141 FERC ¶ 61,075
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.

Transource Missouri, LLC Docket No. ER12-2554-000

ORDER ON TRANSMISSION RATE INCENTIVES AND FORMULA RATE PROPOSAL AND ESTABLISHING HEARING PROCEDURES

(Issued October 31, 2012)

1. On August 31, 2012, Transource Missouri, LLC (Transource Missouri) submitted a filing under section 205 of the Federal Power Act (FPA)[1] requesting authority to implement certain incentive rate treatments pursuant to section 219 of the FPA[2] and Order No. 679[3] for two electric transmission projects: the Iatan-Nashua Project and the Sibley-Nebraska City Project (collectively, Projects). Transource Missouri's filing also requests acceptance of a formula rate and formula rate implementation protocols to capture and recover the costs associated with Transource Missouri's investment in the Projects, as well as any future assets, that will be controlled by Southwest Power Pool, Inc. (SPP). In this order we conditionally grant in part, and reject in part, the requested transmission incentives, accept Transource Missouri's transmission formula rate and formula rate implementation protocols, and suspend them for a nominal period, to be effective October 30, 2012, subject to refund, and establish hearing procedures.

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[1] 16 U.S.C. § 824d (2006).

[2] 16 U.S.C. § 824s (2006).

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

I. Proposal

A. Petitioner

2. Transource Missouri is a wholly-owned subsidiary of Transource Energy, LLC, which is a transmission-focused joint venture of American Electric Power Company, Inc. (AEP) and Great Plains Energy Incorporated (Great Plains). Concurrently with the application in the instant docket, Kansas City Power & Light Company (KCP&L) and KCP&L Greater Missouri Operations Company (GMO), both wholly-owned subsidiaries of Great Plains, and the SPP-designated transmission owners to construct the Projects, filed with the Missouri Public Service Commission (Missouri Commission) a request for approval to transfer the Projects and related facilities to Transource Missouri. In addition, Transource Missouri filed an application with the Missouri Commission for an electric transmission line certificate of convenience and necessity from the Missouri Commission to construct, own and operate the Projects. The Missouri Commission has not yet acted on these requests, but according to Transource Missouri, KCP&L and Great Plains state that following the actions of the Missouri Commission, they will apply to SPP for novation of the Projects' Notifications to Construct to Transource Missouri.

3. If SPP approves the novation, SPP will file a Designee Qualification and Novation Agreement with the Commission under FPA section 205 that will determine and release KCP&L and GMO's obligation to construct the Projects and designate Transource Missouri as the developer and owner of the Projects. Thus, Transource Missouri states that it anticipates becoming a transmission-owning member of SPP and also states that it will transfer functional control of the Projects to SPP after they are placed in service. Transource Missouri asserts that its formula rate will not be populated and costs will not be assessed to SPP customers until the Commission has approved the novation of the Projects' Notifications to Construct and Transource Missouri owns the Projects.[4]

B. Description of the Projects

4. Transource Missouri states that the Iatan-Nashua Project involves the construction of a new 345 kV electric transmission line in northwest Missouri. The line will extend approximately 30 miles from an existing substation at the Iatan Generation Station in Platte County, near Weston, Missouri to the existing 161 kV Nashua substation in Clay County, near Smithville, Missouri. In addition, the existing 161 kV Nashua substation will be expanded and upgraded to accommodate both the new 345 kV Iatan-Nashua line and a connection to the existing St. Joseph-Hawthorn 345 kV electric transmission line. Finally, a new 345/161 kV autotransformer between the upgraded portion of the Nashua

[4] Transmittal Letter at 6.

substation and the existing 161 kV portion of the substation, and other related facilities, will also be constructed. Transource Missouri states that the Iatan-Nashua Project was designated as a Balanced Portfolio project by SPP in the June 23, 2009 SPP Balanced Portfolio Report,[5] and is currently estimated to cost $64.8 million.

5. Transource Missouri states that the Sibley-Nebraska City Project involves construction of a new single circuit 345 kV electric transmission line in southeast Nebraska and northwest Missouri, extending approximately 175 miles from Omaha Public Power District's Nebraska City substation at the Nebraska City power plant to a new intermediate 345 kV station near Maryville, Missouri and continuing on to the existing 345 kV substation at Sibley, Missouri.[6] At Maryville, the new 345 kV substation will include reactive resources to provide voltage control and provide a potential interconnection point for new renewable generation resources. The project also includes upgrades to the Sibley substation. The Sibley-Nebraska City Project was identified by SPP as a Priority Project in the April 27, 2010 SPP Priority Projects Phase II Final Report.[7] According to Transource Missouri, the current estimated cost of the project is $380 million.

C. <u>Request for Incentives and Formula Rate</u>

6. Transource Missouri requests several transmission rate incentives pursuant to sections 205 and 219 of the FPA and Order No. 679. First, Transource Missouri requests authorization for inclusion of 100 percent construction work in progress (CWIP) in rate base during the development and construction period for the Projects.[8] Second,

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[5] *Id.* at 5, citing *SPP Balanced Portfolio Report* at 3 (2009) (Balanced Portfolio Report).

[6] Omaha Public Power District has received a Notification to Construct regarding the small portion of the line located in the State of Nebraska. Transource Missouri will construct the nearly 170 miles of the project located in Missouri. Transource Missouri's request for incentive rate treatment does not include the portion constructed and owned by Omaha Public Power District. Transmittal Letter at 5.

[7] Transmittal Letter at 5, citing *SPP Priority Projects Phase II Final Report* at 3 (Apr. 27, 2010) (Priority Projects Report).

[8] Transource Missouri notes that construction of the Iatan-Nashua Project will begin before the project is novated to Transource Missouri. Prior to novation, GMO and KCP&L will record CWIP in FERC Account No. 107, along with allowance for funds used during construction (AFUDC) at the utilities' respective Commission-approved capital costs for all capitalized expenses incurred. If CWIP is approved, when the

(continued…)

Transource Missouri requests authorization to establish regulatory assets for the Projects that will include all expenses not capitalized and included in CWIP that are incurred in connection with the Projects to date and up to the date that charges are assessed to SPP customers under the formula rate for each of the Projects, including authorization to amortize the regulatory asset with interest over five years for cost recovery purposes. Further, Transource Missouri requests permission to accrue monthly carrying charges on the regulatory asset balances beginning on the effective date of the Commission approval of this incentive until the regulatory assets are included in rate base.[9]

7. Third, Transource Missouri also requests approval of a hypothetical capital structure of 40 percent debt and 60 percent equity until such time as it obtains permanent financing for the Projects.[10] Fourth, Transource Missouri seeks the ability to recover 100 percent of its prudently-incurred costs associated with the Projects in the event one or both of the Projects must be abandoned for reasons outside of its control.[11]

8. Fifth, Transource Missouri seeks authorization to change the base return on equity (ROE) in the formula rate pursuant to a future limited, single-issue FPA section 205 proceeding.[12] Lastly, Transource Missouri requests the addition of 50 points to its base ROE for regional transmission organization (RTO) participation,[13] as well as a 100 basis point adder to its base ROE for the Sibley-Nebraska City Project to compensate for the risks and benefits of that project.[14]

9. In addition to its requests for transmission rate incentives, Transource Missouri requests acceptance of a proposed formula rate and formula rate implementation protocols that it will use to determine its annual revenue requirement under the SPP Tariff.

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project is novated, AFUDC will cease to accrue and Transource Missouri will include 100 percent of the transferred Account No. 107 CWIP balances for the Iatan-Nashua Project in Transource Missouri's rate base. Transmittal Letter at 25.

[9] Transmittal Letter at 26.

[10] *Id.* at 26-27.

[11] *Id.* at 27-28.

[12] *Id*. at 30-31.

[13] *Id*. at 31-32.

[14] *Id*. at 28-30.

10. Transource Missouri requests an effective date 60 days after the date of its filing, or by October 30, 2012.

II. Notice of Filing and Responsive Pleadings

11. Notice of Transource Missouri's filing was published in the *Federal Register*, 77 Fed. Reg. 56,831 (2012), with interventions and comments due on or before September 21, 2012. Timely motions to intervene were filed by MidAmerican Transmission, LLC, Ameren Services Company, and East Texas Cooperatives.[15] The Kansas Corporation Commission filed a motion to intervene out-of-time. The Missouri Commission filed comments, and Transource Missouri filed an answer to the Missouri Commission's comments. Transource Missouri filed an answer to the Kansas Corporation Commission's motion to intervene.

III. Discussion

A. Procedural Matters

12. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2012), the notice of intervention and timely, unopposed motions to intervene 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, 18 C.F.R. § 385.214(d) (2012), the Commission will grant the Kansas Corporation Commission's late-filed motion to intervene given its interest in the proceeding, the early stage of the proceeding, and the absence of undue prejudice or delay.

13. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2012), prohibits an answer to a protest, unless otherwise ordered by the decisional authority. We will accept Transource Missouri's answers because they provided information that assisted us in our decision-making process.

B. Section 219 Requirement

14. In the Energy Policy Act of 2005,[16] Congress added section 219 to the FPA, directing the Commission to establish, by rule, incentive-based rate treatments to promote capital investment in electric transmission infrastructure. The Commission subsequently issued Order No. 679, which sets forth processes by which a public utility may seek

[15] East Texas Cooperatives are East Texas Electric Cooperative, Inc., Northeast Texas Electric Cooperative, Inc., and Tex-La Electric Cooperative of Texas, Inc.

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

transmission rate incentives pursuant to section 219, including the incentives requested here by Transource Missouri.

15. Pursuant to section 219, an 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."[17] Also, as part of this demonstration, "section 219(d) provides that all rates approved under the Rule are subject to the requirements of sections 205 and 206 of the FPA, which require that all rates, charges, terms and conditions be just and reasonable and not unduly discriminatory or preferential."[18]

16. Order No. 679 provides that a public utility may file a petition for declaratory order or a section 205 filing to obtain incentive rate treatment for transmission infrastructure investment that satisfies the requirements of section 219, i.e., the applicant must demonstrate that the facilities for which it seeks incentives either ensure reliability or reduce the cost of delivered power by reducing transmission congestion.[19] Order No. 679 established a process for an applicant to follow to demonstrate that it meets this standard, including a rebuttable presumption that the standard is met if: (1) the transmission project results from a fair and open regional planning process that considers and evaluates projects for reliability and/or congestion and is found to be acceptable to the Commission; or (2) a project has received construction approval from an appropriate state commission or state siting authority.[20] 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.[21]

1. Proposal

17. Transource Missouri asserts that it is entitled to a rebuttable presumption of eligibility for the requested incentives under Order No. 679 because the SPP planning processes through which the Projects were approved—i.e., Priority Projects and Balanced

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

[18] *Id.* P 8 (citing 16 U.S.C. §§ 824(d)-(e)).

[19] 18 C.F.R. § 35.35(i) (2012).

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

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

Portfolio—evaluated whether the Projects will enhance reliability and/or reduce the costs of delivered power by reducing congestion.[22]

a. The Iatan-Nashua Project

18. Transource Missouri states that the Iatan-Nashua Project was approved through SPP's Commission-approved regional transmission expansion planning process in 2009 (2009 STEP) as a Balanced Portfolio project. According to Transource Missouri, Balanced Portfolio projects are economic upgrades with demonstrated benefits that outweigh their costs and that will relieve congestion on the most constrained areas in SPP, which will result in demonstrable cost savings to customers.[23]

b. The Sibley-Nebraska City Project

19. Transource Missouri states that in 2009, SPP began a series of studies to identify a group of "Priority Projects," intended to "reduce grid congestion, improve the Generation Interconnection and Aggregate Study processes, and better integrate SPP's east and west regions."[24] Transource Missouri states that the report on the Priority Projects concluded that the Priority Projects, including the Sibley-Nebraska City Project, "will reduce [grid] congestion, as demonstrated in the APC [i.e., adjusted production cost] analysis and by the levelization of Locational Marginal Prices (LMPs) across the SPP footprint."[25]

2. Commission Determination

20. We find that Transource Missouri is entitled to the rebuttable presumption that the Commission established in Order No. 679 with respect to the threshold requirement of

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[22] Transmittal Letter at 10, citing *Oklahoma Gas & Electric Co.*, 133 FERC ¶ 61,274, at P 35 (2010) (The Commission held that SPP-approved Balanced Portfolio projects and Priority Projects are eligible for the rebuttable presumption established in Order No. 679).

[23] *Id.* at 11, citing Balanced Portfolio Report, Exh. No. TMO-106 at 3, finding that based on a typical usage rate of 1,000 kWh/month for residential customers, the Balanced Portfolio projects provide an estimated net benefit of $0.78/month ($1.66/month on average versus a cost of $0.88/month). In other words, Transource Missouri claims, customers will save, on average, $0.78/month on their electric bill over the Balanced Portfolio analysis period.

[24] *Id.* at 12, citing Priority Projects Report, Exh. No. TMO-108 at 3.

[25] *Id.*, citing Priority Projects Report, Exh. No. TMO-108 at 6.

section 219. As detailed above, each of the Projects has been identified as either a Balance Portfolio project or a Priority Project in the 2009 STEP, which are components of SPP's regional planning process, as provided in Attachment O of the SPP open access transmission tariff (Tariff).

C. Order No. 679 Nexus Requirement

21. In addition to satisfying the section 219 requirement of ensuring reliability and/or reducing 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."[26] The Commission noted that this nexus test is fact-specific and requires the Commission to review each incentive rate application on a case-by-case basis.

22. As part of this evaluation, the Commission has found the question of whether a project is routine to be particularly probative.[27] In *BG&E*, the Commission explained how it will evaluate projects to determine whether they are routine. Specifically, to determine whether a project is routine, the Commission will consider all relevant factors presented by an applicant. For example, an applicant may present 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, internal competition for financing with other projects, long lead times, regulatory and political risks, specific financing challenges, other impediments).[28] Additionally, the Commission clarified that "when an applicant has adequately demonstrated that the project for which it requests an incentive is not routine, that applicant has, for purposes of the nexus test, shown that the project faces risks and challenges that merit an incentive."[29]

23. More recently, the Commission stated that an applicant may demonstrate that several individual projects are appropriately considered as a single overall project based

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

[27] *Baltimore Gas & Electric Co.*, 120 FERC ¶ 61,084, at P 48 (2007) (*BG&E*).

[28] *Id.* PP 52-55.

[29] *Id.* P 54.

on their characteristics or combined purpose, and seek incentives for that single overall project.[30] 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.[31]

1. Proposal

24. Transource Missouri contends that the Projects are non-routine and there is a nexus between the transmission incentives sought and the risks and challenges it faces in constructing the Projects.

The Iatan-Nashua Project

25. Transource Missouri states that in considering the scope of a project for which an applicant seeks incentives, the Commission has compared the size of the proposed investment to the company's current transmission plant in service[32] or the company's average annual transmission investment.[33] Transource Missouri points out that the Iatan-Nashua Project represents the first transmission facility it will place into service, and

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

[31] *Id.*

[32] Transmittal Letter at 14, citing *N. Ind. Pub. Serv. Co.*, 140 FERC ¶ 61,035, at P 27 (2012) ("As noted above, the project is large in scope compared to Northern Indiana Public Service Company's current transmission plant in service."); *Allegheny Energy Inc.*, 116 FERC ¶ 61,058, at P 64 (2006) (finding that the scope of the project was significant because the proposed investment is "nearly a multiple of three times Allegheny's current net transmission plant in-service").

[33] Transmittal Letter at 14, citing *PPL Electric Utils. Corp.*, 123 FERC ¶ 61,068, at P 32 (2008) (finding that the scope of the project was significant based, in part, on the size of the overall investment in comparison to the applicant's existing transmission rate bases and average annual transmission investment), *reh'g denied*, 124 FERC ¶ 61,229 (2008); *Cent. Me. Power Co.*, 125 FERC ¶ 61,182, at P 78 (2008); *Pepco Holdings, Inc.*, 124 FERC ¶ 61,176, at P 64 (2008) (finding that the project would increase Pepco Holdings, Inc.'s transmission rate base by nearly a third and that this level of capital spending accounted for nearly 50 percent of the company's PJM Regional Transmission Expansion Plan construction obligations from 2008 through 2012).

thus, it has no transmission plant in service. Transource Missouri contends that the Commission's comparison of the size of the proposed investment to the applicant's average annual construction outlay or its installed investment is still important for a start-up company such as itself. Thus, Transource Missouri asserts that the $64.8 million estimated cost of the project is a significant investment in relation to Transource Missouri's current holdings, and that the project is not routine for Transource Missouri. Transource Missouri asserts that without the incentives requested, its ability to maintain adequate cash flow would be challenged, which could lead to a lower credit rating and higher financing costs.[34]

26. Transource Missouri asserts that during SPP's study of the 20 proposed Balanced Portfolio projects, the Iatan-Nashua Project was assigned an individual benefit-to-cost ratio of 2.95, the third highest of the 20 projects, because of significant economic and other benefits it will provide. Specifically, Transource Missouri contends that the Iatan-Nashua Project will significantly alleviate congestion at two of the most congested flowgates on the SPP system and increase power transfers between the SPP and Midwest Independent Transmission System Operator, Inc. (MISO) regions.[35] In addition, Transource Missouri claims that the project will reduce peak transmission losses on the KCP&L and GMO systems by 8 MW[36] and that it will provide an alternate transmission path during emergencies and greater service reliability for northwest Missouri.[37]

27. According to Transource Missouri, development of the Iatan-Nashua Project is challenging because a portion of the construction will require a costly, dangerous energized construction method, or "hot wire" work.[38] Transource Missouri explains that the project will be located in an SPP region that experiences major, documented constraints, and to avoid exacerbating the congestion, Transource Missouri will install new transmission leads and wire adjacent to a transmission line that will remain energized throughout the construction period. Transource Missouri notes that while hot-wire work will allow SPP to maintain its current level of service during construction, the work is costly and requires highly-specialized equipment and personnel due to its

[34] *Id.* at 14; Exh. No. TMO-200 at 7-15.

