission Projects are being developed to serve may not materialize.

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[123] Lugo-Pisgah/Red Bluff Order, 133 FERC ¶ 61,107 at P 64.

84. Additionally, SoCal Edison has shown that each Transmission Project faces challenges associated with licensing and permits. The Transmission Projects require multiple approvals from federal, state, and local authorities and regulatory agencies. Some of these agencies include the CPUC, United States Fish and Wildlife Service and the Army Corps of Engineers, California Department of Fish and Game, the California Department of Transportation, CAL/OSHA, and the Department of Toxic Substances Control, and the Office of Historic Preservation. Moreover, some of the Transmission Projects will require complex environmental reviews under both state and federal laws because they will be sited near the habitats of protected species. West of Devers will also require additional licensing and permits because it will be sited on tribal land. Together with the first two considerations discussed above, we find that these risks and uncertainties support the granting of the incentives that SoCal Edison has requested in this proceeding.

85. Finally, we disagree with MSR/Santa Clara that additional capacity of the Transmission Projects amounts to oversized facilities based on speculation that additional generation projects will be built and request interconnection. SoCal Edison demonstrates that while some of the capacity has been already committed through PPAs, additional transmission capacity will be available when the Transmission Projects are constructed.[124] And, as SoCal Edison's Petition demonstrates, that additional capacity is needed to accommodate solar and wind generation resources that have requested interconnection to the Transmission Projects.[125] Thus, as stated above, we find that the Transmission Projects will benefit the entire CAISO grid by supplying location-constrained renewable resources to loads within California.

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[124] *See* SoCal Edison Answer at 15; *see also supra* note 110.

[125] For instance, (1) Whirlwind has 4,001 MW of generation projects in the transition cluster and later queued projects proposing to interconnect to its facilities; (2) South of Kramer has 250 MW of generation projects in the CAISO interconnection process that requires South of Kramer as a delivery network upgrade and 591 MW of generation projects in the CAISO interconnection process that is proposing to interconnect to components of South of Kramer; (3) West of Devers has 2,200 MW of generation projects in the CAISO interconnection process for which West of Devers requires delivery network upgrades; and (4) Colorado River has 3,335 MW of generation projects in the transition cluster and later queued projects proposing to interconnect to its facilities. *See* Holdsworth Affidavit at 2-16.

E. Specific Incentives Requested

1. Abandoned Plant Recovery

a. SoCal Edison's Proposal

86. SoCal Edison seeks 100 percent recovery of its prudently incurred costs for each of the Transmission Projects if either or both are cancelled or abandoned for reasons outside of its control.[126] SoCal Edison states that its request for full abandonment plant recovery is tailored to the risks faced by SoCal Edison with respect to the Transmission Projects. SoCal Edison notes that the Commission has explained that the recovery of abandoned plant is important when utilities "encounter investment opportunities with significant risk associated with factors beyond their control, such as developers' decisions to develop or terminate the development of potential resources or difficulty obtaining state or local siting approvals."[127] SoCal Edison asserts that this reasoning is equally applicable under the public policy justification relied upon in the instant Petition.

87. The Transmission Projects require multiple approvals from the CPUC, and federal and local governmental and regulatory authorities, each of which, SoCal Edison contends, carries considerable risk. Moreover, due to the challenges of financing such solar and wind generation facilities, SoCal Edison states, the developers have expressed an inability or unwillingness to assume responsibility for upfront financing the Transmission Projects. Thus, SoCal Edison states that it has agreed to provide upfront financing for each Transmission Project, and will therefore be required to expend substantial amounts of money well before all necessary project approvals are granted. SoCal Edison stresses that its willingness to finance the cost of the network upgrades that comprise the Transmission Projects is conditioned upon its receipt of a Commission order unconditionally approving the requested 100 percent abandoned plant recovery incentive. SoCal Edison argues that SoCal Edison's ability to provide the upfront financing for the Transmission Projects is dependent upon the Commission's assurance to SoCal Edison that it will be able to recover the costs of the Transmission Projects should any of them be abandoned or cancelled for reasons beyond SoCal Edison's control.[128]

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[126] Petition at 8, 33.

[127] *Id*. at 33 (citing Order No. 679, FERC Stats. & Regs. ¶ 31,222 at P 155).

