141 FERC ¶ 61,121
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Philip D. Moeller, John R. Norris,
Cheryl A. LaFleur, and Tony T. Clark.

Midwest Independent Transmission System Operator, Inc. Docket No. ER12-2216-000

ORDER ON TRANSMISSION RATE INCENTIVES AND FORMULA RATE PROPOSAL

(Issued November 14, 2012)

1. On July 6, 2012, Midwest Independent Transmission System Operator, Inc. (MISO) and Ameren Services Company (Ameren), on behalf of its affiliates Ameren Illinois Company (Ameren Illinois) and Ameren Transmission Company of Illinois (Ameren Transmission), collectively the Ameren Companies, filed a request for authorization to recover certain transmission incentive rate treatments pursuant to sections 205 and 219 of the Federal Power Act[1] and Order No. 679[2] for its investment in the Spoon River and Mark Twain Projects (the Projects).[3] Ameren also requests authorization to assign certain requested incentives to any Ameren affiliate that undertakes the Projects. Finally, Ameren requests authorization to amend Attachments O-AIC and GG of the MISO Open Access Transmission, Energy and Operating Reserve Markets Tariff (Tariff) in order to transition Ameren Illinois' formula rate to a forward-looking formula rate and to implement the requested transmission rate incentives. For reasons discussed below, we will grant Ameren's request for transmission rate incentives,

[1] 16 U.S.C. §§ 824d, 824s (2006).

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

[3] MISO joins in the filing in its role as Tariff administrator, but takes no position with regard to the merits of the filing.

grant Ameren's request for authority to assign such incentives to any Ameren affiliate that undertakes the Projects, and approve Ameren's revised Attachment O-AIC and GG.

I. Background

A. Description of Ameren

2. Ameren is a centralized service company that is a wholly-owned subsidiary of Ameren Corporation, a public utility holding company under the Public Utility Holding Company Act of 2005.[4] Ameren Corporation is the corporate parent of Ameren Illinois and Ameren Transmission.[5] Ameren Illinois engages in the sale of electric energy subject to the Commission's jurisdiction, provides distribution service to wholesale and retail customers in Illinois, and provides power sales services to retail customers located in Illinois. Ameren Illinois is also a transmission owner within MISO whose transmission facilities form the Ameren Illinois pricing zone within MISO. The annual transmission revenue requirement for Ameren Illinois' facilities in the Ameren Illinois pricing zone is established pursuant to Attachment O-AIC to the Tariff, which currently uses historical FERC Form No. 1 data. Ameren Transmission is a transmission-only subsidiary of Ameren and an affiliate of Ameren Illinois. Ameren Transmission is also a transmission owner in MISO whose facilities are located in the Ameren Illinois pricing zone. The annual transmission revenue requirement for Ameren Transmission's facilities in the Ameren Illinois pricing zone is established pursuant to Attachment O-ATXI, a forward-looking formula that was approved by the Commission on February 29, 2012.[6] Ameren Transmission does not engage in wholesale or retail power sales. Ameren, Ameren Illinois, and Ameren Transmission are also affiliates of Union Electric Company d/b/a Ameren Missouri, a transmission owner within MISO that serves wholesale and retail customers in Missouri, and is a wholly-owned subsidiary of Ameren Corporation. The Ameren Companies are also affiliated with Ameren Transmission Company, an Ameren Corporation subsidiary dedicated to electric transmission infrastructure investment and expanding Ameren's transmission system.

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[4] 16 U.S.C. § 791a, *et seq*. (2006).

[5] On October 1, 2010, AmerenCILCO, AmerenIP and AmerenCIPS merged to form Ameren Illinois. *Ameren Corp.*, 131 FERC ¶ 61,240 (2010); Ameren Corp., Notice of Consummation, EC10-52-000, at 2 (filed Oct. 12, 2010).

[6] *Midwest Indep. Transmission Sys. Operator, Inc.*, 138 FERC ¶ 61,147 (2012).

B. Description of the Projects and Rate Proposals

3. The Spoon River Project will involve construction of a new 70-mile, 345 kV transmission line from the point of interconnection with the Oak Grove substation owned by MidAmerican Energy Company (MidAmerican) to Ameren Illinois' Galesburg substation (the Oak Grove-Galesburg segment) and then to the Fargo substation through central Illinois (the Galesburg-Fargo segment).[7] Ameren states that while the necessary arrangements have not been finalized, it is expected that part of this project will be constructed by MidAmerican.[8] A new 560 MVA, 345/138 kV transformer will be installed at the Galesburg substation in addition to terminal additions and upgrades at all three substations. The Spoon River Project has been approved as a Multi-Value Project (MVP) in MISO's 2011 MISO Transmission Expansion Planning (MTEP) Report (MTEP 2011). The Ameren Companies' budgeted estimate for their portion of the Spoon River Project is $208.9 million. This budget assumes a December 2018 in-service date for the Spoon River Project. However, according to Ameren, MISO is still evaluating the sequencing of the entire MVP portfolio. Ameren states that, based on MISO's conclusions and a final agreement with MidAmerican, the Oak Grove-Galesburg 345 kV line and the Galesburg substation upgrade may be accelerated and completed by the end of 2016. The Galesburg-Fargo 345 kV line and the Fargo substation upgrades are expected to be completed by November 2018.[9]

4. The Mark Twain Project will create a 345 kV path through central/eastern Missouri by connecting the Ottumwa substation to a new substation near Adair, Missouri. The Mark Twain Project will then extend a 345 kV transmission line from the new substation near Adair to a new breaker station near Palmyra, Missouri, near the Missouri/Illinois border. Approximately 88 miles of new and rebuilt 345 kV line will be installed between Ottumwa and the new substation near Adair, along with 345 kV terminal equipment and a 345/161 kV, 560 MVA step down transformer at the new substation near Adair. Sixty-three miles of new 345 kV line will be built between the new substation near Adair and the new breaker station near Palmyra. Both portions of the Mark Twain Project have been approved as MVPs in MTEP 2011. Ameren states

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[7] Ameren Transmittal Letter at 3.

[8] MidAmerican will construct 32 miles of this project in Iowa, for which the Commission has approved transmission incentives. *See MidAmerican Energy Co.*, 137 FERC ¶ 61,250, at P 4 (2012) (*MidAmerican*) (granting inclusion of 100 percent of prudently incurred construction work in progress (CWIP) in rate base and recovery of prudently incurred costs of abandoned plant).

[9] Ameren Transmittal Letter at 3-4.

that part of this project may be constructed by MidAmerican and ITC Midwest LLC.[10] According to Ameren, the Ameren Companies estimate that the cost for their portion of the Mark Twain Project is $155 million.[11] They anticipate that the new breaker station near Palmyra will be completed by December 2016. They anticipate that both the new 345 kV lines and the new substation work will be completed by December 2018.[12]

5. Ameren requests several transmission rate incentives pursuant to section 205 and 219 of the Federal Power Act and Order No. 679 and for authorization to assign certain requested incentives, if approved, to its affiliates that are involved in the development and construction of the Projects. Specifically, Ameren requests authorization for: (1) inclusion of 100 percent of prudently incurred CWIP in rate base; (2) recovery of 100 percent of prudently-incurred costs of transmission facilities that are cancelled or abandoned for reasons beyond the control of Ameren; and (3) authorization for Ameren Transmission to use a hypothetical capital structure while the Projects are being constructed.

6. Ameren and MISO also filed proposed revisions to Ameren Illinois' Attachment O–AIC and Attachment GG of the MISO Tariff in order to transition Ameren Illinois from a transmission revenue requirement calculated on a historical basis to one that is forward looking with a true-up mechanism. Ameren and MISO request a January 1, 2013 effective date, and, pursuant to 18 C.F.R. § 35.11, request waiver of the Commission's prior notice requirements to allow these modifications to go into effect as of this date. Ameren states that good cause exists for granting this waiver, because the annual transmission revenue requirement and rates determined under Attachment O-AIC will be determined on a calendar year basis, and the proposed effective date is the beginning of the next calendar year.