[35] Transmittal Letter at 15; Exh. No. TMO-100 at 22-23.

[36] Transmittal Letter at 16; Exh. No. TMO-100 at 23.

[37] Transmittal Letter at 16; Exh. No. TMO-100 at 21-22.

[38] Transmittal Letter at 16.

dangerous nature. Transource Missouri asserts that hot wire work is not the routine construction method in the industry.

28. Transource Missouri contends that the project faces other development challenges as well. For instance, Transource Missouri claims that if any of the necessary federal, state, and local regulatory approvals cannot be obtained, the project could be abandoned or altered.[39] Transource Missouri adds that 12 miles of the middle segment of the proposed route will not use existing rights-of-way, requiring negotiations with every affected landowner with interests along the project's route, which can be costly and time-consuming and result in changes to the route. Transource Missouri asserts that for the portions of the project using existing rights-of-way, further negotiations with affected landowners may be necessary to expand and/or modify the rights-of-way to obtain access for construction and clearance approvals because of the increased voltage and height of the new lines and structures. Transource Missouri contends that landowner resistance to the project may be elevated because (1) it is being developed to provide region-wide benefits, not strictly local needs; (2) Transource Missouri does not have the same familiarity to landowners as KCP&L and GMO; and (3) in the absence of a state siting statute, there is no state regulatory order prescribing the route.[40] Furthermore, Transource Missouri asserts that a portion of the project is currently proposed to lie adjacent to an existing right-of-way of a gas pipeline, which may require added protections to the pipeline infrastructure, including installation of costly cathodic protections on already buried pipelines.[41]

29. Transource Missouri contends that the regional planning processes that previously approved the Iatan-Nashua Project could make subsequent changes based on changing market conditions, regulatory requirements, or planning processes, particularly resulting from Order No. 1000 compliance activities, which could result in delay or abandonment of the project. Transource Missouri notes that the Commission has acknowledged that

[39] Transmittal Letter at 16-17; Exh. No. TMO-100 at 26-28.

[40] Transmittal Letter at 17; Exh. No. TMO-100 at 25-26. Transource Missouri contends that the lack of a state siting law is a factor considered by the Commission in approving incentive rate requests. *See Pioneer Transmission, LLC*, 126 FERC ¶ 61,281, at P 56 (2009) (approving a 150 basis point adder based, in part, on "obtaining rights-of-way through several counties without the benefit of a state siting process").

[41] Transmittal Letter at 17; Exh. No. TMO-100 at 26.

RTO planning processes could result in transmission projects being cancelled and found that an abandoned plant incentive would help ameliorate that risk.[42]

30. Transource Missouri also asserts that construction delays and the availability of construction service companies present an additional challenge, because an unexpected delay in one utility's construction schedule or in the schedule of the supplier may have a domino effect that leads to further delay and increased financing costs. Furthermore, Transource Missouri notes that heavy demand for qualified labor is anticipated over the next decade at the same time that utilities and their suppliers confront an aging workforce.

31. Finally, Transource Missouri contends that as a start-up company with no direct business history, credit rating, or debt repayment history, it faces considerable risks in financing the over $64 million of capital investment required for the Iatan-Nashua Project, and the incentives required for the project will allow Transource Missouri to access capital markets in an efficient manner.[43]

2. Sibley-Nebraska City Project

32. According to Transource Missouri, the Sibley-Nebraska City Project is significant in size and scope with a current estimated cost of approximately $380 million. Transource Missouri notes that the Sibley-Nebraska City Project represents the most costly Priority Project approved by SPP and that its individual line cost exceeds the estimated cost to construct any other individual Priority Project for which incentive rate treatment has been granted.[44]

33. Transource Missouri contends that as a Priority Project, the Sibley-Nebraska City Project is expected to benefit the SPP region by relieving two of the most congested flowgates on the SPP electric transmission system and mitigating congestion at a third flowgate thereby tying the eastern and western sections of the region together.[45] Transource Missouri asserts that the project is also expected to facilitate the addition of

[42] Transmittal Letter at 17, citing *PPL Electric Utilities Corp.*,123 FERC ¶ 61,068 at P 47.

[43] Transmittal Letter at 18; Exh. No. TMO-200 at 4-5.

[44] Transmittal Letter at 19, citing *Oklahoma Gas & Electric, Co.* 133 FERC ¶ 61,274 at P 43.

[45] Transmittal Letter at 18; Exh. No. TMO-100 at 12:22-23, 30:6-32:8.

3,000-5,000 MW of wind energy and the development of SPP energy markets, result in dispatch savings, and improve current and future reliability issues.

34. Transource Missouri contends that the Sibley-Nebraska City Project also faces considerable development challenges. For example, the project is expected to require two crossings of the Missouri River, which will require authorization from the U.S. Army Corps of Engineers. Because the river is a major commercial shipping corridor and has recently experienced historic flooding, Transource Missouri contends that the authorization and construction processes create non-traditional risks and costs.[46]

35. In addition, Transource Missouri states that the final route for the Sibley-Nebraska City Project has not been determined, and that existing rights-of-way are unlikely to be suitable. Transource Missouri asserts that the site study includes hundreds of different private landowners, federal lands, state parks, historic sites, and Missouri state conservation areas.[47] Once the final route is determined, Transource Missouri contends that it must negotiate with every landowner on the route, which can prove costly and time consuming. Transource Missouri contends that, as with the Iatan-Nashua Project, landowner resistance to the project may be elevated because (1) the project is being developed to provide region-wide benefits, not strictly local needs; (2) Transource Missouri does not have the same familiarity to landowners as KCP&L and GMO; and (3) in the absence of a state siting statute, there has been no state regulatory order prescribing the route.[48]

36. Also like the Iatan-Nashua Project, Transource Missouri contends that the regional planning processes that previously approved the Sibley-Nebraska City Project could prescribe subsequent changes in the project based on changing market conditions, regulatory requirements, or planning processes, particularly resulting from Order

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[46] Transmittal Letter at 20, citing *Ameren Services Co.*, 135 FERC ¶ 61,142, at P 39 (2011) ("The multiple river crossings and multi-state jurisdictional nature of each of these projects combine to increase the risk associated with these projects.")

[47] Transmittal Letter at 22; Exh. No. TMO-100 at 33-36.

[48] Transmittal Letter at 22; Exh. No. TMO-100 at 36. Transource Missouri contends that the lack of a state siting law is a factor considered by the Commission in approving incentive rate requests. *See Pioneer Transmission, LLC*, 126 FERC ¶ 61,281 at P 56 (approving a 150 basis point adder based, in part, on "obtaining rights-of-way through several counties without the benefit of a state siting process").

No. 1000[49] compliance activities, which could result in delay or abandonment of the project. Transource Missouri notes that the Commission has acknowledged that RTO planning processes could result in the alteration or cancellation of transmission projects and has found that an abandoned plant incentive could help ameliorate that risk.[50]

37. As with the Iatan-Nashua Project, Transource Missouri asserts that construction delays and availability of construction service companies present an additional challenge, because an unexpected delay in one utility's construction schedule or in the schedule of the supplier may have a domino effect that leads to further delay and increased associated financing costs. Furthermore, Transource Missouri notes that heavy demand for qualified labor is anticipated over the next decade at the same time that utilities and their suppliers confront an aging workforce.

38. Transource Missouri contends that as a start-up company with no direct business history, credit rating, or debt repayment history, it faces considerable risks in financing the over $380 million of capital investment required for the Sibley-Nebraska City Project, and the incentives required for the project will allow Transource Missouri to access capital markets in an efficient manner.[51] Finally, Transource Missouri points out that the Sibley-Nebraska City Project has a long lead time with an expected in-service date of 2017.

39. Transource Missouri asserts that the Commission has previously approved incentive rates for SPP Priority Projects, finding that the projects are not routine, are significant in size and scope, have long lead times, are expected to benefit the SPP region by relieving congestion and tying the eastern and western sections of the region together, and raise potentially significant environmental and siting risks.[52] Transource Missouri argues that the Commission should reach the same conclusion here.