[128] SoCal Edison argues that the Commission acknowledged this important consideration in granting the requested abandoned plant incentives in the 2010 Public Policy Incentive Orders. *Id.* at 34.

b. Comments and Protests

88. Protesters argue that because SoCal Edison can avoid any risk of abandoned plant costs by requiring the interconnection generators to fund the necessary upgrades, there is no justification for allowing the shifting of all risk of abandoned plant costs to transmission ratepayers. Similarly, in regards to West of Devers, LADWP asserts that the risk of abandonment of plant would be borne by SoCal Edison transmission customers who may not benefit from the West of Devers project upgrades.[129]

89. MSR/Santa Clara offer that SoCal Edison has created its own risk by agreeing to the precondition that it first be granted abandoned plant recovery and is holding these solar and wind project developers "hostage" as it negotiates with the Commission over incentives.[130] MSR/Santa Clara and TANC argue that SoCal Edison's claim that generators are unable or unwilling to fund upgrades is inconsistent with a letter filed by one of the developers, which noted that the developer would have to raise the price for its output if it funds the upgrades.[131] Thus, MSR/Santa Clara argue that the risk arises because SoCal Edison refuses to pay the higher purchased power costs to compensate the developer for the interconnection costs.

90. MSR/Santa Clara also argue that the Commission's current abandoned plant policies, whereby abandoned plant costs are shared equally by shareholders and ratepayers would fully compensate SoCal Edison for the risk posed by its pursuit of these projects. In addition, MSR/Santa Clara contend that application of the Commission's 50/50 sharing of costs between ratepayers and shareholders instead of the 100 percent abandoned plant incentive is more appropriate here because SoCal Edison's pursuit of the projects is a business decision of its management and as such SoCal Edison should share in the risks.

91. Pursuant to the LGIA with CAISO and SoCal Edison, Abengoa Solar explains that it is responsible for $54,647,000 for interconnection facilities to be constructed by SoCal Edison at South of Kramer, plus reliability network upgrades costing $13,686,000, distribution upgrade costing $1,068,000 and one-time costs of $3,990,000.[132] SoCal

[129] LADWP at 7-10.

[130] MSR/Santa Clara Protest at 17-18.

[131] MSR/Santa Clara at 20; TANC at 16 (citing to a letter filed in Docket No. ER11-2316-000, wherein Solar Millennium noted that without SoCal Edison's commitment to provide upfront financing of the costs of the network upgrades, it would seek a higher price from SoCal Edison for the energy produced).

[132] Abengoa Solar at 7.

Edison also projects $352 million in delivery network upgrade costs. Abengoa Solar contends that it is unable to finance the delivery network upgrade costs and SoCal Edison has agreed under the LGIA to assume responsibility for upfront financing and constructing such South of Kramer delivery network upgrades, subject to SoCal Edison receiving the requested incentives in the Petition. Therefore, Abengoa Solar states that a favorable action by the Commission with respect to the requested incentives for South of Kramer is essential for the viability of the Mojave Solar Project.[133]

92. Solar Association and SunPower state that they strongly support SoCal Edison's request for 100 percent abandoned plant recovery. They argue that upfront financing costs for network upgrades can be a crippling burden for generation developers who have a higher cost of capital than a franchised public utility like SoCal Edison, and would ultimately make costs more expensive for ratepayers. They argue that the Commission's approval of 100 percent abandoned plant recovery will allow SoCal Edison to upfront finance the costs of important transmission network upgrades, thereby eliminating an obstacle to the financing and construction of solar generation plants.

93. Solar Millennium states that the LGIAs explicitly assume that SoCal Edison will finance the West of Devers transmission network upgrades required to interconnect and deliver energy from Blythe and Palen Projects, as well as other nearby proposed projects.[134] Solar Millennium states that SoCal Edison has agreed to provide such financing on the condition that the Commission approves its Petition. Solar Millennium states that should the Petition requests not be fully approved, then the current LGIAs are void by their terms and will need to be completely renegotiated. Solar Millennium states that such reading of current LGIAs would have significant negative impacts.

