148 FERC ¶ 61,195
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Cheryl A. LaFleur, Chairman;
Philip D. Moeller, Tony Clark,
and Norman C. Bay.

Pacific Gas and Electric Company Docket No. EL14-51-000

ORDER GRANTING PETITION FOR DECLARATORY ORDER

(Issued September 18, 2014)

1. On May 12, 2014, Pacific Gas and Electric Company (PG&E) filed a Petition for Declaratory Order (Petition) seeking certain transmission rate incentives, pursuant to section 219 of the Federal Power Act[1] (FPA), Order No. 679,[2] and the Commission's November 15, 2012 policy statement on transmission incentives.[3] PG&E's Petition seeks transmission rate incentives for its investment in the 230 kV Central Valley Transmission Upgrade Project in Central California (Project). As discussed below, this order grants PG&E's request for certain rate incentives.

I. **Background**

2. The Project consists of an overhead 68-mile, 230 kV double circuit transmission line connecting PG&E's Gates Substation and Gregg Substation. PG&E explains that the Project was identified in the California Independent System Operator Corporation's (CAISO) 2012-2013 Transmission Plan as a reliability project.[4] In addition, PG&E states

---

[1] 16 U.S.C. § 824s (2012).

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

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

[4] *See* CAISO 2012-2013 Transmission Plan, PG&E Filing, Exhibit No. PGE-2 at 8.

that CAISO determined that the Project would generate policy and economic benefits and would, therefore, be eligible for competitive solicitation.

3. PG&E states that it partnered with MidAmerican Central California Transco, LLC (MidAmerican Transco)[5] to submit a competitive bid to construct, own, and operate the Project under CAISO's transmission planning process. PG&E states that their bid was subsequently selected by CAISO. PG&E explains MidAmerican Transco and it each own 50 percent of the Project as tenants in common. Once the Project enters service, PG&E states that 25 percent of the Project's transfer capability will be leased to Citizens Energy Corporation (Citizens) under a 30-year lease arrangement,[6] with PG&E and MidAmerican Transco each holding 37.5 percent of the Project's transfer capability.[7] PG&E states that Project construction is expected to commence in 2019; the Project is anticipated to be placed into service during 2020, and total project costs are currently estimated to be $157 million, not including contingencies and inflation.[8]

4. PG&E requests two rate incentives for its investment in the Project: (1) recovery of prudently incurred costs in the event the Project must be abandoned for reasons outside PG&E's control (Abandonment Incentive), and (2) confirmation that the 50 basis point adder to PG&E's base return on equity for participation in a regional transmission organization (RTO) (i.e., CAISO), applies to PG&E's investment in the Project (RTO Participation Adder).

II. Notice of Filing and Responsive Pleadings

5. Notice of PG&E's filing was published in the *Federal Register*, 79 Fed. Reg. 29,181 (2014), with interventions or protests due on or before June 11, 2014. Timely

---

[5] MidAmerican Transco is a wholly-owned indirect subsidiary of MidAmerican Transmission, LLC and was formed to construct, finance, own, operate and maintain new high-voltage transmission facilities; it will become a transmission-owning member of CAISO as soon as the CAISO tariff permits. *See* PG&E Filing at 3-4. *See also MidAmerican Central California Transco, LLC*, 147 FERC ¶ 61,179 (2014) (approving a package of four transmission rate incentives for MidAmerican Transco's investment in developing the Project: (1) a regulatory asset incentive, (2) a hypothetical capital structure incentive, (3) an Abandonment Incentive, and (4) a 50 basis point RTO Participation Adder for participation in CAISO).

[6] Under the anticipated arrangement, PG&E and MidAmerican Transco expect to lease 12.5 percent, respectively of the Project transfer capability to Citizens.

[7] PG&E Filing at 2.