[49] *Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities*, Order No. 1000, 76 Fed. Reg. 49,842 (Aug. 11, 2011), FERC Stats. & Regs. ¶ 31,323 (2011), *order on reh'g*, Order No. 1000-A, 139 FERC ¶ 61,132 (2012), *order on reh'g*, Order No. 1000-B, 141 FERC ¶ 61,044 (2012).

[50] Transmittal Letter at 23, citing *PPL Electric Utilities Corp.*, 123 FERC ¶ 61,068 at P 47.

[51] Transmittal Letter at 23; Exh. No. TMO-200 at 4-5.

[52] Transmittal Letter at 18; citing *Oklahoma Gas & Elec. Co.* 133 FERC ¶ 61,274 at P 43.

3. Commission Determinations

40. We find that Transource Missouri has sufficiently demonstrated a nexus between the considerable risks and challenges it is undertaking to develop and construct the Projects and the incentives it has requested.

41. We find that the Projects are not routine based on each Project's respective scope, effects, and risks and challenges. While the scope of the Iatan-Nashua Project may not be as significant in terms of size or cost relative to the Sibley-Nebraska City Project, the 30-mile 345 kV transmission line nevertheless requires an investment of nearly $65 million. Moreover, the Iatan-Nashua Project is expected to provide substantial economic benefits to the SPP region. In fact, SPP finds that in a ten-year study horizon, the project will result in production cost savings of nearly three times the $64.8 million cost of the project.[53] The significant benefits of the Iatan-Nashua Project will be realized through alleviated congestion at two of the most congested flowgates on the SPP system, which will increase transfer capability between the Kansas-Nebraska interface and between the SPP and MISO regions. We also find that Transource Missouri faces significant risks and challenges in developing the Iatan-Nashua Project. For example, Missouri does not have a state siting statute, and Transource Missouri will have to obtain rights-of-way for a portion of the project by negotiating with individual landowners.

42. In regard to the Sibley-Nebraska City Project, we find that the project's scope is significant; the 170-mile 345 kV transmission line is estimated to cost approximately $380 million. Moreover we find that the project will facilitate the addition of 3,000-5,000 MW of wind energy and increase the ability to transfer power in an eastward direction for two-thirds of the eastward paths by connecting SPP's western and eastern areas.[54] We also find that Transource Missouri faces significant risks and challenges in developing the Sibley-Nebraska City Project. For example, the project involves two developers in two states,[55] as well as two crossings of the Missouri River.[56] In addition,

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[53] SPP Balanced Portfolio Report at 10.

[54] *PacifiCorp*, 125 FERC ¶ 61,076 at P 45 (finding that the "construction or enhancement of transmission facilities designed to provide access to [remote renewable resources on a large-scale] is not routine").

[55] Omaha Public Power District has received a Notification to Construct regarding the small portion of the line located in the State of Nebraska. *Supra*, n.6.

[56] *Allegheny Energy Inc*., 116 FERC ¶ 61,058 at P 64 ("The length, scope, and multi-state nature of the proposed Project will present substantial risks and challenges in siting and obtaining the required permits.") *See also BG&E*, 120 FERC ¶ 61,084 at P 52.

the long lead time for the project and uncertainty surrounding its final route create risks and challenges relevant to the overall nexus analysis.

43. However, we note that the Projects are still in the process of novation to Transource Missouri, and that Transource Missouri will not be able to recover costs through the Tariff until a proper novation process establishes Transource Missouri as the developer and owner of the Projects. Thus, we condition our findings in this order on the successful novation to Transource Missouri and Transource Missouri becoming a transmission-owning member of SPP.

D. Specific Incentives and Total Package of Incentives

44. Transource Missouri requests CWIP recovery, regulatory asset accounting treatment, abandoned plant recovery, a hypothetical capital structure, and authorization to change the base ROE for the Projects. In addition, Transource Missouri requests a 50 basis point adder to its base ROE for RTO participation, as well as a 100 basis point ROE adder for the Sibley-Nebraska City Project. As discussed above, we find that the Projects are eligible for these incentives. As further detailed below, we conditionally grant in part, and reject in part, Transource Missouri's requested incentives.

1. Construction Work in Progress

a. Proposal

45. Transource Missouri requests authorization to include 100 percent CWIP in rate base during the development and construction phase of each Project. According to Transource Missouri, the CWIP incentive will improve cash flow during construction and provide greater regulatory certainty, which will help ensure reasonable financing terms are obtained to finance construction. Transource Missouri asserts that a lower cost of capital will ultimately lower the cost of the Projects for consumers.[57]

46. 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 of CWIP in rate base.[58] To satisfy this requirement, Transource Missouri explains that it has developed procedures to ensure that it does not double recover costs through AFUDC and a return on CWIP in rate base.

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[57] Transmittal Letter at 24; Exh. No. TMO-200 at 11-15.

[58] 18 C.F.R. § 35.25 (2012).

Transource Missouri states that it will not accrue AFUDC in Account No. 107, Construction Work in Progress, for these projects. Transource Missouri continues that it will specifically track the work orders for the Projects in the PowerPlant accounting system and no AFUDC will be calculated on their balances.[59] Transource Missouri further explains that where a utility proposes to recover a current return on CWIP, this cost is recovered in a different period than ordinarily would occur under the Uniform System of Accounts. Transource Missouri requests to use footnote disclosures to show the impact of the incentive similar to the method approved in *Trans-Allegheny Interstate Line Company*.[60]

47. Transource Missouri notes that construction of the Iatan-Nashua Project will begin before the project is novated to Transource Missouri, and thus, GMO and KCP&L will record CWIP in FERC Account No. 107, along with AFUDC at the utilities' respective Commission-approved capital costs, for all capitalized expenditures incurred related to the Iatan-Nashua Project prior to the project's novation to Transource Missouri. Transource Missouri states that if the CWIP incentive is approved, when the project is novated to Transource Missouri, AFUDC will cease to accrue and Transource Missouri will include 100 percent of the transferred Account No. 107 CWIP balances for the Iatan-Nashua Project in Transource Missouri's rate base.[61]

b. <u>Comments</u>

48. According to the Missouri Commission, Transource Missouri indicates that if the CWIP incentive is approved, upon novation, any costs recorded as AFUDC will be transferred to CWIP in Account No. 107 if the CWIP. The Missouri Commission argues that costs incurred prior to novation should not be eligible for any incentives due to the lack of a nexus, because these costs were incurred prior to any approval for incentives.

c. <u>Answer</u>

49. Transource Missouri argues that applicants for pre-commercial cost recovery and regulatory asset incentives under FPA section 219 have typically incurred non-capitalized development costs at the time an application for incentives is filed, and the Commission

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[59] Transmittal Letter Appendix G, Exh. No. TMO-500 at 6.

[60] 119 FERC ¶ 61,219 (2007).

[61] Transmittal Letter at 25; Exhibit No. TMO-500 at 6-11.

has not limited the application of such incentives to costs incurred after Commission approval.[62]

d. Commission Determination

50. We grant Transource Missouri'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.[63] 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.[64]

51. In Order No. 679, the Commission stated that it will consider each proposal on the basis of the particular facts of the case.[65] We find that Transource Missouri has shown a nexus between the proposed CWIP incentive and its investment in each of the two projects. As discussed above, the Iatan-Nashua Project is estimated to cost $64.8 million based on an expected in-service date of 2015. The Sibley-Nebraska City Project is estimated to cost $380 million and the project is expected to go into service around 2017. The cost and timing for completing these projects will put pressure on Transource Missouri's finances. Granting the CWIP incentive will help ease this pressure by providing upfront certainty, improved cash flow, and reduced interest expense as Transource Missouri moves forward with each project.[66]

52. Further, we find that the proposed accounting procedures that Transource Missouri describes in Appendix I 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. Despite the Missouri Commission's argument that costs incurred prior to novation of the Iatan-Nashua Project should not be eligible for any

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[62] Transource Missouri Answer at 9, citing *RITELine Illinois, LLC*, 137 FERC ¶ 61,039, at P 96 (2011); *Green Power Express LP*, 127 FERC ¶ 61,031, at P 60 (2009); *Pioneer Transmission, LLC*, 126 FERC ¶ 61,281 at P 84.

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

[64] *Id.* P 115.

[65] *Id.* P 117.

[66] *See, e.g., DATC Midwest Holdings, LLC*, 139 FERC ¶ 61,224, at P 56 (2012); *MidAmerican Energy Company*, 137 FERC ¶ 61,250, at P 53 (2011).

incentives, we find Transource Missouri's proposal to be consistent with Commission precedent.[67] Finally, we approve Transource Missouri's proposed accounting procedures and use of footnote disclosures to provide comparability of financial information. However, as a result of the Commission approving rate incentives, Transource Missouri must submit FERC-730 reports annually.[68]

2. Regulatory Asset Accounting Treatment

a. Proposal

53. Transource Missouri seeks authority to establish a regulatory asset in Account No. 182.3, Other Regulatory Assets, to include pre-certification and pre-commercial expenses related to the Projects that are not capitalized and not included in CWIP, and that have been incurred to date up to the date charges are assessed to SPP customers under the formula rate for each of the Projects. Transource Missouri asserts that this incentive is needed so it can record and recover necessary startup and development costs that were not capitalized or included in CWIP.