94. CAISO proposes that the Commission make any approval of SoCal Edison's request for recovery of abandoned plant costs conditional on CAISO's approval of the Transmission Projects through execution of LGIAs that specify the need for these facilities as network upgrades in those LGIAs.[135]

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[133] *Id.* 8.

[134] Solar Millennium states that Blythe and Palen Projects were studied for interconnection as part of the Eastern Bulk Cluster within the CAISO's transition cluster under its new clustered LGIP. As such, Solar Millennium notes that the network upgrades identified serve the entire Eastern Bulk Cluster and not just Blythe and Palen Projects.

[135] CAISO at 2.

c. **Answers**

95. SoCal Edison asserts that it has committed to upfront financing for the Transmission Projects as a way to break the "chicken and egg problem." SoCal Edison explains that unless the transmission provider elects to provide upfront financing, the standard practice under the *pro forma* LGIA in the CAISO Tariff is for generators (interconnection customers) to pay the upfront costs of all network upgrades. Generators are able to recover those costs through payments from the participating transmission owner after the facilities are in service as the participating transmission owner places those facilities into transmission rate base.[136] However, SoCal Edison notes that such standard practice does not work effectively for the solar and wind developers relying on the Transmission Projects in the instant Petition. According to SoCal Edison, these developers already face substantial risks and financing burdens related to their generating projects without having to face the prospect of financing new transmission facilities in a still-challenging credit environment. SoCal Edison states that these developers have indicated that they have not been able to provide or obtain upfront financing for such large Transmission Projects and also face the concomitant risks that the Transmission Projects will fail or be delayed due to the need for regulatory approval or the cancellation of other projects in the interconnection queue. Thus, SoCal Edison contends that its commitment to upfront financing is a way to overcome these burdens.[137]

96. Contrary to the protesters' arguments, SoCal Edison states that it would be inappropriate for SoCal Edison to bear the risk of exposure to 50 percent of the costs of abandonment if the Transmission Projects are abandoned for reasons outside of its control. According to SoCal Edison, while it is embarking upon an effort to build transmission which will allow generators to access otherwise untapped renewable resources, it does not control whether the generators will ultimately be developed. Thus, SoCal Edison contends that it should not bear the risk of potential abandonment.

97. Abengoa Solar states that without reasonable assurance that SoCal Edison will undertake upfront financing and construction of the South of Kramer project, Abengoa Solar expects that it will be unable to finance the Mojave Solar Project. Abengoa Solar states that as a result, favorable action by the Commission with respect to SoCal Edison's requested rate incentives for the South of Kramer project is essential for the viability of the Mojave Solar Project.

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[136] SoCal Edison Answer at 3.

[137] *Id.* at 4.

d. <u>Commission Determination</u>

98. As we have discussed, it is appropriate to consider the abandoned cost recovery incentive in the context of our public policy evaluation. The abandonment incentive is an effective means of encouraging transmission development by reducing the risk of non-recovery of costs.

99. For the policy reasons we have discussed *supra*, we grant SoCal Edison's request for recovery of 100 percent of prudently-incurred costs associated with abandonment of the Transmission Projects, provided that the abandonment is a result of factors beyond the control of SoCal Edison, which must be demonstrated in a subsequent FPA section 205 filing for recovery of abandoned plant.[138]

100. We find that granting the requested abandonment incentive would encourage completion of the Transmission Projects, and give SoCal Edison the necessary incentive to develop them, notwithstanding the risk of factors beyond the company's control, such as the inability to obtain one of the numerous required regulatory approvals. The fact that SoCal Edison must obtain multiple approvals for the Transmission Projects increases the possibility that a Project may be subject to forced abandonment. Additionally, as SoCal Edison states, it is still uncertain whether the solar and wind resources connecting to the Transmission Projects will ultimately be developed, considering the in service timeline for these projects. As a result, there remains a great deal of risk for SoCal Edison as it pursues development and construction of the Transmission Projects. We conclude that authorizing the abandonment incentive will help ameliorate this risk by providing SoCal Edison with some degree of certainty as it moves forward.

