

123 FERC ¶ 61,068  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;  
Sudeen G. Kelly, Marc Spitzer,  
Philip D. Moeller, and Jon Wellinghoff.

PPL Electric Utilities Corporation  
Public Service Electric and Gas Company

Docket Nos. EL08-23-000

ORDER ON PETITION FOR DECLARATORY ORDER

(Issued April 22, 2008)

1. On December 21, 2007, PPL Electric Utilities Corporation (PPL) and Public Service Electric and Gas Company (PSE&G) (collectively, Petitioners) filed a petition for declaratory order pursuant to section 219 of the Federal Power Act (FPA)<sup>1</sup> and Order No. 679<sup>2</sup> seeking rate incentives for a proposed 130-mile 500 kV transmission project, the Susquehanna-Roseland Line (Susquehanna Line or Project). For the reasons discussed below, with one modification, we grant Petitioners' request for a declaratory order. Granting the petition for declaratory order will aid the Petitioners in the development of the Project.

**I. Incentive Rate Proposal**

2. On December 21, 2007, Petitioners filed a request for declaratory order for Commission approval of five transmission investment rate incentives. First, Petitioners seek to include a 50-basis-point return on equity (ROE) adder to each utility's base ROE for continued membership in PJM Interconnection, L.L.C. (PJM). Second, Petitioners propose a 150-basis-point incentive adder to their respective base ROEs. Third, Petitioners request authorization for 100 percent recovery of prudently incurred expenses

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<sup>1</sup> Energy Policy Act of 2005. Pub. L. No. 109-58, § 1241, 119 Stat. 594 (2005) ("EPAct 2005"), amended the FPA by adding section 219.

<sup>2</sup> *Promoting Transmission Investment through Pricing Reform*, Order No. 679, 71 Fed. Reg. 43,294 (Jan. 31, 2006), FERC Stats. & Regs. ¶ 31,222 (2006) (Order No. 679); *order on reh 'g*, Order No. 679-A, 72 Fed. Reg. 1152 (Jan. 10, 2007), FERC Stats. & Regs. ¶ 31,236 (2006) (Order No. 679-A); *order denying reh 'g*, 119 FERC ¶ 61,062 (2007).

for construction work in progress (CWIP) to be included in their rate bases for the Susquehanna Line. Fourth, Petitioners propose the recovery of prudently incurred costs, if the Project is abandoned, in whole or part, as a result of factors beyond Petitioners' control. Finally, Petitioners request authority to assign these incentives to yet-to-be identified affiliates.<sup>3</sup>

3. The Susquehanna Line will be a new 500 kV backbone transmission line that will span 130 miles across Pennsylvania to northern New Jersey and is estimated to cost \$900 million to \$1 billion. The transmission line will run from the Susquehanna switchyard to intervening substations in northeastern Pennsylvania and to the existing Branchburg to Ramapo 500 kV line, where the Jefferson substation will be constructed. From the new Jefferson substation, the line will extend to the Roseland substation in northern New Jersey.<sup>4</sup> In addition to the 500 kV circuit, two 500/230 kV transformers are proposed – one at a location in northeastern Pennsylvania and one at the Roseland station.<sup>5</sup> As discussed below, PJM identified the Susquehanna Line as a necessary “baseline project” in the 2007 PJM Regional Transmission Expansion Plan (RTEP).<sup>6</sup> Additionally, PJM requested that Petitioners complete the Project by 2012.

#### **A. Requested Incentives**

4. Petitioners request a 50-basis-point ROE adder for all transmission facilities as a result of their continued membership in PJM. Petitioners state that the benefits flowing to consumers from Petitioners' continued membership in PJM are the same for which the Commission has authorized a 50-basis-point incentive adder in other cases.

5. Petitioners seek authorization of a 150-basis-point ROE adder due to risks and challenges faced by the Susquehanna Line. Petitioners contend that the Susquehanna Line will cost nearly \$1 billion, which will lead to a reduction in cash flow and, therefore,

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<sup>3</sup> See Petition at 5, note 8. It is not clear whether Petitioners seek authorization to assign the 50-basis-point adder, but as discussed below, if they do, we reject such proposal.