54. Transource Missouri states that the regulatory asset will include attorney and consultant fees, administrative expenses, travel expenses, costs of development surveys, and costs to support planning activities that are or have been incurred by Transource Missouri related to each of the Projects. Transource Missouri notes that these costs may be incurred initially by KCP&L and GMO and billed to Transource Missouri for inclusion in its regulatory asset account upon approval by the Commission.

55. Transource Missouri also requests permission to accrue monthly carrying charges on the regulatory asset balance, including the balance of deferred carrying costs, at its weighted average cost of capital.[69] Transource Missouri proposes to record carrying charges by debiting Account No. 182.3 and crediting Account No. 421, Miscellaneous Nonoperating Income, beginning on the effective date of the Commission's approval of this incentive until the regulatory asset is included in rate base. Finally, Transource

[67] *RITELine Illinois, LLC*, 137 FERC ¶ 61,039 at P 96; *Green Power Express LP*, 127 FERC ¶ 61,031 at P 60; *Pioneer Transmission, LLC*, 126 FERC ¶ 61,281 at P 84.

[68] FERC-730 annual reports must be filed by public utilities that have been granted incentive rate treatment for specific transmission projects. 18 C.F.R. §35.35(h). These reports contain actual, projected and incremental transmission investment information. Order No. 679, FERC Stats. & Regs. ¶ 31,222 at PP 358, 367.

[69] Transmittal Letter at 43; Exh. No. TMO-500 at 9.

Missouri requests authorization to amortize the regulatory asset for each of the Projects over five years, beginning in the first year that costs are assessed to customers under the formula rate. Transource Missouri states that the regulatory asset will be amortized to Account No. 566, Miscellaneous Transmission Expenses, consistent with Commission precedent.

b. <u>Commission Determination</u>

56. Transource Missouri proposes to record pre-construction costs not included in CWIP that are incurred prior to the transfer of the Projects to Transource Missouri. We find that this incentive is tailored to Transource Missouri's risks and challenges because this incentive will provide Transource Missouri with added up-front regulatory certainty and can reduce interest expenses, improve coverage ratios, and assist in the construction of the Projects. Therefore, we find Transource Missouri's recovery of such costs incurred before the date charges are assessed to SPP customers under the formula rate for the Projects to be appropriate, and we grant Transource Missouri's request to establish a regulatory asset for each project.

57. We also approve Transource Missouri's request to accrue a carrying charge from the effective date of the regulatory assets until the regulatory assets are included in rate base.[70] We also authorize Transource Missouri to amortize each regulatory asset over five years, consistent with rate recovery.[71] Once Transource Missouri begins to include the regulatory asset in rate base as part of its revenue requirement, it will earn a return on the unamortized balance of the regulatory asset and must stop accruing carrying charges on such regulatory asset.[72] We also authorize Transource Missouri's request to accrue monthly carrying charges on the regulatory asset balance at its weighted average cost of capital, consistent with Commission precedent.[73]

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[70] *See, e.g.*, *Green Power Express LP*, 127 FERC ¶ 61,031 at P 60; *Pioneer Transmission, LLC*, 126 FERC ¶ 61,281 at P 84.

[71] *See, e.g.*, *Green Power Express LP*, 127 FERC ¶ 61,031 at P 59; *Primary Power*, 131 FERC ¶ 61,015, at P 117 (2010).

[72] *See, e.g.*, *Green Power Express LP*, 127 FERC ¶ 61,031 at P 60; *Pioneer Transmission, LLC*, 126 FERC ¶ 61,281 at P 84.

[73] *See, e.g.*, *Green Power Express LP*, 127 FERC ¶ 61,031 at P 59; *Primary Power*, 131 FERC ¶ 61,015 at P 117.

58. Further, we approve Transource Missouri's proposal to record all associated carrying charges by debiting Account No. 182.3 and crediting Account No. 421.[74] We also authorize Transource Missouri to amortize the regulatory asset and related carrying charges associated with the Projects by debiting Account No. 566 and crediting Account No. 182.3, consistent with Commission precedent.[75] However, Transource Missouri proposes to accrue monthly carrying charges on the regulatory asset balance, including the balance of deferred carrying costs. This has the effect of monthly compounding interest, which is inconsistent with Commission precedent.[76] Therefore, we direct Transource Missouri to restrict the compounding of carrying charges to no more frequently than semi-annually.

59. Finally, while this order provides Transource Missouri with the ability to record pre-construction costs as a regulatory asset, Transource Missouri must make a section 205 filing to demonstrate that the pre-construction costs are just and reasonable. Transource Missouri will have to establish that the costs included in the regulatory asset are costs that would otherwise have been chargeable to expense in the period incurred. These costs will be subject to challenge at that time.

3. <u>Abandoned Plant Recovery</u>

a. <u>Proposal</u>

60. Transource Missouri seeks the ability to recover 100 percent of prudently incurred costs in the event one or both of the Projects must be abandoned for reasons outside its reasonable control. As discussed above, Transource Missouri claims that the Projects face a number of risks that could lead to eventual abandonment. In support, Transource Missouri cites Order No. 679, in which the Commission held that recovery of abandoned

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

[75] *See Potomac-Appalachian Transmission Highline, L.L.C.*, 122 FERC ¶ 61,188 at P 154 (2008) (*PATH*).

[76] *See Midwest Indep. Transmission Sys. Operator, Inc.*, 138 FERC ¶ 61,021, at P 23 (2012).

plant costs is an "effective means to encourage transmission development by reducing the risks of non-recovery of costs."[77]

b. Commission Determination

61. We grant Transource Missouri's request for recovery of 100 percent of prudently incurred costs associated with abandonment of one or both of the Projects, provided that the abandonment is a result of factors beyond the control of Transource Missouri, which must be demonstrated in a subsequent FPA section 205 filing for recovery of abandoned transmission facilities costs.[78] As we have emphasized in other proceedings, the recovery of abandonment costs is an effective means to encourage transmission development by reducing the risk of non-recovery of costs.[79]

62. We find that Transource Missouri has demonstrated a nexus between the recovery of prudently incurred costs associated with abandoned transmission projects and its planned investment. We agree with Transource Missouri that the Projects face substantial risks outside of its control. Approval of the abandonment incentive will both attract financing for the Projects, and protect Transource Missouri from further losses if the Project are cancelled for reasons outside its control.

63. We will not determine the justness and reasonableness of Transource Missouri's recovery of costs for abandoned electric transmission facilities, if any, until Transource Missouri seeks such recovery in a future FPA section 205 filing.[80] Order No. 679 specifically reserves the prudence determination for the later FPA section 205 filing that every utility is required to make if it seeks abandoned plant recovery.[81]

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[77] Transmittal Letter at 28 (citing Order No. 679, FERC Stats. & Regs. ¶ 31,222 at P 163).

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

[79] *Id*. P 163.

[80] *Primary Power*, 131 FERC ¶ 61,015 at P 124.

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

4. Hypothetical Capital Structure

a. Proposal

64. Transource Missouri proposes to use a hypothetical capital structure of 40 percent debt and 60 percent equity until such a time as it obtains permanent financing for the Projects. Transource Missouri states that once permanent financing has been obtained, it will use its actual capital structure in the formula rate. Transource Missouri asserts that the requested hypothetical capital structure is necessary to offset the risks of the Projects and will allow it to achieve reasonable costs of capital, which will benefit the SPP customers who pay for the cost of service in their utility rates.[82]

b. Comments

65. The Missouri Commission is concerned that the "capital infusions" from the "partners" may be KCP&L, GMO, or AEP company debt that may be transformed into Transource Missouri equity for purposes of rate recovery.[83] According to the Missouri Commission, this could allow the partners – KCP&L, GMO, and AEP – to earn an equity level rate of return on their debt, which may be unreasonable. Accordingly, the Missouri Commission suggests that if a hypothetical capital structure is allowed, the Commission should consider implementing a mechanism to track how much partner company debt is treated as Transource Missouri equity. The Missouri Commission contends that such a mechanism could be useful in a future true-up of Transource Missouri's hypothetical capital structure, so parties would know what amount of actual debt is at the holding company level.

c. Commission Determination

66. We grant Transource Missouri's request to use a hypothetical capital structure consisting of 40 percent debt and 60 percent equity for the Projects. However, we will only allow Transource Missouri to use this structure for the Projects until each project achieves commercial operation rather than until such a time it obtains permanent financing for the Projects, as requested. We find that the use of a hypothetical capital structure until each project achieves commercial operation more appropriately addresses Transource Missouri's business risk and is sufficient to permit incremental financing. Once each Project achieves commercial operation, Transource Missouri will use its actual

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[82] Transmittal Letter at 27; Exh. No. TMO-200 at 17-19; Exh. No. TMO-300 at 94-95.