101. We find unavailing the protesters' claim that the abandoned plant incentive unreasonably shifts the risk of abandoned plant costs to those who would not benefit from the upgrades associated with the Transmission Projects. As stated above, the Transmission Projects will benefit the entire CAISO grid by supplying location-constrained renewable resources to loads within California. While some of the capacity has been already committed through various PPAs, SoCal Edison demonstrates that additional transmission capacity will be available when the Transmission Projects are constructed.[139]

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[138] *See* Order No. 679, FERC Stats. & Regs. ¶ 31,222 at P 165-66. *See also Green Energy Express LLC*, 129 FERC ¶ 61,165 at P 52 (2009).

[139] *See supra* P 71 and note 110.

102. Finally, we will not determine the justness and reasonableness of SoCal Edison's abandoned plant recovery, if any, until SoCal Edison seeks such recovery in a section 205 filing.[140]

2. Construction Work in Progress

a. SoCal Edison's Proposal

103. SoCal Edison argues there is a clear nexus between its request to include 100 percent of CWIP in rate base and the investments SoCal Edison intends to make in each of the Transmission Projects. SoCal Edison contends that the inclusion of 100 percent of CWIP in rate base will improve SoCal Edison's cash flow at a time when it is financing a significant expansion and upgrade of its transmission system.[141] SoCal Edison states that the Transmission Projects, with a projected cost of $1.5 billion in total, will add to the financial burdens and risks associated with its transmission investment program. As noted *supra*, SoCal Edison contends that it will invest $5.5 billion investment in transmission in the next five years as compared to the $1.5 billion in CAISO-controlled net transmission plant that SoCal Edison had in service at the end of 2008.[142]

104. SoCal Edison stresses that each Transmission Project faces long lead times. SoCal Edison states that it anticipates the construction of South of Kramer and West of Devers will begin in 2014, in order to achieve the planned in-service dates of 2018 and 2017, respectively. SoCal Edison also states that both the Whirlwind expansion and the Colorado River expansion are anticipated to begin construction in 2011 to achieve in-service dates of 2013. Accordingly, SoCal Edison argues that, unless SoCal Edison is permitted to recover CWIP in rate base, SoCal Edison investors would have to wait seven years (or more) before receiving any cash return on their investment in the largest of the Transmission Projects. SoCal Edison asserts that such long delay diminishes the attractiveness of this investment in comparison with other SoCal Edison investments that have shorter lead times and thus provide greater cash returns in a shorter time frame.[143]

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[140] *See* Order No. 679, FERC Stats. & Regs. ¶ 31,222 at P 165-66.

[141] SoCal Edison anticipates investing $5.5 billion in its transmission system over the next five years to interconnect renewable resources and maintain reliability. Petition at 5.

[142] *Id.* at 35.

[143] *Id.*

105. SoCal Edison asserts that 100 percent CWIP recovery will support its ability to finance the Transmission Projects. SoCal Edison emphasizes that increased cash flow prior to the in-service date of the Transmission Projects will be important to SoCal Edison as it expends large amounts of capital over the next several years. SoCal Edison states that, given the size and scope of its multi-billion transmission investment plan relative to its current rate base, there will be a significant rate increase when the Transmission Projects are completed and added to rate base. SoCal Edison therefore argues that including 100 percent CWIP in rate base would phase-in the rate increase during the construction period, and will result in a lower future rate base than that which would occur by accruing Allowance for Funds Used During Construction (AFUDC) until the in-service dates, thereby resulting in lower rates in the future through a lower revenue requirement over the remaining life of the project.[144]

106. SoCal Edison also argues that allowing it to include 100 percent of CWIP in rate base would facilitate financing and improve its coverage ratios used by rating agencies to determine credit quality and debt ratings. Accordingly, SoCal Edison states that in the long term, customers benefit from the stronger credit ratings for the utility, because the company will be able to obtain better financing terms, the savings of which will ultimately be passed on to customers.[145]

b. <u>Comments and Protests</u>

107. MSR/Santa Clara argues that the Commission should not grant SCE's request for a CWIP incentive based on public policy grounds. They state that outside of the unusual circumstances surrounding the 2010 Public Policy Incentive Order with respect to generators' ability to receive stimulus funding, the Commission has not provided 100 percent CWIP on public policy grounds. MSR/Santa Clara claim that such unusual circumstances of ARRA deadlines are not implicated here, as one has already passed, and one is still more than 9 months away.[146]

c. <u>Commission Determination</u>

108. We believe that it is reasonable to consider, when appropriate, the inclusion of CWIP in rate base in the context of a public policy evaluation of a request for rate

[144] *Id*.