[8] *Id*.

motions to intervene were filed by: MidAmerican Transco; Southern California Edison Company; Citizens; the City of Santa Clara, California and the M-S-R Public Power Agency; the Modesto Irrigation District; California Department of Water Resources State Water Project; Transmission Agency of Northern California; Cities of Anaheim, Azusa, Banning, Colton, Pasadena and Riverside, California; and the Sacramento Municipal Utility District. No adverse comments or protests were filed.

III. Discussion

A. Procedural Matters

6. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2014), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

B. Substantive Matters

1. Requirements for Incentives

7. In the Energy Policy Act of 2005, Congress added section 219 to the FPA, directing the Commission to establish, by rule, incentive-based rate treatments to promote capital investment in transmission infrastructure.[9] 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 PG&E. Additionally, on November 15, 2012, the Commission issued the 2012 Incentives Policy Statement, which provides additional guidance regarding the evaluation of applications for transmission rate incentives under section 219 and Order No. 679**.**

8. Pursuant to Order No. 679, an applicant may seek to obtain incentive rate treatment for a transmission infrastructure investment that satisfies the requirements of section 219, i.e., the applicant must show that "the facilities for which it seeks incentives either ensure reliability or reduce the cost of delivered power by reducing transmission congestion."[10] Order No. 679 established the process for an applicant to demonstrate that it meets this standard, including a rebuttable presumption that the standard is met if: (1) the transmission project results from a fair and open regional planning process that considers and evaluates 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.[11] Order No. 679-A clarifies the

[9] Pub. L. No. 109-58, § 1241, 119 Stat. 594 (2005).

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

[11] *Id*.

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.[12]

9. An applicant for a transmission rate incentive must demonstrate a nexus between the incentives being sought and the investment being made. In Order No. 679-A, the Commission clarified that its nexus test is met when an applicant demonstrates that the total package of incentives requested is tailored to address the demonstrable risks or challenges faced by the applicant.[13] Applicants must provide sufficient support to allow the Commission to evaluate each element of the package and the interrelationship of all elements of the package. The Commission noted that this nexus test is fact-specific and requires the Commission to review each application on a case-by-case basis. The Commission has, in prior cases, approved multiple rate incentives for particular projects as long as each incentive satisfies the nexus test. This is consistent with Order No. 679 and 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.[14]

2. PG&E's Proposal

10. In support of its request for an Abandonment Incentive PG&E states that the Project faces a number of environmental, regulatory, siting, permitting, and rights of way acquisition risks that are outside of PG&E's control and could lead to abandonment of the Project.[15] PG&E points out that the Project is one of the first CAISO projects for which developers have been selected through the competitive solicitation process and for which there is a partnership between the incumbent utility and a new entrant.[16] As a result, PG&E states that the Abandonment Incentive addresses potential risks associated with project development, and also furthers policy objectives encouraging incumbent utilities to work together with new entrants. PG&E states that, in the event the project is

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

[13] *Id.* P 115.

[14] Order No. 679, FERC Stats. & Regs. ¶ 31,222 at P 26.

[15] PG&E Filing at 16.

[16] *Id.*

cancelled, it will make a section 205 filing at that time to establish a rate for recovery of its prudently incurred costs under the Abandonment Incentive.[17]

11. PG&E also requests confirmation that the 50 basis point RTO Participation Adder also applies to the Project. As a Participating Transmission Owner of CAISO, PG&E states it will transfer functional control of its portion of the Project to CAISO once it is constructed and placed into service. PG&E states that its share of costs will be recovered through inclusion of the Project in the revenue requirement under PG&E's Transmission Owner Tariff.[18] In support of its request for the RTO Participation Adder, PG&E states that the adder continues to provide an incentive for participation in an RTO and notes that the Commission has recently rejected requests to eliminate the continued application of the 50 basis point RTO Participation Adder for long-term RTO participation.[19]

12. PG&E asserts that the Project meets the rebuttable presumption under Order No. 679-A because the Project was selected under a transmission planning process that has been approved by the Commission.[20] PG&E states that CAISO determined that the Project would provide significant reliability benefits, such as addressing potential overload and voltage collapse conditions in the Greater Fresno area of the PG&E system.[21] PG&E further notes that CAISO also determined that the Project provides additional economic benefits.