[83] Missouri Commission Comments at 6.

capital structure for that project. Transource Missouri has demonstrated a nexus between the requested incentive and the risks and challenges faced by the Projects. Specifically, Transource Missouri must raise significant levels of debt and equity capital to develop and construct the Projects. Approval of the hypothetical capital structure will: (1) reduce the effects on rates resulting from swings in the actual capital structure due to varying cash demands during the construction phase; (2) provide a more consistent cash flow during the construction phase; and (3) contribute to receiving and maintaining an investment grade credit rating profile during the financing phase of the project, thus lowering the overall cost of capital.[84]

67. We will not require Transource Missouri to implement a mechanism to track how much, if any, partner company debt is treated as Transource Missouri equity and to subsequently "true up" Transource Missouri's hypothetical capital structure. The Missouri Commission essentially requests that Transource Missouri's hypothetical capital structure be based on the capital structure of Transource Missouri's corporate parents. However, we have previously found that requiring an applicant to adopt its corporate parent's capital structure until such a time that it has its own capital structure would be inappropriate and would be inconsistent with the intent of the hypothetical capital structure incentive discussed in Order No. 679.[85]

5. Single-Issue Filing Incentive

a. Proposal

68. Transource Missouri requests, as a rate incentive, the ability to make future single-issue FPA section 205 filings to adjust the base ROE in Transource Missouri's formula rate. Transource Missouri acknowledges that this is not a standard incentive request, but it states that section 35.35(d)(1)(viii) of the Commission's regulations authorize "[a]ny other incentives approved by the Commission . . . that are determined to be just and reasonable and not unduly discriminatory or preferential."[86]

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[84] *See, e.g.*, *PATH*, 122 FERC ¶ 61,188 at P 55; *see also* Order No. 679-A, FERC Stats. & Regs. ¶ 31,236 at P 93 (finding that hypothetical capital structures "can be an appropriate ratemaking tool for fostering new transmission in certain relatively narrow circumstances").

[85] *See, e.g.*, *Ameren Services Co.*, 135 FERC ¶ 61,142 at P 71; *Green Power Express LP*, 127 FERC ¶ 61,031 at P 76.

[86] Transmittal Letter at 30, citing 18 C.F.R. § 35.35(d)(1)(viii).

69. According to Transource Missouri, the timing of the instant filing happens to coincide with historically low interest rates, and as a consequence, it may have a base ROE that is lower than most other transmission owners with formula rates on file as part of the SPP Tariff. Transource Missouri contends that permitting it to make a limited FPA section 205 filing to revise its base ROE when economic conditions eventually improve, without opening up the formula rate to a full-blown rate case, will help alleviate the competitive imbalance between Transource Missouri and other SPP transmission owners with formula rates.

70. Transource Missouri asserts that the Commission recognized the value of single-issue filings in Order No. 679, when it stated that such filings:

> can support new investment by allowing applicants to compare the returns of such investments with the risks of the project itself, as opposed to having to compare those returns to both the risks of the project being pursued *and* the risks associated with re-opening all their rates, which is ordinarily a time-consuming, expensive, litigious and uncertain process.[87]

b. <u>Commission Determination</u>

71. We reject Transource Missouri's request for the single-issue filing incentive. In Order No. 679, the Commission stated that single-issue ratemaking "can provide a significant incentive for achieving the infrastructure investment goals of section 219 because it can provide assurance that the decision to construct new infrastructure is evaluated on the basis of the risks and returns of that decision, rather than the additional uncertainty associated with re-opening the applicant's entire base rates to review and litigation."[88] The Commission's consideration of single-issue ratemaking in Order No. 679 was focused on circumstances where a transmission utility receives cost recovery through existing rates and was proposing single-issue ratemaking, not to address a specific rate component like the ROE, but instead to address all rate issues for a specific project without opening existing rates.[89] Here, Transource Missouri has no existing

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[87] *Id*. at 31, citing Order No. 679, FERC Stats. & Regs. ¶ 31,222 at P 79.

[88] Order No. 679, FERC Stats. & Regs. ¶ 31,222 at P 191.

[89] *See, e.g.*, Order No. 679, FERC Stats. & Regs. ¶ 31,222 at P 192 (declining to require harmonization with existing rates and general rate case applications in the future, which are issues more applicable to addressing single-issue ratemaking in the context of stated rates).

assets or rates, and therefore, the single-issue ratemaking contemplated by Order No. 679 does not apply.

72. We note that rejecting this incentive does not preclude Transource Missouri from submitting an FPA section 205 filing to change its formula rate inputs, including the base ROE, when Transource Missouri determines that circumstances warrant such a filing.

6. Return on Equity Adders

a. Proposal

73. Transource Missouri requests two ROE adders. First, Transource Missouri requests the 50 point RTO adder, because it anticipates becoming a transmission-owning member of SPP and will transfer functional control of the Projects to SPP after they are placed in service.[90]

74. For the Sibley-Nebraska City Project, Transource Missouri requests a 100 basis point adder based on the risks and challenges associated with investing in the Project. According to Transource Missouri, the Commission has explained that the primary purpose of an incentive ROE is to help attract capital investment to a transmission investment that can offset the risks and challenges faced by a project.[91] As described above, Transource Missouri contends that the Sibley-Nebraska Project represents a significant undertaking, particularly as a new, stand-alone entity entering the commercial debt market to obtain construction and permanent financing for both of the Projects. Transource Missouri notes that while the types of risks associated with the development of the Iatan-Nashua Project are similar in nature to the risks associated with the development of the Sibley-Nebraska Project, the scale of the latter project is substantially larger. Therefore, Transource Missouri asserts that it has narrowly tailored its request for the ROE adder to reflect the scale of the Sibley-Nebraska Project and the variety of risks associated with its development. Transource Missouri points out that the Commission

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[90] Transmittal Letter at 7.

[91] *Id.* at 28, citing Order No. 679, FERC Stats. & Regs. ¶ 31,222 at P 165; *Southern California Edison Co*., 129 FERC ¶ 61,246, at P 68 (2009); *Pioneer Transmission LLC,* 126 FERC ¶ 61,281 at P 56.

has approved requests for incentive ROE adders in similar instances in which the size of the investment is more than the current transmission plant in service.[92]

b. Commission Determination

75. We will grant the requested 50 basis point RTO adder, provided that: (1) Transource Missouri takes all the necessary steps to turn over operational control of the Projects to SPP, and (2) Transource Missouri becomes a transmission-owning member of SPP. In Order No. 679-A, the Commission stated that it would authorize incentive-based rate treatment for public utilities that are or will continue to be members of regional transmission organizations.[93]

76. We will grant a 100 basis point adder for the risks and challenges of the Sibley-Nebraska Project. The Sibley-Nebraska City Project faces numerous risks and challenges, including the construction challenges associated with two crossings of the Missouri River and obtaining rights-of-way in two states without the benefits of state siting processes. In addition, the project is planned to extend 170 miles, cost $380 million, facilitate the integration of approximately 3,000-5,000 MW of wind energy and non-renewable generation, alleviate congestion at two of the most congested flowgates on the SPP system, and increase power transfer capability between Kansas and Nebraska, as well as between the SPP and MISO regions. Moreover, as noted above the project has a long lead time and its final route is still uncertain, which increases the associated risks. We find that Transource Missouri has shown a nexus between a 100 basis point adder and the size, scope, benefits, and risks and challenges of the Project. In light of the specific risk and challenges associated with this project, we find that the requested ROE adder is just and reasonable.

7. Total Package of Incentives

a. Proposal

77. Transource Missouri asserts that it has narrowly tailored the requested incentives to the large investment and the special risks and challenges associated with the Projects.

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[92] *Id.* at 29, citing *Public Service Electric & Gas Co.*, 129 FERC ¶ 61,300, at P 32 (2009) (approving an ROE adder where the proposed investment is more than double the transmission plant in service); *Pioneer Transmission, LLC*, 126 FERC ¶ 61,281 at P 56.

[93] Order No. 679-A, FERC Stats. & Regs. ¶ 31,236 at P 86; *see also Green Power Express LP*, 127 FERC ¶ 61,031 at P 85; *Tallgrass Transmission, LLC*, 125 FERC ¶ 61,248, at P 58 (2008).