7. Finally, although Ameren is not seeking a stand-alone incentive return on equity (ROE) adder for advanced technologies, it states that the Projects will include numerous technologies that qualify as advanced transmission technology as set forth in Order No. 679 and the Energy Policy Act of 2005,[13] such as microprocessor-based protective relays, microprocessor-based Supervisory Control and Data Acquisition equipment,

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[10] The Commission has approved transmission incentives for MidAmerican for 17 miles of this project in Iowa. *See MidAmerican Energy Co.*, 137 FERC ¶ 61,250, at P 4.

[11] *Id*. at 5; Kramer Test. at 7.

[12] Ameren Transmittal Letter at 4-5.

[13] Pub. L. No. 109-58, § 1241, 119 Stat. 594.

digital fault records, fiber-optic technologies, additional Phase Measurement Units, and low-loss, high-efficiency transmission transformers with additional Smart Grid applications.

C. Commission Order in Docket No. EL10-80-000

8. On August 2, 2010, Ameren submitted a filing on behalf of the Ameren Companies and other affiliates requesting approval of certain transmission rate incentives, including inclusion of 100 percent CWIP in rate base, abandoned plant recovery, use of a hypothetical capital structure by Ameren Transmission, and approval for certain of the applicants to expense and recover on a current basis prudently incurred project development costs. Ameren requested approval for these rate incentives for four projects: the Illinois Rivers Project, the Big Muddy River Project, the Spoon River Project, and the Wabash River Project. Ameren also requested authorization to assign the requested incentives to its affiliates. On May 19, 2011, the Commission granted the requested incentives in part.[14] The Commission granted the requested incentives for the Illinois Rivers and the Big Muddy River Projects, contingent on the facilities being approved in MTEP. However, with respect to the Spoon River and Wabash River Projects, the Commission found that the applicants failed to demonstrate that these projects, individually, met the nexus test. The Commission denied the requested incentives for the Spoon River and Wabash River Projects "without prejudice to Ameren filing a new application with additional information on those projects."[15] Ameren states that it provides additional information in support of the Spoon River Project in this application.[16]

II. Notice of Filing and Responsive Pleadings

9. Notice of Ameren's filing was published in the *Federal Register*, 77 Fed. Reg. 41,777 (2012), with interventions and protests due on or before July 27, 2012. Timely motions to intervene were filed by American Municipal Power, Inc., Hoosier Energy Rural Electric Cooperative, Inc., Wabash Valley Power Association, Inc., and Prairie Power, Inc. Illinois Commerce Commission filed a notice of intervention. Southwestern Electric Cooperative, Inc. (Southwestern) and the State of Missouri (Missouri) filed timely motions to intervene and protests. On July 31, 2012, Consumers Energy Company

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[14] *Ameren Services Co.*, 135 FERC ¶ 61,142 (2011) (*Ameren Incentives Order*).

[15] *Id.* P 42.

[16] Ameren states that it is not seeking any transmission rate incentives pursuant to Order No. 679 for the Wabash River Project in this application.

(Consumers Energy) filed an out-of-time motion to intervene. On August 15, 2012, Ameren filed an answer to the protests.

III. Discussion

A. Procedural Matters

10. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure,[17] the timely, unopposed motions to intervene and the notice of intervention serve to make the entities that filed them parties to this proceeding. Pursuant to Rule 214(d) of the Commission's Rules of Practice and Procedure, the Commission will grant Consumers Energy's motion to intervene out-of-time, given its interest in the proceeding, the early stage of the proceeding, and the absence of undue prejudice or delay.[18]

11. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure[19] prohibits an answer to a protest unless otherwise ordered by the decisional authority. We will accept Ameren's answer because it has provided information that assisted us in our decision-making process.

B. Substantive Matters

1. Section 219 Requirement

12. In the Energy Policy Act of 2005, Congress added section 219 to the Federal Power Act, directing the Commission to establish, by rule, incentive-based rate treatments to promote capital investment in transmission infrastructure. The Commission subsequently issued Order No. 679, which sets forth processes by which a public utility may seek transmission rate incentives pursuant to section 219, including the incentives requested here by Ameren.

13. Pursuant to Order No. 679, an applicant may seek to obtain incentive rate treatment for transmission infrastructure investment that satisfies the requirements of section 219, *i.e.*, the applicant must show that "the facilities for which it seeks incentives either ensure reliability or reduce the cost of delivered power by reducing transmission congestion."[20] Order No. 679 established a process for an applicant to follow to

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[17] 18 C.F.R. § 385.214 (2012).

[18] *Id.* § 385.214(d).

[19] *Id.* § 385.213(a)(2).

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

demonstrate that it meets this standard, including a rebuttable presumption that the standard is met if: (1) the transmission project results from a fair and open regional planning process that considers and evaluates projects for reliability and/or congestion and is found to be acceptable to the Commission; or (2) a project has received construction approval from an appropriate state commission or state siting authority.[21] Order No. 679-A clarifies 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.[22]

14. As stated above, Order No. 679, as modified by Order No. 679-A, provides that a rebuttable presumption can be applied to a transmission project that results from a fair and open regional planning process or one that has received construction approval from the appropriate state authority, if the process considers whether a project ensures reliability or reduces the cost of delivered power by reducing congestion.[23] Further, in Order No. 679, the Commission indicated that it would consider a request for incentive treatment for a project, which is still undergoing consideration in a regional planning process, but may make any requested rate treatment contingent upon the project being approved under the regional planning process.[24]

15. Ameren contends that the Projects are entitled to a rebuttable presumption that section 219 is satisfied. Ameren states that the Projects were thoroughly reviewed and vetted through the MTEP process, which the Commission has found to be a fair and open regional transmission planning process that considers and evaluates projects for reliability and/or congestion. The Spoon River Project and the Mark Twain Project were vetted and approved by the MISO Board of Directors through the MTEP as MVPs under Criterion 1.

16. To qualify as a MVP through Criterion 1, the project "must be developed through the [MTEP] for the purpose of enabling the Transmission System to reliably and economically deliver energy in support of documented energy policy mandates or laws… [and the project] must be shown to enable the transmission system to deliver such energy in a manner that is more reliable and/or more economic than it otherwise would be

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[21] *Id*.

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

[23] 18 C.F.R. § 35.35(i) (2012).

[24] Order No. 679, FERC Stats. & Regs. ¶ 31,222 at n.39.

without the transmission upgrade."[25] The Commission has previously found that projects approved as MVPs under Criterion 1 and placed into Appendix A of the MTEP are entitled to the rebuttable presumption established under Order No. 679.[26] Therefore, we find that the Spoon River Project and the Mark Twain Project each are entitled to the rebuttable presumption because the MISO Board of Directors approved each Project under Criterion 1 as part of Appendix A of the 2011 MTEP.

2. **Order No. 679 Nexus Requirement**

17. In addition to satisfying the section 219 requirement of ensuring reliability or reducing the cost of delivered power by reducing congestion, an applicant must demonstrate a nexus between the incentives being 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 incentives requested are "tailored to address the demonstrable risks or challenges faced by the applicant."[27]

18. As part of the evaluation of whether the incentives requested are tailored to address the demonstrable risks or challenges faced by the applicant, the Commission has found the question of whether a project is "routine" to be probative.[28] In *Baltimore Gas & Elec. Co.*, the Commission provided guidance on the factors it will consider when determining whether a project is routine. The Commission stated that it will consider all relevant factors presented by the applicant, including evidence on: (1) the scope of the project (e.g., dollar investment, increase in transfer capability, involvement of multiple entities or jurisdictions, size, effect on region); (2) the effect of the project (e.g., improving reliability or reducing congestion costs); and (3) the challenges or risks faced by the project (e.g., siting, long lead times, regulatory and political risks, specific financing challenges, or other impediments).[29] The Commission also explained that, when an applicant has adequately demonstrated that the project for which it requests an

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[25] Midwest ISO FERC Electric Tariff, Fourth Revised Volume No. 1, Original Sheet No. 3451A.