<sup>4</sup> A map of the proposed route is contained in Petitioners' December 21, 2007 Request for Declaratory Order (Petition) at Exhibit F.

<sup>5</sup> The ultimate route of the project in Pennsylvania will be determined by the Pennsylvania Public Utility Commission after a siting process that includes comprehensive land use and environmental analyses and extensive public input.

<sup>6</sup> See PJM 2007 Regional Transmission Expansion Plan, <http://www.pjm.com/planning/reg-trans-exp-plan.html>. at 54 (noting that the PJM Board formally approved the Susquehanna Line in June 2007).

increase the cost of capital. They claim that an incentive ROE adder will help improve cash flow, which benefits financial metrics and supports credit quality, which will therefore reduce the cost of borrowing capital. In addition, Petitioners state that the Susquehanna Line will require approvals from multiple federal and state agencies and several municipalities. Therefore, they argue that the 150-basis-point ROE incentive adder will encourage investment in the Susquehanna Line by offering a return for investors commensurate with siting, regulatory, and financial risks.

6. Petitioners request authority to include 100 percent of CWIP expenses in rate base. They claim the Susquehanna Line involves a lead time of approximately four years before the in-service date when construction costs begin to be recovered. Petitioners state that potential investors may be deterred by the inability to generate a return on their investment for that period. For example, they note, Moody's recently issued a report indicating that it was keeping PSE&G's financial outlook at "negative" due to its planned investments, including the Susquehanna Line.<sup>7</sup> Further, Petitioners state that they will finance a portion of the Susquehanna Line through debt. Without a cash return on expenditures, Petitioners state that cash from operations will remain stagnant while their debt levels will increase. Therefore, Petitioners claim that their financial metrics will weaken. Petitioners state that the recovery of construction costs through Allowance for Funds Used During Construction (AFUDC) may contribute risk because the cash flow is depreciated and recovery of the costs occurs only when the transmission line is placed in service. They claim that inclusion of 100 percent CWIP in rate base will help the Susquehanna Line stay on schedule, offer a more prompt return on investment, improve cash flow, and enhance credit quality and debt ratings.

7. Petitioners ask for recovery of 100 percent of prudently incurred costs in the event the Susquehanna Line is abandoned as a result of factors beyond their control. Petitioners state that they seek this incentive because: (1) the Project could be cancelled through the PJM RTEP process; (2) one of the required regulatory approvals might not be granted; (3) and/or the regulatory process could significantly delay the construction of the Susquehanna Line. Petitioners contend that allowing the recovery of abandoned plant costs will reassure the financial community by offsetting the risk that the Susquehanna Line may be abandoned for reasons beyond Petitioners' control.

8. Petitioners seek authority to assign these incentives to yet-to-be identified affiliates, if need be, which would construct and/or own the Susquehanna Line.

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<sup>7</sup> See Petition at 27-28, citing Moody's Investors Service, Credit Opinion: Public Service Electric and Gas Co. (2007), in Attachment 1 to Exhibit D (Affidavit of Mark G. Kahrer) of the Petition.

Petitioners state this flexibility will permit them to adopt the business structure that is best suited to address the financing and construction issues they will face in completing the Project.

9. Petitioners contend that the interrelationship between these incentives will address the significant risks and uncertainties faced by the Susquehanna Line. They further state the Commission has noted multiple incentives are warranted for large interstate transmission projects. In addition, Petitioners claim each of these incentives operates independently as well as together in order to help ensure that the necessary transmission upgrade is completed. Finally, they state that the overall incentive package should assist Petitioners in attracting the necessary investment capital to fund the Susquehanna Line.

**B. Risks and Benefits**

10. Petitioners state that the Susquehanna Line will provide substantial benefits in terms of ensuring reliability in PJM and reducing congestion. For example, they state, the Susquehanna Line is designed to address anticipated reliability criteria violations in northeastern PJM that will arise as early as 2013.<sup>8</sup> In addition, they state that the Susquehanna Line will assist in preventing congestion costs in the PJM system from nearly doubling from \$1.6 billion annually in 2005 to \$2 billion annually by 2016.