13. PG&E states that there is a nexus between the incentives it requests and the investments being made, as required under Order No. 679, and that the requested package of incentives is narrowly tailored to address the demonstrable risks and challenges associated with developing the Project. PG&E states that it has requested only those transmission rate incentives that appropriately reflect the risks and challenges associated with this Project.[22]

---

[17] *Id.* at 20.

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

[19] *Id.* at 18 (citing *Pacific Gas and Elec. Co.*, 144 FERC ¶ 61,227, at P 20 (2013)).

[20] *Id.* at 5, n.12 (citing *Cal. Indep. Sys. Operator, Inc.*, 133 FERC ¶ 61,224 (2010); *Cal. Indep. Sys. Operator, Inc.*, 143 FERC ¶ 61,057 (2013)).

[21] *Id.* at 8 (citing CAISO 2012-2013 Transmission Plan, Exhibit No. PGE-2 to PG&E Filing at 2).

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

3. **Commission Determination**

14. The Commission has previously determined that projects found by a regional planning process to ensure reliability are entitled to the rebuttable presumption established in Order No. 679.[23] Here, the Project was selected under an open and non-discriminatory regional transmission planning process, and identified in CAISO's 2012-2013 Transmission Plan as necessary to address reliability concerns in the Greater Fresno area.[24] Therefore, we find that, because the Project is necessary to ensure grid reliability and was selected under a Commission-approved regional transmission planning process, the Project meets the rebuttable presumption and satisfies the above-noted requirements of section 219.

15. In addition, we find that PG&E has satisfied the requirements of the nexus test, as required by Order Nos. 679 and 679-A and clarified in the 2012 Incentives Policy Statement.[25] PG&E's requested Abandonment Incentive appropriately addresses the risks and challenges specific to the Project, such as environmental, regulatory, siting, permitting and right of way acquisition risk that are outside of PG&E's control and could lead to the abandonment of the Project. Therefore, we grant PG&E's request for an Abandonment Incentive, subject to PG&E filing under section 205 of the FPA for recovery of abandonment costs. PG&E must also propose in its section 205 filing a just and reasonable rate to recover such 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.[26]

16. We also grant PG&E's request for a 50 basis point RTO Participation Adder, and thus confirm that the RTO Participation Adder applies to the Project. This confirmation is consistent with the Commission's approval of this incentive for other participating transmission owners in CAISO.[27] We note that our approval of this incentive is based on

---

[23] *See, e.g., Midwest Indep. Transmission Sys. Operator, Inc.*, 141 FERC ¶ 61,121, at P 16 (2012) (finding that two Ameren projects qualified for the rebuttable presumption based on the MISO Board's approval of each project as reliability projects under Criterion 1 as part of Appendix A of the 2011 MTEP Report); *Ameren Servs. Co.*, 135 FERC ¶ 61,142, at P 31 (2011) (making the same finding regarding two other Ameren projects).

[24] *See supra* n.4.

[25] Order No. 679, FERC Stats. & Regs. ¶ 31,222 at P 26, *order on reh'g* Order No. 679-A, FERC Stats. & Regs. ¶ 31,236 at P 27.

[26] Order No. 679, FERC Stats. & Regs. ¶ 31,222 at PP 163-166.

[27] *Pacific Gas and Electric Co.*, 144 FERC ¶ 61,227 (2013).

PG&E's commitment to remain a member of CAISO, and its commitment to transfer functional control of the Project to CAISO once the Project enters service.

17. Accordingly, we grant PG&E's Petition for transmission rate incentives effective on the date of this order.

The Commission orders:

PG&E's Petition requesting the Abandonment Incentive and confirmation that the RTO Participation Adder applies to the Project is hereby granted, as discussed in the body of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.