[26] *See Ameren Incentives Order*, 135 FERC ¶ 61,142 at P 31; *MidAmerican*, 137 FERC ¶ 61,250 at P 29; *Otter Tail Power Co.*, 137 FERC ¶ 61,255, at P 31 (2012).

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

[28] *Baltimore Gas & Elec. Co.*, 120 FERC ¶ 61,084, at P 48 (2007).

[29] *Id.* P 52.

incentive is not routine, that applicant has shown, for purposes of the nexus test, that the project faces risks and challenges that merit an incentive.[30]

19. More recently, the Commission stated that an applicant may demonstrate that several individual projects are appropriately considered as a single overall project based on their characteristics or combined purpose, and seek incentives for that single overall project.[31] The Commission has also stated that if the applicant is unable to satisfy that criterion, then the applicant may still file a single application for incentives, but the Commission will consider each individual project separately in applying the nexus test and determining whether each project is routine or non-routine.[32]

a. Ameren's Proposal

20. Ameren asserts that both the Spoon River and Mark Twain Projects satisfy the nexus test established in Order No. 679 because they are non-routine and the requested incentives are tailored to address their specific risks and challenges. Ameren argues that the Spoon River Project is not routine because the $208.9 million estimated cost for the Ameren Companies' segment represents approximately 37 percent of Ameren Illinois' and Ameren Transmission's combined current net transmission plant in service. Ameren compares this amount to the approximately $30 million that the Ameren Companies have typically invested annually in routine transmission upgrades and other activities associated with maintaining their transmission systems and providing reliable service. Ameren also argues that the Commission found that the Spoon River Project was not routine when it approved incentives for MidAmerican's segment of the project, for whom investment in that segment constituted 16.44 percent of the utility's rate base.[33]

21. Ameren argues that the $155 million estimated cost of the Ameren Companies' segment of the Mark Twain Project represents approximately 27 percent of Ameren Illinois' and Ameren Transmission's combined existing net transmission plant in service.

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[30] *Id*. P 54.

[31] *See PJM Interconnection, L.L.C.*, 133 FERC ¶ 61,273, at P 45 (2010) (citing *PacifiCorp*, 125 FERC ¶ 61,076 (2008)).

[32] *Id.*

[33] Ameren Transmittal Letter at 9-11 (citing *MidAmerican*, 137 FERC ¶ 61,250 at P 46). The MidAmerican portion of the Spoon River Project is referred to therein as the Oak Grove-Galesburg Project.

Ameren further states that the Mark Twain Project will be built in both Missouri and Iowa, thus increasing regulatory risks.[34]

22. Ameren also states that the Projects are non-routine because, as part of the MVP Portfolio approved in the MTEP 2011, they will help facilitate the integration and delivery of renewable resources, such as wind generation; reduce congestion in wholesale markets within MISO; improve transmission system efficiency due to reduction of losses; and increase import capability and power transfer capability across the region. Ameren also describes how it will have little control over the siting, permitting, or construction of portions of each of the Projects to be constructed by other entities in other states, thereby increasing its risks.[35]

b. Comments and Protests

23. Southwestern asserts that despite the Commission's guidance in the *Ameren Incentives Order*, Ameren has proffered support for incentives for the Projects only collectively rather than justifying the incentive eligibility for each project individually. According to Southwestern, Ameren has not attempted to show that the Projects are part of a single overall project or share other characteristics that warrant reviewing the Projects collectively. Southwestern argues that the Commission considered similar facts in previously rejecting incentives for the Spoon River Project in the *Ameren Incentives Order*, except that that project is now expected to cost $208.9 million instead of the $146 million estimated in the previous application, while the scope of the project has not changed. Southwestern contends that the proper reference point for statistics for a project's percentage of the utility's net plant is the combined net transmission plant of the Ameren affiliates in Illinois and Missouri.[36] By that standard, Southwestern argues, the Spoon River Project constitutes 19.7 percent of the total Ameren affiliates' net transmission plant, compared to 18 percent cited by the Commission when previously rejecting incentives for the Spoon River Project. Southwestern contends that such a low relative cost does not render the project non-routine, and nor does the 42 miles of the project that the Ameren Companies will construct.[37]

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[34] *Id.*

[35] *Id.*

[36] Southwestern Protest at 7-11 (citing *Ameren Incentives Order*, 135 FERC ¶ 61,142 at P 41).

[37] Southwestern Protest at 11-16.

24. Similarly, Missouri argues that it is more appropriate to analyze the percentage of all Ameren Corporation affiliates' combined net transmission plant in service in order to determine if a project is routine versus the two Ameren affiliates named in the filing. It contends that, certain affiliates, such as Ameren Missouri, have substantial experience developing projects, and certain employees would likely be utilized regardless of which affiliate undertakes the Projects.[38]

25. In addition, Southwestern disputes Ameren's assertion that the Mark Twain Project's risks will be increased because it is constructed in two states, arguing that the portion of the project in Iowa will be constructed entirely by MidAmerican. Southwestern also contends that the Mark Twain Project, at an estimated cost of $155 million, is too small to be considered non-routine.[39]

c. Ameren's Answer

26. Ameren argues in its answer that, contrary to Southwestern's assertion, it has separately described how each project is not routine. Ameren reiterates that the Spoon River Project, which has been approved by MISO as an MVP project, provides substantial reliability benefits. Additionally, Ameren points out that, depending on how MISO sequences the MVP portfolio, the Ameren Companies may have to complete the Spoon River Project by 2016 instead of 2018, as planned. Ameren also reiterates its description of the risks and benefits of the Spoon River Project, and contends that such evidence was not present in the EL10-80-000 filing. Ameren also explains that the estimated cost of the Spoon River Project has increased in part due to increased cost per miles for transmission lines, contingency amounts, and the costs of work on two substations. Additionally, Ameren contends that because it intends for Ameren Transmission or Ameren Illinois to construct the Projects, it is appropriate to compare the Projects' estimated costs to only the net transmission plant of Ameren Illinois and Ameren Transmission. Further, Ameren asserts that neither Southwestern nor Missouri point out any Commission policy requiring an applicant for rate incentives to look at the impact on a corporate-wide basis. Ameren also argues that the Commission has found that impacts as low as 10 percent or less, in conjunction with other risk factors, were enough to support the finding that projects were not routine.[40]

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[38] Missouri Protest at 6.

[39] *Id.* at 15-16.

[40] Ameren Answer at 5-11 (citing *Oklahoma Gas & Elec. Co.*, 135 FERC ¶ 61,038, at P 42 (2011) (finding the Sooner-Rose Hill Project, which had an impact of approximately 10 percent, to be non-routine); *MidAmerican*, 137 FERC ¶ 61,250 at P 47

(continued…)

d. Commission Determination

27. We find that Ameren's request for incentives satisfies the nexus test for each project. Unlike in its previous filing, Ameren has for each project individually described the energy benefits**,** regulatory risks, and financial challenges that it argues render each project non-routine. Ameren has also provided additional support regarding the Spoon River Project's risks and benefits.

28. We find that the Projects are non-routine in light of a combination of considerations. For example, the Projects will span multiple states and are expected to be constructed by multiple entities, thus increasing the chances of cancellation or delay of each project for reasons beyond the Ameren Companies' control.[41] We also note that both the Spoon River Project and the Mark Twain Project present cash flow challenges for the Ameren Companies due to the Projects' respective sizes relative to Ameren Illinois' and Ameren Transmission's transmission rate bases. With regard to Southwestern's and Missouri's arguments, even if Ameren's Missouri affiliate is included in determining each of the Projects' percentage of net transmission plant,[42] the increase from the current net transmission plant in service is still substantial and presents risks to the Ameren Companies.