11. Petitioners state that the Susquehanna Line poses significant siting, construction, regulatory, financing and technology risks. They assert that the Susquehanna Line will encounter siting challenges due to its expected 130-mile length and geographical features it is expected to traverse. Specifically, they state that the Susquehanna Line will cross the Delaware River in the vicinity of the Delaware Water Gap National Recreation Area and will also cross portions of the Pocono Mountains, freshwater wetlands, state parks, and developed areas in northeastern Pennsylvania. Petitioners state that they will need to rely upon helicopters and other specialized equipment to transport equipment to the remote areas that are suited to working in rocky, mountainous terrain, which adds additional risks and challenges. Petitioners also state that numerous federal, state, and local approvals will be required to complete the Project, including authorizations from the United States Army Corps of Engineers, the National Park Service, and the Federal Aviation Administration. Petitioners state that such approvals are necessary to meet concerns regarding electric-field levels, audible noise, and electromagnetic interference.

12. Petitioners note that the Susquehanna Line represents a large financial commitment. They state that PPL's share of the Susquehanna Line, which is estimated to be between \$300 and \$350 million, is approximately 60 percent of PPL's net transmission plant in service as of December 31, 2006, and equates to approximately

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<sup>8</sup> Petition at 12.

three times its average annual transmission investment. Further, they state that PSE&G's share of the Project, which is estimated to be between \$600 and \$650 million, is approximately 80 percent of PSE&G's net transmission plant in service as of December 31, 2006, and also equates to approximately three times its average annual transmission investment. They cite a recent report by Moody's Investors Service (Moody's), which states, "the utility [PSE&G] may not be in a position to produce financial credit metrics necessary over the near to immediate-term to justify its current rating, particularly in view of the upcoming significant capital expenditure program."<sup>9</sup> Finally, Petitioners state that external investors need sufficient assurances of cost recovery and a sufficient rate of return before they will be willing to support the investment in the Susquehanna Line.

### C. Technology Statement

13. In their technology statement, Petitioners state that conventional 500 kV transmission lines require a 200 foot-wide right-of-way. Because this width is difficult to obtain, Petitioners are considering new transmission line configurations to install the 500 kV Susquehanna Line in a right-of-way designed for 230 kV facilities. In addition, Petitioners are considering new transmission line configuration for Optical Ground Wire in the shield wire positions, which will allow a dedicated fiber optic link between stations that will be used for enhanced transmission line relay protection. They state that this design could support the use of Phasor Measurement Units for improved monitoring and control of power system load flows and stability. Petitioners also state that they are considering a digital, high-speed, real-time communication system along the entire transmission line route of the Susquehanna Line.

14. Petitioners state that PSE&G is planning to rebuild the existing 230 kV single-circuit overhead transmission line in New Jersey with a new double-circuit 230/500 kV overhead transmission line in the existing 150-foot-wide right-of-way. In addition, they state, PSE&G's 230 kV line will likely be a double-bundled 1590 Aluminum Conductor Steel Reinforced conductor and the 500 kV line will likely be a quad-bundled 1590 Aluminum Conductor Steel Reinforced conductor. They state that PSE&G is considering the use of new Gas Insulated Switchgear because two of its existing substations are compact sites that do not have sufficient room for standard Air Insulated Switchgears.

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<sup>9</sup> See Petition at 28, citing Moody's Investors Service, Credit Opinion: Public Service Electric and Gas Co. at 3 (2007), in Attachment 1 to Exhibit D (Affidavit of Mark G. Kahrer) of the Petition.

15. PPL intends to use an existing right-of-way for in-service 230 kV lines to install portions of the Susquehanna Line. PPL is considering a new design that would allow for two 500 kV lines in a narrow right-of-way by using compact H-frame or monopole structures with triple-bundle phase configurations. One circuit of the double circuit line would be energized at 230 kV and the other at 500 kV. PPL may employ non-standard “V” insulator assemblies that reduce electric and magnetic field levels and interference. In addition, PPL is considering the use of advanced high-temperature, low-sag composite conductors to facilitate construction with fewer support structures and mitigate transmission line sag. Also, PPL has designed a state-of-the-art substation automation platform using smart relays, universal protocol communications, data accumulations, and real-time connection to system operators. Petitioners state that PPL’s extension of the fiber optic network will provide the communications backbone necessary to support PJM’s integrated strategic plan for the Smart Grid.