Transource Missouri notes that although each requested incentive is designed to alleviate a different risk, each incentive was selected as a package to work together in order to ensure that the Projects are completed in a timely manner. In addition, Transource Missouri states that the package of incentives will improve the likelihood that Transource Missouri will be able to attract capital to participate in the Projects on terms beneficial to customers who ultimately will bear cost responsibility for the Projects.[94]

b. Commission Determination

78. As noted above, in Order No. 679-A, the Commission clarified that its nexus test is met when an applicant demonstrates that the total package of incentives requested is tailored to address the demonstrable risks or challenges faced by the applicant. The Commission noted that this nexus test is fact-specific and requires the Commission to review each application on a case-by-case basis. Consistent with Order No. 679,[95] the Commission has, in prior cases, approved multiple rate incentives for particular projects.[96] This is consistent with our interpretation of section 219, which authorizes 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 for Transource Missouri is tailored to address the risks or challenges faced by Transource Missouri.

E. Formula Rate

1. Proposal

79. Transource Missouri proposes to implement a formula rate and protocols that it states are similar to formula rates that the Commission approved for Tallgrass

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[94] Transmittal Letter at 32-33.

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

[96] *Atlantic Grid Operations A LLC*, 135 FERC ¶ 61,144 at P 127 (2011) (internal citations omitted) (approving ROE at the upper end of the zone of reasonableness and 100 percent abandoned plant recovery); *Duquesne Light Co.*, 118 FERC ¶ 61,087 at PP 55, 59, 61 (2007) (granting an enhanced ROE, 100 percent CWIP, and 100 percent abandoned plant recovery); *see also Cent. Me. Power Co.*, 125 FERC ¶ 61,182 at P 100 (granting both abandonment and ROE incentives).

Transmission, LLC and Prairie Wind Transmission, LLC.[97] In addition, Transource Missouri states that the formula rate employs Commission-approved ratemaking methodologies and contains sufficient specificity to operate without discretion in its implementation. Therefore, Transource Missouri states that the formula rate and protocols are just and reasonable and should be accepted for filing.

80. Transource Missouri explains that to calculate the annual transmission revenue requirement (ATRR), its proposed formula rate will forecast the values that will populate the formula rate template for the rate period and calculate a true-up of the forecasted values after the actual data becomes available. Any difference between the forecasted ATRR and the actual ATRR for the previous rate period will be reflected in an appropriate adjustment (with interest) to the following year's ATRR. Transource Missouri explains that the true-up mechanism will ensure that neither the customers nor the transmission owners are harmed if the forecasted ATRR differs from the actual ATRR.[98]

81. Transource Missouri states that the formula rate provides for the recovery of a return on rate base (and associated taxes), taxes other than income taxes, depreciation expenses, and other operation and maintenance expenses, less revenue credits. Transource Missouri adds that for transmission and general plant balances, it uses the average of 13-month balances, whereas for accumulated deferred income taxes, land held for future use, materials and supplies and prepayments, it uses the average of the beginning and end-of-year balances. Transource Missouri further states that any tax obligations incurred through its operations will be passed through to and reported on the tax returns of its corporate parents. However, for ratemaking purposes, Transource Missouri explains that it is treated as a corporation and receives an income tax allowance. Transource Missouri asserts that the proposed treatment of taxes is consistent with Commission practice.[99]

82. Transource Missouri states that the formula rate includes a stated rate for post-employment benefits other than pensions, depreciation, ROE, and capital structure during

[97] Transmittal Letter at 35; Exh. No. TMO-400 at 7, noting that the Tallgrass Transmission, LLC and Prairie Wind Transmission, LLC formula rates were agreed to as part of a settlement which was accepted by the Commission by Letter Order on August 9, 2010. *Tallgrass Transmission, LLC*, 132 FERC ¶ 61,114 (2010).

[98] Transmittal Letter at 35; Exh. No. TMO-400 at 4, 7.

[99] Transmittal Letter at 36, citing *Green Power Express LP*, 127 FERC ¶ 61,031 at P 110.

the construction phase of the Projects. Transource Missouri notes that these values only may be changed pursuant to an FPA section 205 or 206 filing. Transource Missouri states that once it obtains permanent financing for the Projects, the capital structure will be based on actual values.[100]

83. Transource Missouri notes that the depreciation rates used in the formula rate template are based on the rates approved for use by Public Service Company of Oklahoma (PSO),[101] which were calculated using a 2008 depreciation study and includes the transmission plant and general plant services lives and net salvage estimates. Transource Missouri asserts that because the Projects' facilities have not yet been constructed, it is appropriate to use these depreciation rates because: (1) Transource Missouri has no historical data to support an analysis of its assets on which to base the initial service life and net salvage estimates; (2) PSO's existing 345 kV transmission projects are similar to the Projects; (3) the Projects and any other future assets will be operated similarly to the operation of PSO's facilities; and (4) the Projects are located in a geographically similar area.[102]

84. Transource Missouri proposes to include a base ROE of 10.6 percent, which falls between the median (9.0 percent) and the midpoint (10.7 percent) of the proxy group used by Transource Missouri's witness in conducting the ROE analysis based on a discounted cash flow (DCF) methodology. Thus, Transource Missouri requests an overall base ROE plus RTO adder of 11.1 percent for the Iatan-Nashua Project, and for the Sibley-Nebraska City Project, Transource Missouri requests an overall ROE of 12.1 percent. Transource Missouri contends that the requested ROEs are well within the zone of reasonableness of 7.2 percent to 14.3 percent.[103]

85. Transource Missouri asserts that it does not argue that the Commission should abandon the median as a key benchmark in all cases to set an ROE for an individual utility; rather, it urges the Commission to consider whether its practice of simple reliance on the median to set an ROE for an individual utility is appropriate in Transource Missouri's case, where (1) Transource Missouri is a new entrant into the electric transmission development market, with no existing assets or rate; (2) the proposed

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[100] Transmittal Letter at 26.

[101] Transmittal Letter at 37, citing *Public Service Company of Oklahoma*, Letter Order, Docket No. ER10-1179-000 (Jun. 24, 2010).

[102] Transmittal Letter at 36-37; Exh. No. TMO-600 at 7.

[103] Transmittal Letter at 37; Exh. No. TMO-300 at 6:3-8:6.

formula rate will be applied exclusively to investments in new transmission infrastructure projects; (3) the Projects have been considered and approved in the regional planning process for region-wide allocation, and any additional projects Transource Missouri may undertake in the future will similarly be regional projects; and (4) the Commission-approved ROEs for all other public utility electric transmission owners and developers in the SPP market are at or above the ROE that Transource Missouri requests and approximately 150 basis points above the median in Transource Missouri's witness's analysis.[104]

86. In regard to the protocols, Transource Missouri explains that the specific procedures for notice, requests for information, review and challenges to the annual update allow interested parties 150 days to review and to submit preliminary written challenges to specific items in the formula rate. In addition, interested parties will have 120 days to serve reasonable information requests on Transource Missouri, and Transource Missouri will make reasonable efforts to respond to such requests within 15 business days. If the interested parties are unable to resolve disputes within 60 days after the end of the review period, any interested party has an additional 30 days to file a complaint with the Commission. Transource Missouri notes that parties retain their rights under sections 205 and 206 of the FPA, without regard to the formal review process.

2. <u>Comments</u>

87. The Missouri Commission suggests that Transource Missouri's filing may be premature given parallel proceedings[105] before the Missouri Commission that may affect certain formula rate components. The Missouri Commission also argues that it would be inappropriate to depart from the Commission's established practice of using the median ROE value derived from the DCF analysis of a proxy group of comparable risk companies. The Missouri Commission contends that Transource Missouri does not specifically identify how its risk profile is different enough from the proxy companies to warrant precedent-breaking ROE treatment.

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[104] Transmittal Letter at 39; Exh. No. TMO-300 at 52-56.

[105] On August 31, 2012 KCP&L, GMO, and Transource Missouri made two filings with the Missouri Commission: (1) Case No. EO-2012-0367, *Application of Kansas City Power & Light Company and KCP&L Greater Missouri Operations Company Regarding Arrangements for the Construction of Certain Transmission Projects*; and (2) Case No. EA-2013-0098, *Application of Transource Missouri, LLC for a Certificate of Convenience and Necessity and Request for Waiver.*

88. The Missouri Commission states that much of the basis for Transource Missouri's non-routine arguments stems from the decision of KCP&L and GMO to create a transmission-focused start-up rather than to fund these projects themselves. The Missouri Commission contends that while it supports KCP&L and GMO pursuing projects that are in their best interests, the Missouri Commission by statute must ensure that Missouri rate-payers pay just and reasonable rates. According to the Missouri Commission, it cannot see how any rates charged by Transource Missouri can be just and reasonable in an environment where risk is increased, as admitted by Transource Missouri.[106]

89. The Missouri Commission insists that Transource Missouri provide proof that any costs already being recovered from Missouri retail ratepayers do not also pass through Transource's Missouri's formula rate. In the same vein, the Missouri Commission calls for new provisions in the formula rate implementation protocols that prevent against a mere transfer to Transource Missouri, which could convert a project from routine to non-routine because of Transource Missouri's lack of transmission assets. On the contrary, the Missouri Commission contends that only new facilities approved for construction by SPP should be eligible to be passed through the formula. Further, the Missouri Commission asserts that the footnote disclosures of CWIP costs, if approved, should be completely transparent and clearly differentiate costs prior to novation from those afterwards.