3. Construction Work In Progress

a. Ameren's Proposal

29. Ameren seeks inclusion of 100 percent of CWIP in rate base for the Spoon River and Mark Twain Projects. Ameren states that including 100 percent of CWIP in rate base will address financial pressures by providing predictable and stable levels of cash flow during the construction period. Ameren states that including CWIP in rate base reduces

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& n.107 (finding the Ottumwa-Adair Project, which had an impact of approximately 8.9 percent, to be non-routine)).

[41] *See also*, *MidAmerican*, 137 FERC ¶ 61,250 at P 47 (finding that the project passed the nexus test, citing risks and challenges caused by multiple project participants for MidAmerican's Ottumwa-Adair Project for which the applicant would only develop a segment).

[42] If the rate base of Union Electric Company, LLC, Ameren's Missouri affiliate, is included in relative size calculations, the Spoon River and Mark Twain Projects would equal 19.8 percent and 14 percent of the combined Ameren affiliates' net transmission rate base, respectively.

the overall costs of the Projects by $175.3 million.[43] Further, it argues that the CWIP incentive would reduce downward pressure on various credit metrics of interest expenses and debt balances by improving cash flow during the construction period.[44] Ameren contends that the $364 million estimated total cost of the Projects from 2014 through 2018 would otherwise create cash flow difficulties. It argues that this incentive would help the Ameren Companies' corporate credit rating, which is currently BBB-.[45] According to Ameren, absent approval of including 100 percent CWIP in rate base, it will incur financing costs associated with the requisite projects but receive no offsetting return, which will have a negative effect on cash flows and credit metrics. Ameren further states that increased cash flow will help Ameren reduce its short-term borrowings and related costs, maintain healthy credit metrics, and meet other financial obligations.[46] Finally, Ameren asserts that the CWIP incentive also benefits ratepayers because it prevents the "rate shock" effect when projects are placed into service and rates are adjusted to reflect cumulative construction costs and multiple years of capitalized Allowance for Funds Used During Construction (AFUDC).[47]

30. Under Order No. 679 and the Commission's regulations, an applicant must propose accounting procedures that ensure customers will not be charged for both capitalized AFUDC and corresponding amounts through inclusion of CWIP in rate base.[48] To satisfy this requirement, Ameren explains that it has developed procedures to ensure that it does not double recover through AFUDC and a return on CWIP in rate base. Ameren describes that it will not accrue AFUDC in Account 107, Construction Work in Progress, for these projects. Ameren continues that it will specifically track the work orders or projects in the PowerPlant accounting system and no AFUDC will be calculated on their balances.

31. Finally, Ameren proposes to annually file the FERC-730 form, Report of Transmission Investment Activity, with the Commission in order to satisfy the annual filing requirement for applicants granted CWIP recovery.[49] Ameren states that the

[43] Martin Test. at 31.

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

[45] *Id*. at 12. *See also* Ex. RJM-03.

[46] Ameren Transmittal Letter at 12-13; Martin Test. at 8.

[47] Martin Test. at 32.

[48] 18 C.F.R. § 35.25 (2012).

[49] Ameren Transmittal Letter at 27.

annual FERC-730 form requires it to provide information regarding transmission investment costs and project construction status, including estimated completion dates.[50] Further, as part of the annual customer notification and information procedures in its formula rate protocols, Ameren will develop and post Open Access Same-Time Information System work papers that show the cost information and in-service date assumptions regarding the transmission projects and CWIP recovery amounts to be included in its estimates for each year.[51]

b. Comments and Protests

32. Southwestern argues that Ameren has mischaracterized supposed customer savings from the CWIP incentive because its calculations are in nominal terms. Southwestern contends that if the time value of money is considered with a discount rate of 10.44 percent, Ameren Illinois' Attachment O overall rate of return, the CWIP incentive results in a net loss for customers of $11 million.[52]

33. Missouri contends that most of the Mark Twain Project will be in Missouri and that Missouri retail ratepayers will bear the costs. It contends that the CWIP incentive is inconsistent with Missouri's prohibition on inclusion of CWIP in rate base established in a 1976 statewide vote.[53]

c. Ameren's Answer

34. In its answer, Ameren disagrees with Southwestern's assertion that the use of the CWIP incentive would result in an $11 million net loss to customers and argues that Southwestern's position is at odds with the Commission's finding that CWIP in rate base affects the timing but not the level of cost recovery.[54] With respect to Missouri's

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[50] *Id*.

[51] *Id*.

[52] Southwestern Protest at 16.

[53] Missouri Protest at 5 (citing MO. REV. STAT. § 393.135 (2012): "Any charge made or demanded by an electrical corporation for service, or in connection therewith, which is based on the costs of construction in progress upon any existing or new facility of the electrical corporation, or any other cost associated with owning, operating, maintaining, or financing any property before it is fully operational and used for service, is unjust and unreasonable, and is prohibited.").

[54] Ameren Answer at 12 (citing *Ameren Incentives Order*, 135 FERC ¶ 61,142 at P 50).

argument, Ameren points out that the CWIP incentive is subject to the Commission's jurisdiction. Further, because the Mark Twain Project is an MVP, Ameren states that the costs of the project would be spread throughout the MISO footprint, not just to retail ratepayers in Missouri.[55]

d. Commission Determination

35. We will grant Ameren's request to include 100 percent of CWIP in rate base. In Order No. 679, the Commission established a policy that allows utilities to include, where appropriate, 100 percent of prudently incurred, transmission-related CWIP in rate base.[56] The Commission stated that this rate treatment will further the goals of section 219 by providing up-front regulatory certainty, rate stability, and improved cash flow, reducing the pressures on an applicant's finances caused by investing in transmission projects.[57]

36. In Order No. 679, the Commission stated that it will consider each proposal on the basis of the particular facts of the case.[58] We find that Ameren has shown a nexus between the proposed CWIP incentive and its investment in the Spoon River and Mark Twain projects. The Spoon River Project is expected to cost $208.9 million and the Mark Twain Project is expected to cost $155 million, with an in-service date by the end of 2018 for both projects. The cost and timing for completing the projects will put pressure on the Ameren Companies' finances. Granting the CWIP incentive will help ease this pressure by providing upfront certainty, improve cash flow, and reduced interest expense as Ameren moves forward with the Projects.[59]

37. Further, we find that the proposed accounting procedures that Ameren filed in Attachment D sufficiently demonstrate that it has appropriate accounting procedures and internal controls in place to prevent recovery of AFUDC to the extent CWIP has been allowed in rate base. However, Ameren's accounting procedures and internal controls to prevent recovery of both capitalized AFUDC and a return on corresponding amounts of CWIP in rate base are subject to scrutiny through Commission audit or rate review. Ameren also proposes to satisfy the annual filing requirement for applicants granted the

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

[56] Order No. 679, FERC Stats. & Regs. ¶ 31,222 at PP 29, 117.

[57] *Id.* P 115.

[58] *Id.* P 117.

[59] *See, e.g., DATC Midwest Holdings, LLC*, 139 FERC ¶ 61,224, at P 56 (2012); *MidAmerican*, 137 FERC ¶ 61,250 at P 53.

CWIP incentive through its annual filing of its annual FERC-730 report.[60] The Commission has previously found that filing a FERC-730 form satisfies the Commission's requirement for an annual filing for recovery of a return on CWIP through a rate formula.[61] Accordingly, we find that the project is eligible to receive the incentive for inclusion of 100 percent of prudently incurred CWIP in rate base. We approve Ameren's proposed accounting procedures and proposal to annually file the FERC-730 form.

38. With respect to Southwestern's argument that Ameren mischaracterized customer savings from the CWIP incentive, as pointed out by Ameren, CWIP affects the timing but not the amount of cost recovery.[62] We also find that the CWIP incentive, by improving up-front cash flow and improving financial metrics, may enable utilities to borrow money at lower costs, reducing both nominal and time-value adjusted costs to customers in some cases. We find that the CWIP incentive may also help prevent degradation to Ameren's credit rating and reduce overall risks associated with the Projects.