## **II. Notice of Filing and Responsive Pleadings**

16. Petitioners’ filing was noticed in the *Federal Register*, 73 Fed. Reg. 1,874 (2008), with interventions and protests due on or before January 22, 2008.

17. Timely motions to intervene raising no substantive issues were filed by Old Dominion Electric Cooperative, FirstEnergy Service Company, Pepco Holdings, Inc., Potomac Electric Power Company, Delmarva Power & Light Company, Atlantic City Electric Company, and Exelon Corp. PJM also filed a motion to intervene. The New Jersey Board of Public Utilities filed a notice of intervention.

18. Consumer advocates from Pennsylvania, Maryland, Ohio, the District of Columbia, New Jersey, West Virginia, and Delaware (Consumer Advocates) filed a joint motion for leave to intervene and protest, arguing that the application: (1) fails the nexus test under Order No. 679; (2) fails the section 219 test; and (3) raises issues of material fact that can only be resolved through an evidentiary hearing.

19. Consumer Advocates argue that Petitioners have overstated the risks associated with the Project, and the package of incentives being requested goes well beyond what is necessary to address any risks. Specifically, Consumer Advocates argue that allowing 100 percent of CWIP to be included in Petitioners rate base is excessive and unnecessary. They argue that the risk justifying CWIP here is minimized due to the size of the Project in relation of Petitioners’ combined rate base. Consumer Advocates also argue that Petitioners’ intention to build the Project within existing rights-of-way minimizes any specific siting risks facing the Project.

20. Consumer Advocates also argue that allowance of 100 percent of abandonment costs is unwarranted. Consumer Advocates contend that if this incentive were granted it

would effectively nullify any risks faced by construction of the Project. Citing *SCE*, they object to allowing CWIP or abandonment costs to be recovered, unless there was a corresponding reduction to the ROE authorized by the Commission in this proceeding.<sup>10</sup>

21. Further, Consumer Advocates challenge Petitioners' request for an incentive ROE. Consumer Advocates assert that there is no basis to conclude that a 150-basis-point adder would be more effective at reducing risks than a 50-basis-point adder. They similarly challenge the 50-basis-point adder requested by Petitioners for continued PJM participation. They state that there is no risk justifying the need for this incentive and further state that ratepayers could see a \$2.5 million increase as a result of this 50-basis-point adder.

22. Consumer Advocates request that the Commission deny Petitioners' request to transfer any incentives granted in this proceeding. They assert that this request is a request for an additional incentive and is unsupported. Consumer Advocates argue that incentive rate proceedings are fact-sensitive and that it would be impossible to grant incentive rate treatment to Petitioners and then allow them to assign those rights to another entity not before the Commission at this time.

23. Consumer Advocates assert that Petitioners have failed to meet the section 219 test because the PJM RTEP study they rely on to meet the rebuttable presumption is not final. As a result, they argue that it would be improper to rely on this study. They request that we hold the application in abeyance until evidence meeting the section 219 test can be provided.

24. On February 6, 2008, Petitioners filed a motion for leave to answer and an answer. On February 25, 2008, Consumer Advocates filed a request for leave to answer and an answer.

### **III. Commission Determination**

#### **A. Procedural Matters**

25. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2007), the notice of intervention and timely, unopposed motions to intervene serve to make the parties that filed them parties to this proceeding.

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<sup>10</sup> *Southern California Edison Co.*, 121 FERC ¶ 61,168 (2007) (*SCE*).

26. Rule 213(a) of the Commission's Rules of Practice and Procedure<sup>11</sup> prohibits an answer to a protest, unless otherwise permitted by the decisional authority. We are not persuaded to accept the answers, and therefore, will reject them.