90. The Missouri Commission also requests various modifications to the formula rate implementation protocols. It proposes revising the informal discovery process to explicitly include documents from any member of the Transource Missouri corporate family. In reference to section 3.d., the Missouri Commission asks that Transource Missouri provide on the date of annual updates a fully functioning Excel file to all interested parties without the need for a formal written request.[107] In reference to section 4.b., the Missouri Commission criticizes the lack of detail surrounding Transource Missouri's accounting policies and procedures, and requests that Transource Missouri demonstrate consistency with Commission precedent and justify any differences. The Missouri Commission also expresses concerns over the fairness of Transource Missouri's stance that it be shielded from information requests pertaining to costs and allocations previously approved by the Commission unless there is a change of circumstances or a correction to the annual update. The Missouri Commission expresses concern that Transource Missouri could obstruct reasonable inquiries since the evaluation of what constitutes a change in circumstances is subjective.

[106] Missouri Commission Comments at 5, citing Transmittal Letter at 14.

[107] Section 1.a. of the proposed protocols states that Transource will post the Excel file on SPP's webpage.

91. In reference to section 4.e., the Missouri Commission states that any Commission-prescribed remedy to the formula rate design or to Transource Missouri's accounting practices be applied immediately, as opposed to on a going forward basis. Additionally, Transource Missouri should document how any revisions to the Commission's Uniform System of Accounts or FERC Form No. 1 reporting requirements could affect the formula rate over the next three years. Regarding section 6.a., Transource Missouri submits that interested parties be allowed to review corrections at the time they are made, and offers new language reflecting this perspective. Last, the Missouri Commission requests that Transource Missouri add language to the protocols providing (1) a more complete description of how allocated costs from affiliated entities will be encoded to funding project numbers in section 7.a. and (2) a percentage of completion of each project to section 7.b. (iv).

3. Answer

92. Transource Missouri contends that the Commission should act on its formula rate and incentive rate requests without the delay of a hearing. Transource Missouri points out that the Missouri Commission submitted comments, but did not seek party status by filing a notice of intervention pursuant to Rule 214(a)(2) or otherwise.[108] Therefore, Transource Missouri claims that the Missouri Commission is not a party to this proceeding, and thus, would not participate in a hearing or settlement. Moreover, Transource Missouri asserts that none of the intervenors, including the Missouri Commission, suggested the need for a hearing or raised disputes concerning Transource Missouri's analysis or other material facts and that the issues in this proceeding are ripe for Commission action based on the merits of the current record.

93. Transource Missouri objects to the Missouri Commission's argument that the filing may be premature because it presupposes the transfer of the Projects to Transource Missouri and that the Missouri Commission will grant a certificate of convenience and necessity to construct the Projects. Transource Missouri states that the proposed formula rate is generally applicable to all future Transource Missouri projects and should not sensibly be delayed pending resolution of the project-specific proceedings before the Missouri Commission.[109] In addition, Transource Missouri asserts that transmission

[108] Transource Missouri Answer at 2, citing *State of Mo. ex rel. MoGas Pipeline, LLC v. Mo. Pub. Serv. Commission*, 366 S.W.3d 493 (Mo. 2012) (holding that the Missouri Commission does not have authority under state law to intervene in matters pending before the Commission).

[109] *Id.* at 4, citing *Midwest Indep. Transmission Sys. Operator, Inc.*, 108 FERC ¶ 61,203, at P 23 (2004) (citing *Midwest Indep. Transmission Sys. Operator, Inc.*, 108 FERC ¶ 61,163, at P 591 (2004); *New PJM Companies*, 108 FERC ¶ 61,140, at P 26

(continued…)

developers routinely seek incentive rate treatments before owning any physical transmission assets or even before inclusion of a project in a relevant transmission expansion plan.[110]

94. Furthermore, Transource Missouri notes that the Missouri Commission expresses concern about the requested ROE, but emphasizes that there is no ROE-related factual dispute requiring a hearing, the requested ROE plus the RTO adder is the same ROE currently on file for KCP&L and GMO, and that it is critically important that Transource Missouri, as a new entrant, has an ROE commensurate with that of other SPP transmission owners in order to compete for and develop SPP transmission projects.

95. In response to the Missouri Commission's additional comments regarding the proposed formula rate, Transource Missouri provides that the formula rate will be used to recover Transource Missouri's costs and it will correct the label on the formula rate to read "Transource Missouri, LLC" in a compliance filing. In addition, Transource Missouri states that the costs incurred to date related to permitting and development of the Projects have not been charged to Missouri retail ratepayers by KCP&L and GMO and will solely be recovered by Transource Missouri through the formula rate once the projects are novated.

96. In regard to the Missouri Commission's additional comments on the formula rate protocols, Transource Missouri clarifies that: (1) it will provide sufficient detail in its FERC Form No. 1 submissions that track pre- and post-novation costs of KCP&L and GMO related to the Projects, which may be reviewed during the process articulated in the protocols; (2) it will revise the language of section 3.d to provide that an Excel file will be made available on the publication date, rather than on written request; (3) it will follow the Commission's Uniform System of Accounts 18 C.F.R. Part 101, and reflect such account balances in its annual FERC Form No. 1 filing consistent with that form's instructions; and (4) it will insert language in section 6.a in a compliance filing to allow review of correction to the annual updates at the time they are made rather than reflecting the corrections in the next annual update.

97. Finally, contrary to the Missouri Commission's assertions, Transource Missouri contends that no changes are warranted to sections 4.b, 4.e, 7.a, and 7.b of the protocols. Transource Missouri claims that section 4.b adequately addresses the Missouri

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& n.27 (2004)) (recognizing that "the formula itself, as opposed to the inputs, is the filed rate").

[110] *Id.* at 5, citing *DATC Midwest Holdings, LLC,* 139 FERC ¶ 61,224; *RITELine Illinois, LLC,* 137 FERC ¶ 61,039; *Green Power Express LP,* 127 FERC ¶ 61,031.

Commission's concerns regarding access to Transource Missouri's corporate family members' documents and it asserts that the section is not intended to preclude discovery with respect to costs or allocations that have not previously been challenged and adjudicated by the Commission through the formal challenge process. According to Transource Missouri, the annual process in section 4.e is designed to capture and reverse any accounting changes implemented during a rate year that are subsequently found by the Commission to be unjust, unreasonable, and/or unduly discriminatory or preferential. In regard to section 7.a, Transource Missouri states that because the protocols apply to the development of rates on a year-to-year basis, it is premature to specify cost assignment for particular projects. Transource Missouri contends that the information the Missouri Commission requests to be included in section 7.b is available to the public on the SPP website.

4. Commission Determination

98. Transource Missouri's formula rate and formula rate implementation protocols raise issues of material fact that cannot be resolved based on the record before us, and are more appropriately addressed in the hearing procedures ordered below.

99. Our preliminary analysis indicates that Transource Missouri's formula rate and rate protocols have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we will accept them for filing, suspend them for a nominal period, effective October 30, 2012, subject to refund, and set them for hearing procedures.

The Commission orders:

(A) Transource Missouri's requests for CWIP, abandonment, and regulatory asset incentives, a hypothetical capital structure, and a 50 basis point ROE adder for membership in an RTO for the Projects are hereby conditionally granted, as discussed in the body of this order.

(B) Transource Missouri's request for the 100 basis point ROE adder for the risks and challenges of the Sibley-Nebraska City Project is hereby conditionally granted, as discussed in the body of this order.

(C) Transource Missouri's request for a single-issue filing incentive is hereby denied, as discussed in the body of this order.

(D) Transource Missouri's proposed formula rate and formula rate implementation protocols are hereby accepted for filing and suspended for a nominal period, to become effective October 30, 2012, subject to refund, as discussed in the body of this order.

(E) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Commission by section 402(a) of the Department of Energy Organization Act and by the FPA, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the FPA (18 C.F.R. Chapter I), a public hearing shall be held concerning the justness and reasonableness of Transource Missouri's formula rates and formula rate implementation protocols.

(F) A presiding judge, to be designated by the Chief Judge, shall, within fifteen (15) days of the date of the presiding judge's designation, convene a prehearing conference in this proceeding in a hearing room of the Commission, 888 First Street, NE, Washington, DC 20426. Such a conference shall be held for the purpose of establishing a procedural schedule. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

By the Commission. Commissioner Clark is concurring in part with a separate statement to be issued at a later date.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary