

155 FERC ¶ 61,046
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Morongo Transmission LLC

Docket No. EL16-41-000

ORDER ON PETITION FOR DECLARATORY ORDER

(Issued April 21, 2016)

1. On February 19, 2016, Morongo Transmission LLC (Morongo Transmission) filed a petition for declaratory order (Petition) requesting that the Commission confirm that the rate methodology it authorized in an earlier declaratory order issued on August 25, 2014¹ will apply to investment by Morongo Transmission in the same project in excess of \$400 million (Additional Investment). For the reasons discussed below, we grant the Petition.

I. Background and Petition

2. In its Petition, Morongo Transmission explains that in the 2014 Order the Commission approved the rate methodology proposed by Morongo Transmission for the West of Devers Transmission Upgrade Project (Project) pursuant to a Development and Coordination Agreement (Original Agreement) between it and Southern California Edison Company (SoCal Edison). Specifically, in the 2014 Order, the Commission approved the use of a hypothetical capital structure of 50 percent debt and 50 percent equity, the use of a 30-year levelized fixed rate for recovery of Morongo Transmission's capital requirements, and the use of a formula rate to recover its actual operating costs.²

¹ *Morongo Transmission LLC*, 148 FERC ¶ 61,139 (2014) (2014 Order).

² The 2014 Order recognized that Morongo Transmission was not requesting approval at that time of a specific rate of return on equity and stated that "Morongo Transmission's return on equity, based on SoCal Edison's current authorized return on equity, is subject to a future [Federal Power Act] section 205 filing." *Id.* P 21. The 2014 Order also recognized that Morongo Transmission was not seeking pre-approval for any component or input to its formula rate. *Id.*

Also, the 2014 Order made reference to the investment cap in the Original Agreement that limited Morongo Transmission's participation to \$400 million.³

3. In its Petition, Morongo Transmission explains that on September 25, 2015, the Original Agreement was amended (2015 Amended Agreement) to provide Morongo Transmission with the option to invest the greater of \$400 million or 50 percent of the final estimated cost of the Project (Additional Investment). According to Morongo Transmission, if 50 percent of the final estimated cost of the Project exceeds \$400 million, an option provided under the terms of the 2015 Amended Agreement, its investment in the Project could exceed the \$400 million level that was authorized under the Original Agreement.⁴ Morongo Transmission explains that it seeks this Declaratory Order to confirm that the rate methodology the Commission approved in the 2014 Order for Morongo Transmission's participation in the Project will apply to the Additional Investment.

4. Morongo Transmission states that it is seeking this confirmation to provide the certainty it needs in order to arrange financing for the Project prior to the end of construction. Additionally, Morongo Transmission explains that the Morongo Band of Mission Indians⁵ has the right to terminate a 50-year right of way through the Morongo Indian Reservation (Termination Option) if Morongo Transmission's right to invest in the Project has not obtained regulatory approval by January 1, 2017. According to Morongo Transmission, without the requested Declaratory Order, the Morongo Band will have no way of knowing whether it can safely forego its rights pursuant to the Termination Option.⁶

II. Notice of Filing

5. Notice of the Petition was published on February 26, 2016 in the *Federal Register*, 81 Fed. Reg. 9847 (2016), with interventions and protests due on or before March 21, 2016. M-S-R Public Power Agency, Modesto Irrigation District and Six Cities (Cities of Anaheim, Azusa, Banning, Colton, Pasadena and Riverside, CA) filed motions to

³ Morongo Transmission Transmittal at 2, 4-5 (citing 2014 Order, 148 FERC ¶ 61,139 at P 5).

⁴ *Id.* at 6.

⁵ The Morongo Band of Mission Indians (Morongo Band) is the majority owner of Morongo Transmission. *Id.* at 2.

⁶ *Id.* at 5.

intervene raising no issues. The California Department of Water Resources State Water Project (SWP) filed a motion to intervene and comment.

6. In its comments, SWP seeks Commission confirmation that Morongo Transmission has not requested a rate of return for Morongo Transmission's investment in the Project. SWP notes that in the 2014 Order the Commission did not approve a return on equity⁷ and, consistent with this earlier order, SWP requests that the Commission confirm in this proceeding that Morongo Transmission's rate of return will be subject to a future filing with the Commission under section 205 of the Federal Power Act.⁸

III. Discussion

A. Procedural Matters

7. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2015), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

B. Substantive Matters

8. The Commission grants Morongo Transmission's Petition and confirms that the rate treatment authorized in the 2014 Order for Morongo Transmission's investment in the Project will also apply to any Additional Investment. As the Commission explained in the 2014 Order, the proposed rate methodology is reasonable in connection with Morongo Transmission's participation in the Project.⁹ We find this determination to be equally applicable to the Project for the Additional Investment under the terms of the 2015 Amended Agreement.

9. Additionally, as explained in the 2014 Order, based upon Morongo Transmission's submissions, the Commission understood that Morongo Transmission was not requesting approval of a specific return on equity. For that reason, the Commission determined that Morongo Transmission's return on equity would be subject to a future section 205 filing.¹⁰ In response to SWP's comments, we reiterate that, indeed, Morongo Transmission's rate of return will be subject to a future section 205 filing.

⁷ SWP Comments at 4-5 (citing 2014 Order, 148 FERC ¶ 61,139 at P 21).

⁸ 16 U.S.C. § 824d (2012).

⁹ 2014 Order, 148 FERC ¶ 61,139 at PP 18-20.

¹⁰ *Id.* P 21.

The Commission orders:

Morongo Transmission's Petition is hereby granted, as discussed in the body of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.