39. With regard to Missouri's objection to the CWIP incentive, we find that Missouri state laws related to retail rates are not relevant to the Commission's determination of just and reasonable wholesale transmission rates, which are at issue in this proceeding.

4. Abandoned Plant Recovery

a. Ameren's Proposal

40. Ameren requests abandoned plant recovery for Ameren Illinois and Ameren Transmission to recover 100 percent of prudently incurred costs if the Projects are abandoned due to reasons outside of the Ameren Companies' control. Ameren argues that the Projects face risks similar to those faced by other utilities for whom the Commission granted the abandoned plant incentive.[63] Specifically, Ameren states the

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[60] Ameren Transmittal Letter at 27.

[61] *MidAmerican*, 137 FERC ¶ 61,250 at P 56; *see also The United Illuminating Co.*, 119 FERC ¶ 61,182, at P 92 (2007); *Xcel Energy Servs., Inc.*, 121 FERC ¶ 61,284, at P 68 (2007) (*Xcel*).

[62] *See, e.g., Commonwealth Edison Co.*, 124 FERC ¶ 61,231, at PP 28-29 (2008).

[63] Ameren Transmittal Letter at 13-14 (citing *Great River Energy*, 130 FERC ¶ 61,001, at P 33 (2010) (*Great River*); *S. Cal. Edison Co.*, 121 FERC ¶ 61,168 (2007), *reh'g denied*, 123 FERC ¶ 61,293 (2008)). Ameren also cites *Tallgrass Transmission, LLC*, 125 FERC ¶ 61,248 (2008); *Xcel*, 121 FERC ¶ 61,284 at P 56.

Projects will implicate three separate state commissions' jurisdictions and face multiple permitting risks. Ameren also notes that the projects will have lead times of over six years. During such time, Ameren argues, the factors underlying the development of the Projects, such as renewable energy development, demand growth, and need for congestion relief could change due to a policy shift or an economic downturn. Furthermore, as MVPs, the multiple values underpinning the projects increase the risk of one or more of these underlying factors changing.[64]

41. In addition, Ameren argues that use of abandoned plant recovery incentive will avoid possible rate increases. Ameren asserts that when presented with the risk of bearing 50 percent of abandoned plant costs, the Projects' shareholders would demand a higher return on common equity. As such, the abandoned plant incentive would avoid any increases in rates associated with this "risk premium."[65]

b. Comments and Protests

42. Missouri contends that the abandoned plant incentive will unnecessarily shift risks to ratepayers and, thus, should not be granted.

c. Ameren's Answer

43. Ameren argues that, contrary to Missouri's assertion, the abandoned plant recovery incentive offers protection against a narrow set of risks, and that the Ameren Companies would still have to file a Federal Power Act section 205 application to seek recovery of any costs. Moreover, Ameren argues that the Projects' abandonment costs, as MVP projects, would likely be spread throughout MISO.[66]

d. Commission Determination

44. We grant the Ameren Companies the opportunity to recover 100 percent of prudently incurred costs for the Projects, should they be abandoned for reasons beyond the Ameren Companies' control. In Order No. 679, the Commission found that abandoned plant recovery is an effective means of encouraging transmission development by reducing the risk of non-recovery of costs.[67] We find that Ameren demonstrates a

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[64] Ameren Transmittal Letter at 14.

[65] *Id*.

[66] Ameren Answer at 13.

[67] Order No. 679, FERC Stats. & Regs. ¶ 31,222 at P 163.

nexus between use of abandoned plant recovery and its planned investment in the Projects.

45. However, we note that, if any of the Projects are cancelled before they are completed, Ameren is required to make a filing under section 205 of the Federal Power Act to demonstrate that the costs were prudently incurred before it can recover any abandoned plant costs. Ameren also must propose in its section 205 filing a just and reasonable rate to recover these costs. Order No. 679 specifically requires that any utility granted this incentive that then seeks to recover abandoned plant costs must submit such a section 205 filing.[68]

46. We disagree with Missouri's concern that the abandoned plant recovery incentive unnecessarily shifts risks to Missouri ratepayers. We recognize that the abandoned plant recovery incentive shifts to ratepayers some risk of non-recovery due to matters beyond the control of the transmission owner. Consistent with Order No. 679, however, we find that such a shifting of risk is appropriate in limited circumstances where the incentive is tailored to the specific risks and challenges of the project, the project is abandoned for reasons beyond the utility's control, and the costs were prudently incurred.

5. <u>Hypothetical Capital Structure</u>

a. <u>Ameren's Proposal</u>

47. Ameren requests authorization for Ameren Transmission to use a hypothetical capital structure of 56 percent equity and 44 percent debt during the Projects' construction period. Ameren states that as a relatively new transmission company, Ameren Transmission's capital structure has not yet matured and varies significantly due to volatility of cash flows. Ameren contends that this will especially hold true during the construction period of the Projects. Ameren states that the requested 56 percent equity and 44 percent debt hypothetical capital structure reflects its long-term actual capital structure capitalization target.[69] Ameren argues that this request is consistent with previous Commission findings, including its previous filing in Docket No. EL10-80-000.[70] Specifically, Ameren notes that the Commission determined that for transmission

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[68] *Id*. P 166.

[69] Martin Test. at 13-14.

[70] Ameren Transmittal Letter at 15 (citing *Ameren Incentives Order*, 135 FERC ¶ 61,142 at P 69.

companies in early stages of development, use of hypothetical capital structure is appropriate and consistent with Order No. 679.[71]

48. Furthermore, Ameren states that in mitigating cash flow volatility, the requested hypothetical capital structure will decrease risk and lower Ameren and Ameren Transmission's cost of capital, thereby minimizing borrowing requirements and maintaining Ameren's healthy credit metrics.[72] Ameren maintains this will allow Ameren Transmission to achieve independent investment-grade ratings as a stand-alone company. To this end, Ameren argues that similar to *Great River*, use of hypothetical capital structure will decrease cost of capital, thereby reducing risk and easing pressure on Ameren Transmission's credit rating.[73]

b. Comments and Protests

49. Missouri expresses concern with the use of hypothetical capital structure where an affiliate within a corporate structure is identified as the party constructing transmission and thus applying for incentives from the Commission. Missouri contends that "when a transmission-building affiliate within a corporate family has a small equity position, perhaps through being 'double leveraged,' the corporate family would enjoy an increased percentage return on the actual small equity position, along with a reduced tax burden."[74]

c. Ameren's Answer

50. Ameren argues that Missouri's concerns are without merit. Ameren notes that the Commission previously explained that it "refused to categorically deny the incentive to vertically-integrated utilities in Order No. 679"[75] and "found that requiring an applicant to adopt its corporate parent's capital structure until such time that it has its own capital structure would be inappropriate and inconsistent with … Order No. 679."[76] Furthermore, Ameren points out that the Commission previously granted Ameren

[71] *Id*. at 15-16 (citing *Ameren Incentives Order*, 135 FERC ¶ 61,142 at PP 70-71).

[72] Martin Test. at 5.

[73] *Id*. at 15 (citing *Great River*, 130 FERC ¶ 61,001 at P 37).

[74] Missouri Protest at 6-7.

[75] Ameren Answer at 14 (citing *Ameren Incentives Order*, 135 FERC ¶ 61,142 at P 70).

[76] *Id*. (citing *Ameren Incentives Order*, 135 FERC ¶ 61,142 at P 71).

Transmission use of hypothetical capital structure, noting that Ameren Transmission was financed primarily with debt.[77]

d. Commission Determination

51. We find that Ameren has demonstrated a nexus between the requested hypothetical capital structure incentive and the risks and challenges faced by each of the Projects. Ameren states that the requested hypothetical capital structure reflects its long-term actual capital structure capitalization target. The proposed hypothetical capital structure of 56 percent equity and 44 percent debt is within the range of actual capital structures for transmission-owning members of MISO. As of September 2012, transmission-owning investor-owned utility members of MISO featured an average of 54.9 percent common equity.[78] The requested hypothetical capital structure incentive should provide sufficient financial stability to attract a steady stream of outside investment during the construction period. Additionally, this incentive will enable Ameren Transmission to achieve an investment-grade rating as a stand-alone company. Therefore, we will allow Ameren Transmission to use a hypothetical capital structure of 56 percent equity and 44 percent debt during the Projects' construction period.