[145] *Id.*

[146] MSR/Santa Clara at 36-38.

incentives.[147] Such a rate treatment helps to provide up-front regulatory certainty, rate stability, and improved cash flow, reducing the pressures on an applicant's finances caused by investing in transmission projects.[148]

109. Based on our public policy analysis *supra*, we grant SoCal Edison's request to include 100 percent of CWIP in rate base, conditioned upon SoCal Edison fulfilling the Commission's requirements for CWIP inclusion for these transmission facilities in a future section 205 filing.[149]

110. The Transmission Projects in total will cost approximately $1.5 billion and are not expected to go into service until 2018 for South of Kramer, 2017 for West of Devers, 2013 and 2015 for Colorado River, and 2013 for Whirlwind. Granting the CWIP incentive will help ease this pressure by providing improved cash flow, which will assist SoCal Edison with its financing of future projects, and improve SoCal Edison's coverage ratios used by rating agencies to determine credit quality by replacing non-cash AFUDC with cash earnings. This, in turn, will reduce the risk of a downgrade in SoCal Edison's debt ratings. Considering the relative size of SoCal Edison's investment in the Transmission Projects, as compared to its current transmission rate base, we find that authorization of the CWIP incentive is appropriate to assist in the financing and construction of new transmission facilities.

111. Further, we agree with SoCal Edison that the inclusion of 100 percent of CWIP in its rate base will help reduce the size of future rate increases and, thus, result in better rate stability for customers. As we have previously explained, without including CWIP in rate base, a new project has no direct effect on customer rates until it is placed into service.[150] If SoCal Edison were not permitted to include 100 percent of CWIP in rate base, and assuming SoCal Edison sought inclusion of 50 percent of CWIP in rate base pursuant to the Commission's regulations,[151] half of the Transmission Projects' carrying costs would be accrued over several years, and then capitalized after the Transmission

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[147] *Cf.* Order No. 679, FERC Stats. & Regs. ¶ 31,222 at P 29, 117.

[148] *Id.* P 115.

[149] *Construction Work in Progress for Public Utilities; Inclusion of Costs in Rate Base*, Order No. 298, FERC Stats. & Regs. ¶ 30,455, *order on reh'g*, Order No. 298-B, FERC Stats. & Regs. ¶ 30,524 (1983).

[150] *See, e.g.*, *American Electric Power Serv. Corp.*, 116 FERC ¶ 61,059, at P 59 (2006), *order on reh'g*, 118 FERC ¶ 61,041, at P 27 (2007).

[151] *See* 18 C.F.R. § 35.25(c)(3) (2010).

Projects go into service. The increased rate of return expense and higher depreciation expense would increase SoCal Edison's customers' bills more significantly than if the Commission were to allow the inclusion of 100 percent of CWIP in rate base.[152]

112. Accordingly, we find that the Transmission Projects are eligible to recover 100 percent of CWIP in rate base. As noted above, our acceptance of SoCal Edison's proposal to include 100 percent of CWIP in rate base is also conditioned upon SoCal Edison fulfilling the Commission's requirements for CWIP inclusion for these transmission facilities in a future filing under section 205 of the FPA. In such future filing, we direct SoCal Edison to include the CWIP for the Projects in the stand-alone balance account mechanism previously approved by the Commission.[153]

F. Network Facilities and Rolled-In Rate Treatment

1. SoCal Edison's Proposal

113. SoCal Edison further requests that the Commission determine that each of the Transmission Projects is a network facility, entitled to rolled-in rate treatment, and that the costs of these facilities are recoverable through SoCal Edison's Commission-jurisdictional TRR. SoCal Edison argues that the Commission has previously issued declaratory orders finding that certain facilities SoCal Edison proposed to construct to interconnect and accommodate planned renewable generation projects were network facilities eligible for rolled-in rate treatment.[154] SoCal Edison argues that the Transmission Projects similarly meet the criteria for such treatment.