52. In response to Missouri's assertion that Ameren Transmission should adopt its corporate parent's capital structure, we agree with Ameren that this contradicts previous Commission rulings and reject this request.[79]

6. Total Package of Incentives

53. Ameren argues that the total package of incentives is tailored to the risks and challenges faced by the Projects. It contends that the requested incentives are intended to provide regulatory certainty at the outset and cash flow from the initial development stages and throughout the extended construction period to make financing the Projects possible. Additionally, it asserts that the package of requested incentives is designed to enable the Ameren Companies to attract capital on reasonable terms, to manage volatile

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[77] *Id.* at 14-15 (citing *Ameren Incentives Order*, 135 FERC ¶ 61,142 at P 70).

[78] The September 2012 Attachment O data is available at https://www.misoenergy.org/Library/Pages/ManagedFileSet.aspx?SetId=259.

[79] *See, e.g.*, *Ameren Incentives Order*, 135 FERC ¶ 61,142 at P 71; *Green Power Express*, 127 FERC ¶ 61,031 at P 76.

capital structures during the construction period, and to ease the pressure on the Ameren Companies' finances and credit ratings, improving the Projects' stability and feasibility.[80]

54. As noted above, in Order No. 679-A, the Commission clarified that its nexus test is met when an applicant demonstrates that the total package of incentives requested is tailored to address the demonstrable risk or challenges faced by the applicant. The Commission noted that this nexus test is fact-specific and requires the Commission to review each application on a case-by-case basis. Consistent with Order No. 679,[81] the Commission has, in prior cases, approved multiple rate incentives for particular projects.[82] This is consistent with our interpretation of section 219 authorizing the Commission to approve more than one incentive rate treatment for an applicant proposing a new transmission project, as long as each incentive is justified by a showing that it satisfies the requirements of section 219 and that there is a nexus between the incentives proposed and the investment made. We find that the total package of incentives that we are approving is tailored to address the risks and challenges that the Ameren Companies face in constructing the Projects.

7. <u>Conditions for Granting Requested Incentives</u>

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

55. In its protest, Southwestern requests that the Commission adopt specific customer protections if it approves incentive treatment for Ameren. Noting that Ameren estimates that the Spoon River Project will cost $208.9 million, while it previously estimated in the Docket No. EL10-80-000 filing that the Spoon River Project would cost $146 million, Southwestern argues that incentive rate treatment should be limited to the total cost estimates for the Projects made in the July 6, 2012 filing. It contends that such a restriction is needed given Ameren's failure to account for the cost increase.[83]

56. Southwestern also urges the Commission to direct Ameren to explain variances between actual and projected costs or expenses. Specifically, it argues that Ameren

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[80] Ameren Transmittal Letter at 17.

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

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

[83] Southwestern Protest at 16-17.

should be required to submit in this proceeding its projected costs for the upcoming year as an annual informational filing. Additionally, Southwestern asserts that in the informational filing, Ameren should also be required to report actual expenditures from the prior year and explain any variances exceeding 10 percent. Southwestern argues that this requirement would assist the Commission and customers in ensuring that costs are reasonably and prudently incurred.[84]

57. Southwestern also asks the Commission to direct Ameren to finance the Projects with debt. Southwestern contends that debt, which ranges from three to five percent in cost, is less expensive than equity, and should be used to determine the return on CWIP. Southwestern contends that this structure would limit the cost to customers without hurting Ameren. Finally, Southwestern contends that the Commission should specify that payments related to the Projects made by Ameren to third parties prior to the start of construction should not be included in rate base and recovered through CWIP. Southwestern contends that the Commission has previously disallowed the collection of such prepayments.[85] Southwestern explains that this provision is important because other utilities will be constructing portions of the Projects.[86]

b. Ameren's Answer

58. Ameren disagrees with Southwestern's request that the Commission limit the incentive rate treatment to the total cost estimate made in its July 6, 2012 filing. Ameren argues that customers are charged actual, prudently incurred costs, not estimates. Additionally, under Attachment O-AIC or Attachment MM of the MISO Tariff, customers are charged the transmission owners' actual costs subject to the Attachment O-AIC true-up, rendering Southwestern's proposed limitation unnecessary.[87] Ameren also contends that Southwestern's informational filing requirement is unnecessary because Ameren would already be required to file the FERC-730 form annually, if granted transmission incentives. According to Ameren, Southwestern has not demonstrated that the FERC-730 form, which includes, among other things, projected costs, is inadequate.[88]

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[84] *Id.* at 17-18.

[85] *Id.* at 18 (citing Order No. 679, FERC Stats. & Regs. ¶ 31,222 at P 120; *Ameren Incentives Order*, 135 FERC ¶ 61,142 at P 52).

[86] *Id.*

[87] Ameren Answer at 16.

[88] *Id.* (citing 18 C.F.R. § 35.35(h) (2012)).

59. In response to Southwestern's request that the Commission direct Ameren to finance the project with debt, Ameren argues that 100 percent debt financing denies investors in the Ameren Companies a reasonable return on their investments to which they are entitled. Additionally, Ameren contends that 100 percent debt financing would harm Ameren and its customers by lowering Ameren's credit rating.[89] With respect to Southwestern's request that the Commission direct Ameren to exclude payments made to third parties prior to the start of construction from rate base, Ameren explains that it is not seeking the incentive for the recovery of pre-commercial costs, rendering Southwestern's request unnecessary.[90]

c. Commission Determination

60. We reject Southwestern's request that the Commission limit the incentive treatment to the cost estimates made in Ameren's July 6, 2012 filing. Consistent with Commission precedent, we will not require Ameren to limit the incentive treatment to project-specific cost estimates.[91] The Commission has not required transmission incentive applicants to limit incentives to cost estimates made at the time of the incentive application. However, the Commission has accepted an applicant's volunteering to only apply an ROE incentive adder to the project cost estimate established at the time of RTO approval.[92] We also reject Southwestern's proposed additional informational requirements. We find that Southwestern has not demonstrated that the FERC-730 reporting requirements are insufficient.

61. With respect to Southwestern's request that the Ameren Companies finance the projects solely with debt, we find that such a condition could harm the Ameren Companies' credit rating, and increase costs to customers. Finally, we find that

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[89] *Id.* at 17-18.

[90] *Id*. at 17 (citing *Morgan Stanley Capital Group Inc. v. Pub. Util. Dist. No. 1*, 554 U.S. 527, 532 (2008)).

[91] *See Northeast Utilities Service Co. and National Grid USA*, 135 FERC ¶ 61,270, at P 54 (2011) (*Northeast Utilities*) (denying the rehearing party's request to condition the ROE adder upon completion of the project within the timeframe set forth in the application or at the estimated investment level by reasoning that the Commission has an established procedure for ensuring that only prudently incurred costs are recovered under section 205 of the Federal Power Act).

[92] *See RITELine Illinois and RITELine Indiana, LLC,* 137 FERC ¶ 61,039, at P 64 (2011).

Southwestern's proposed prohibition on the collection of pre-construction costs paid to third parties is unnecessary. As Ameren points out, it has not requested the incentive to recover pre-commercial costs. Additionally, section 35.25 of the Commission's regulations defines CWIP, as relevant here, as any expenditure that is properly included in Account 107.[93] We find that further clarification on which pre-commercial costs may be recoverable is unnecessary.