114. According to SoCal Edison, each of the proposed Transmission Projects will be fully integrated with the transmission network once placed under CAISO operational control. As such, SoCal Edison argues that transmission ratepayers will benefit from these upgrades and the costs of the Transmission Projects should be recovered through SoCal Edison's TRR.

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[152] *See, e.g.*, *Green Power Express LP*, 127 FERC ¶ 61,031 at P 67.

[153] The Commission previously found that the CWIP ratemaking mechanism demonstrated that SoCal Edison had accounting procedures in place to prevent double recovery. *See Southern Cal. Edison Co.*, 122 FERC ¶ 61,187 at P 31, 33.

[154] Petition at 37 (citing Antelope Order at P 36-38; *Southern Cal. Edison Co.*, 129 FERC ¶ 61,246 at P 89).

115. SoCal Edison contends that, based on the seven factors used to distinguish transmission facilities from distribution facilities in Order No. 888,[155] each Transmission Project will consist of upgrades readily identified as transmission facilities.[156] Also, based on the criteria set forth in *Mansfield*,[157] SoCal Edison states that the Transmission Projects will be fully integrated with the transmission network when constructed and placed under CAISO's operational control. SoCal Edison asserts that the following factors show that each of the Transmission Projects would be part of the integrated transmission system and meet all of the criteria under the *Mansfield* test for integrated transmission facilities: (1) that energy is expected to flow in both directions; (2) that CAISO would be able to use the available capacity for multiple purposes; (3) that the facilities would provide transfer capability and reliability benefits to the transmission grid and could be relied upon for coordinated operation of the grid; and (4) that an outage on the facilities would affect the transmission system.[158]

2. <u>Comments and Protests</u>

116. Solar Association states that it strongly supports the SoCal Edison's request for authorization to treat the Transmission Projects as network facilities.

3. <u>Commission Determination</u>

117. We find that as described in the Petition,[159] SoCal Edison's proposed Transmission Projects would constitute network facilities. None of the protesters have provided evidence to persuade the Commission that the proposed Transmission Projects

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[155] *Id.* (citing *Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Services by Public Utilities; Recovery of Stranded Costs by Public Utilities and Transmitting Utilities*, Order No. 888, FERC Stats. & Regs. ¶ 31,036, at 31,771 (1996), *order on reh'g*, Order No. 888-A, FERC Stats. & Regs. ¶ 31,048, *order on reh'g*, Order No. 888-B, 81 FERC ¶ 61,248 (1997), *order on reh'g*, Order No. 888-C, 82 FERC ¶ 61,046 (1998), *aff'd in relevant part sub nom. Transmission Access Policy Study Group v. FERC*, 225 F.3d 667 (D.C. Cir. 2000), *aff'd sub nom. New York v. FERC*, 535 U.S. 1 (2002)).

[156] *Id.* at 37, Chacon Affidavit at 18-24.

[157] *Id.* at 38 (citing *Mansfield Mun. Elec. Dep't*, 97 FERC ¶ 61,134, at 61,613-614 (2001), *reh'g denied*, 98 FERC ¶ 61,115 (2002) (*Mansfield*)).

[158] *Id.* at 38, Chacon Affidavit at 18-24.

[159] *See supra* discussion in P 2-10; *see also* Chacon Affidavit at 18-24.

should not be so classified. Additionally, the Transmission Projects were identified and approved as network facilities through the CAISO LGIP process. Further, our review indicates that the Transmission Projects will be network upgrades. Specifically, we concur with SoCal Edison that the facilities identified as Network Upgrades will be part of CAISO's integrated transmission system as follows: energy is expected to flow in both directions; CAISO will be able to use the available capacity for multiple purposes; the facilities will provide transfer capability and reliability benefits to the transmission grid and will be relied upon for coordinated operation of the grid; and an outage on the facilities would affect the transmission system as a whole.

<u>The Commission orders</u>:

(A) We hereby deny in part and grant in part SoCal Edison's Petition for incentives, as discussed in the body of this order.

(B) We hereby deny the motion to consolidate, as discussed in the body of this order.

(C) We hereby grant SoCal Edison's Petition to classify the Transmission Projects as network facilities, as discussed in the body of this order.

By the Commission. Chairman Wellinghoff is not participating.

(S E A L)

Kimberly D. Bose,
Secretary.