8. Assignment

a. Ameren's Proposal

62. Ameren seeks Commission authorization to assign the requested CWIP and abandoned plant recovery incentives, if approved, to its affiliates that are involved in the development and construction of the Projects. Ameren argues that the CWIP recovery and abandoned plant recovery are tied to the characteristics of the Projects and therefore "follow" the Projects. Ameren therefore requests authorization to assign the 100 percent CWIP and abandoned plant recovery incentives to any of the Ameren Companies that is involved in the development and construction of the Projects. Ameren commits that, consistent with the *Ameren Incentives Order*, Ameren and/or the Ameren Companies will make any necessary filings under Federal Power Act section 203 or 205 to assign and implement the incentives.

b. Comments and Protests

63. Missouri argues that if the non-routine categorization of a project is based on the current percentage of net transmission plant of two affiliates, then the incentive should not flow to other affiliates with potentially different net transmission plant amounts.

c. Ameren's Answer

64. Ameren responds that Missouri misapprehends the assignment of incentives. Ameren reiterates that it has committed to make any necessary filings if it assigns the Projects and the associated incentives.

d. Commission Determination

65. We find that the many of the risks and challenges that lead the Commission to grant the CWIP and abandoned plant recovery incentives requested by Ameren are tied to the characteristics of the Projects, as discussed above. Therefore, we also find that it is appropriate to grant Ameren's request for authority to assign the CWIP and abandoned

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[93] *See* 18 C.F.R. § 35.25(b)(1) (2012).

plant incentives to any affiliate.[94] This authorization is subject to the clarification that should Ameren elect to assign its incentives, the affiliate to whom that assignment is made will be required to make any necessary Federal Power Act section 203 or section 205 filings with the Commission. With respect to Missouri's protest, we note that the current percentage of net transmission plant is only one factor that the Commission may consider in determining whether a project is not routine and thus meets the nexus test. The Commission considers all relevant factors presented by the applicant, including evidence on the scope of the project, the effect of the project, and the challenges or risks faced by the project to determine whether the project merits an incentive.[95] For this reason, we authorize Ameren to assign the requested CWIP and abandoned plant recovery incentives to whatever Ameren entity constructs the Projects.

9. Forward-Looking Formula Rate

a. Ameren's Proposal

66. Ameren proposes to revise Attachment O-AIC and Attachment GG to allow Ameren Illinois to use a forward-looking formula rate and true-up mechanism, whereby it will use estimates of future costs rather than historical data to derive transmission rates. Ameren argues that a forward-looking formula rate will eliminate the recovery lag between when investments are made and costs are incurred and when such costs are recovered in transmission rates. Ameren contends that such a formula rate would be consistent with those of other MISO transmission owners, including Ameren Transmission.[96] Ameren states that it will post the following information on its Open Access Same-Time Information System: supporting workpapers regarding projected costs of plant in projected rate base; expected construction schedules and in-service dates; and resultant rates incorporating a true-up adjustment for the previous year. It also states

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[94] *See PPL Elec. Utilities Corp.*, 123 FERC ¶ 61,068, at P 51, *reh'g denied*, 124 FERC ¶ 61,229 (2008).

[95] *Baltimore Gas & Electric Co.*, 120 FERC ¶ 61,084 at P 52.

[96] Ameren Transmittal Letter at 20 (citing *Midwest Indep. Transmission Sys. Operator, Inc.*, 138 FERC ¶ 61,147 (2012), *Otter Tail Power Co*., 129 FERC ¶ 61,287 (2009) (*Otter Tail*), *American Transmission Co.*, Docket No. ER05-1506-000 (Dec. 20, 2005) (delegated letter order), *Xcel Energy Servs. Inc.*, Docket No. ER07-1415-001 (May 1, 2008) (delegated letter order), *S. Ind. Gas & Elec. Co.,* Docket No. ER09-180-000 (Dec. 19, 2008) (delegated letter order), and *Great River Energy*, Docket No. ER09-108-000 (Dec. 23, 2008) (delegated letter order)).

that it will hold customer meetings by October 31 of each year to explain the formula rate input projections and cost details.[97]

67. In order to transition to a forward-looking formula rate, Ameren proposes several revisions to Attachments O-AIC and GG that, according to Ameren, are substantially similar to revisions approved in prior Commission orders.[98] Ameren also proposes several revisions to Attachment O-AIC to allow Ameren Illinois to recover the incentives approved in the *Ameren Incentives Order* for the Illinois Rivers Project and the Big Muddy River Project, once the Big Muddy River Project is approved in the MTEP, and the incentives requested in the instant filing, to the extent that Ameren Illinois constructs portions of those projects or the associated underbuild. Specifically, Ameren Illinois proposes revisions to allow it to recover 100 percent CWIP in rate base and to include a placeholder for abandoned plant recovery.

68. The transmission rates calculated using the forward-looking template will be effective January 1 of each year, rather than the current effective date of June 1 of each year. The proposed revisions to Attachment O-AIC include formula rate protocols that explain the procedures Ameren Illinois will use when it updates its annual transmission revenue requirement. Ameren also proposes to implement a true-up mechanism that will compare the values in the forward-looking template with the actual FERC Form No. 1 data following the close of the rate year. This true-up mechanism is described in the formula rate protocols as well. According to Ameren's proposal, any differences in terms of rate base, costs, usage or revenues will be "trued-up" via an adjustment in a subsequent projected year rate calculation. Ameren is also proposing certain changes to Attachment GG to adopt true-up procedures.[99]

69. With respect to the CWIP incentive, Ameren has added a new line to the rate base calculation. This line will include the 13-month average CWIP balance for the period. With respect to the abandoned plant incentive, Ameren proposes to add a placeholder to the formula rate template. Ameren has added two lines and a footnote in the template

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[97] Gudeman Test. at 19-20.

[98] Ameren Transmittal Letter at 20 (citing *Midwest Indep. Transmission Sys. Operator, Inc.*, 183 FERC ¶ 61,147 (2012); *Otter Tail*, 129 FERC ¶ 61,287; *American Transmission Co.*, Docket ER05-1506-000 (Dec. 20, 2005) (delegated letter order); *Xcel Energy Servs. Inc.*, Docket No. ER07-1415-001 (May 1, 2008) (delegated letter order); *S. Ind. Gas & Elec. Co.*, Docket No. ER09-180-000 (Dec. 19, 2008) (delegated letter order); and *Great River Energy*, Docket No. ER09-108-000 (Dec. 23, 2008) (delegated letter order)).

[99] Gudeman Test. at 18-26.

where abandoned plant amounts would be included. Ameren also proposes other changes to bring the template into conformance with the approved version of Ameren Transmission's Attachment O, as well as the rate formula templates used by other transmission owners within MISO that use a forward-looking Attachment O.[100]

70. Ameren states that it has provided sufficient information to satisfy the requirements in sections 35.25(c)(4) and (g) of the Commission's regulations dealing with potential anti-competitive effects of including generation-related CWIP in rates. Further, according to Ameren, the anticompetitive concerns addressed by these requirements are less significant with respect to the inclusion of transmission related CWIP in rates. In this filing, Ameren has supplied information regarding its request for 100 percent CWIP recovery through the forward-looking formula rate.[101] Ameren requests waiver of any additional requirements in sections 35.25(c)(4) and (g) to the extent necessary. Ameren requests waiver of any other filing requirements necessary to authorize it to begin recovering 100 percent of its CWIP through the forward-looking formula rate to the extent not satisfied herein.

71. Ameren requests an effective date of January 1, 2013 for the proposed Tariff revisions. Additionally, pursuant to 18 C.F.R. § 35.11, Ameren requests waiver of the Commission's prior notice requirements to allow these modifications to go into effect as of this date. Ameren argues that good cause exists for granting this waiver, because the annual transmission revenue requirement and rates determined under Attachment O-AIC will be determined on a calendar year basis, and the proposed effective date is the beginning of the next calendar year.[102]

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

72. Southwestern contends that Ameren's proposed formula rate revisions contain problems or ambiguities that render the documents inadequate as a Commission-approved tariff, such that the Commission should reject Ameren's proposed use of a forward-looking formula rate. Southwestern states that Ameren did not explain whether the revised Attachment O was intended to apply only to the two Projects, to all of its new transmission facilities, or to its entire plant, including existing transmission facilities.

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[100] *Id.* at 27.

[101] Ameren Transmittal Letter at 26-27. Ameren has provided, as Attachment F to its filing, a Statement BM, a summary of the data and supporting assumptions relating to the economics of any construction program to replace or expand the utility's power supply that must be filed when a utility requests CWIP in rate base.

[102] *Id.* at 28.

Southwestern also argues that the proposed formula rate does not describe with any clarity how the true-up will be accomplished. According to Southwestern, the formula rate template fails to define "Historical Year Actual TRR" and "Projected ATRR from Prior Year." Southwestern also argues that the proposed formula rate contains insufficient explanation or instruction for understanding the values on lines 6a though 6e, as well as line 31. Finally, Southwestern states that although Ameren has addressed AFUDC in the testimony of Bruce A. Steinke, its revised Attachment O-AIC does not include any mechanism to ensure that CWIP-approved projects do not recover AFUDC, raising the possibility that it could be included in rate base.[103]

73. Missouri contends that the Commission should accept the proposed formula rate protocols only subject to the completion of its investigation into MISO's formula rate protocols.[104] According to Missouri, the Commission should not grant Ameren's request to change Ameren Illinois' protocols until the investigation is complete.[105] Southwestern states that Ameren failed to address any of the three key characteristics that the Commission identified in the MISO Protocols Investigation as integral to properly functioning formula rate protocols. Southwestern also argues that the proposed protocols raise questions about Ameren's intended implementation of the proposed formula. For example, Southwestern states that it is not clear how Ameren will accelerate refunds by a year, and that the protocols fail to explain on what basis revenue collected under Schedule 26 to MISO's Tariff would be allocated proportionately.[106]

74. Missouri states that it is important to note that in this filing, Ameren Illinois has only filed for and supported waiver requests for the two new projects: the Mark Twain Project and the Spoon River Project, although Missouri does not specify which waivers it is referring to. Missouri argues that the Commission should limit its findings in this case to address only these two projects. Missouri argues that while Ameren Illinois makes statements regarding waivers for the "Big Muddy River Project, once it is approved in MTEP," Ameren Illinois should be required to make a separate filing for approval of the Big Muddy River Project which contains an evidentiary basis for Ameren Illinois' request for approval of waivers for the Big Muddy River Project.[107]

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[103] Southwestern Protest at 19-21.

[104] *Midwest Indep. Transmission Sys. Operator, Inc.*, 139 FERC ¶ 61,127 (2012) (MISO Protocols Investigation).

[105] Missouri Protest at 3.

[106] Southwestern Protest at 21-22.

[107] Missouri Protest at 3-4.

c. Ameren's Answer

75. Ameren contends that Southwestern's claims are without merit and should be rejected. Ameren clarifies that Attachment O-AIC will apply to all of Ameren Illinois' transmission investments, and includes specific line items for projects which have been granted incentives. Regarding Southwestern's contention that the formula rate is unclear, Ameren argues that the true-up mechanisms and terms for the proposed Attachment O-AIC are consistent with what has been approved in other forward-looking Attachment O filings. Ameren also clarifies that, in its filing: (1) the Historical Year ATRR and Projected Year ATRR refer to the actual and projected annual transmission revenue requirement for the year being trued-up; (2) the first paragraph of the protocols describes how the projected revenue requirements will be calculated; (3) the first bullet point below the first paragraph of the protocols describes how that revenue requirement will be adjusted based on the historical, actual data; and (4) in this filing it proposes to transition Ameren Illinois from revenue requirement calculated on a historic basis to one that is forward-looking . Ameren further states that Southwestern's assertion that Ameren may use any values that meet its needs or whims is specious, because Ameren is limited in the true-up procedure to using data from its FERC Form No. 1. Finally, Ameren maintains that the accounting system it has proposed with respect to CWIP is the same as the one that the Commission accepted with respect to Ameren Transmission.[108]

76. With regard to the MISO Protocols Investigation, Ameren argues that the Commission has rejected similar arguments before and that such a delay would harm Ameren by causing a regulatory lag in cost recovery for the Projects. Ameren also states that the provision to accelerate refunds is a standard, rarely-used provision in forward-looking Attachment Os within MISO, and that, in the unlikely event that Ameren uses it, Ameren will first present its intent to do so in the customer meetings required by the formula rate protocols.[109]

d. Commission Determination

77. We accept Ameren's proposed revisions to Attachment O-AIC and Attachment GG to transition Ameren Illinois from an historical formula rate to a forward-looking formula rate. The Commission has approved nearly identical forward-looking formula rates for other transmission-owning members of MISO, such as Ameren Transmission.[110]

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[108] Ameren Answer at 20-22.

[109] *Id.* at 22-23.

[110] *See, e.g., Midwest Indep. Transmission Sys. Operator, Inc.*, 138 FERC ¶ 61,147 and *Otter Tail*, 129 FERC ¶ 61,287.

Similarly, a forward-looking formula rate, if properly designed and supported, as is the case here, is a reasonable means to avoid lag in cost recovery for the Projects.[111] With respect to Southwestern's concern regarding the lack of a mechanism in Ameren's proposed revised Attachment O-AIC to ensure that CWIP-approved projects do not recover AFUDC, raising the possibility that it could be included in rate base, we find that because AFUDC for the projects will not be accrued in plant accounts under Ameren's proposal, no further revisions to the formula to exclude AFUDC on the projects are needed. Additionally Ameren has provided clarification sufficient to address Southwestern's Attachment O-AIC concerns with respect to whether it applies to all Ameren Illinois transmission investments, what the Historic Year ATRR and Projected Year ATRR refer to, how the revenue requirement will be calculated, and how the true-up operates.

78. We will, however, make our acceptance of the proposed protocols subject to the outcome of the MISO Protocols Investigation, as requested. The MISO Protocols Investigation is a Commission-initiated Federal Power Act section 206 proceeding examining whether the formula rate protocols of MISO and the MISO transmission owners are sufficiently just and reasonable.[112] Ameren's proposed protocols are virtually identical to the protocols of other MISO transmission owners' accepted protocols and conform to MISO's Attachment O *pro forma* formula rate protocols. Thus, we find it is premature for the Commission to address any changes to those protocols before the resolution of the section 206 investigation.

79. With respect to Missouri's argument against granting waivers for the Big Muddy River Project in this proceeding, we find that Ameren does not need to make a separate filing to request waivers for the Big Muddy River Project. According to Ameren, Statement BM explains that Ameren is seeking to reflect inclusion of 100 percent CWIP in rate base only for the Big Muddy River Project, once it is approved in MTEP.[113]

80. Finally, we find good cause to grant Ameren's request to waive the 120-day prior notice requirement in this case.[114]

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[111] *See, e.g.*, *MidAmerican*, 137 FERC ¶ 61,250 at P 70; *Xcel*, 121 FERC ¶ 61,284 at P 69; *Mich. Elec. Transmission Co., LLC*, 117 FERC ¶ 61,314, at P 17 (2006) (*Mich. Elec.*).

[112] *See* MISO Protocols Investigation, 139 FERC ¶ 61,127.

[113] Ameren Transmittal Letter at 26.

[114] *See Central Hudson Gas & Elec. Corp.*, 60 FERC ¶ 61,106, at 61,339, *reh'g denied*, 61 FERC ¶ 61,089 (1992).

The Commission orders:

(A) Ameren's request for authorization for the 100 percent CWIP recovery, abandoned plant recovery, and hypothetical capital structure incentives for the Projects and approval of assignment of the CWIP and abandoned plant recovery incentives is hereby granted, as discussed in the body of this order.

(B) Ameren's proposed use of forward-looking formula rate and corresponding Tariff revisions are hereby accepted for filing, to become effective January 1, 2013, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.