**B. Section 219 Requirement**

27. In EAct 2005, Congress addressed incentive-based rate treatments for new transmission construction.<sup>12</sup> Specifically, section 1241 of EAct 2005 added a new section 219 to the FPA directing the Commission to establish, by rule, incentive-based (including performance-based) rate treatments for electric transmission. The Commission issued Order No. 679, which set forth processes by which a public utility could seek transmission rate incentives pursuant to section 219, including the incentives requested here by Petitioners.

28. Order No. 679 provided that a public utility may file a petition for declaratory order or FPA section 205 filing to obtain incentive rate treatment for transmission infrastructure investment that satisfies the requirements of FPA section 219. 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.<sup>13</sup> Order No. 679 also established a rebuttable presumption that a project satisfies these threshold criteria for eligibility for transmission incentive treatment under section 219 if: (1) a 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.<sup>14</sup> Order No. 679-A clarified the operation of this rebuttable presumption by noting that the authorities and/or processes on which it is based (i.e., a regional planning process, a state commission, or siting authority) must, in fact, consider whether the project ensures reliability or reduces the cost of delivered power by reducing congestion.<sup>15</sup>

29. The final 2007 RTEP was approved by the PJM Board on February 27, 2008, and included the Susquehanna Line as a baseline project. Thus, even though Consumer

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<sup>11</sup> 18 C.F.R. § 385.213(a)(2)(2007).

<sup>12</sup> See Pub L. No. 109-58, 119 Stat 594, 961 (2005).

<sup>13</sup> See 18 C.F.R. § 35.35(i)(2007).

<sup>14</sup> See *id.*; Order No. 679-A, FERC Stats. & Regs. ¶ 31,236 at P 47.

<sup>15</sup> Order No. 679-A, FERC Stats. & Regs. ¶ 31,236 at P 49.



Advocates are correct that this RTEP report was not final when the Petition was filed, we find that since PJM's 2007 RTEP has now been approved by its Board, Susquehanna Line is appropriate for our consideration under a section 219 analysis.

30. We find that Petitioners' proposed Susquehanna Line satisfies the requirements for a rebuttable presumption for eligibility for transmission incentive rate treatment under section 219. The Project has been vetted as part of PJM's 2007 RTEP regional planning process, which consists of a fair and open process.<sup>16</sup> Our review shows that Petitioners have met their burden that the regional planning processes determined that the proposed Susquehanna Line will ensure reliability or reduce the cost of delivered power by reducing transmission congestion.<sup>17</sup> Moreover, there is substantial evidence that the Project ensures reliability by substantially reducing overloads on twenty one 230 kV and two 500 kV facilities on the current system in Northeastern PJM and reduces the cost of delivered power by reducing congestion in the PJM region. Accordingly, we find that the Petitioners have satisfied the first prong of the Commission's transmission incentives test under section 219.

### C. Incentives and the Commission's Nexus Requirement

31. In addition to satisfying the section 219 requirement of ensuring reliability or reducing the cost of delivered power by reducing congestion, an applicant must demonstrate 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."<sup>18</sup> As part of our evaluation of whether the incentives requested are tailored to address the demonstrable risks or challenges faced by the applicant, the Commission has found the question of whether a project is "routine" to be particularly probative. In *BG&E*,<sup>19</sup> the Commission clarified how it will evaluate projects to determine whether they are routine and the effect this evaluation has on an applicant's request for incentives. Specifically, to determine whether a project is not routine, the Commission will consider all relevant factors presented by the applicant. For example, an applicant may present evidence on: (1) the

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<sup>16</sup> *Duquesne Light Co.*, 118 FERC ¶ 61,087, at P 62-68 (2007), *reh'g pending*, (*Duquesne*).

<sup>17</sup> Order No. 679-A, FERC Stats. & Regs. ¶ 31,236 at P 49.

<sup>18</sup> *Id.* P 40.

<sup>19</sup> *Baltimore Gas and Electric Company*, 120 FERC ¶ 61,084, at P 52-55 (2007) (*BG&E*).

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).<sup>20</sup>

32. For the reasons discussed below, including the scope of the Project in terms of size, investment cost, regulatory involvement, the nature of the facilities and Project's risks, and the effect of the Project on improving reliability and reducing congestion costs as detailed in the Petition, we find that the Project is not routine in nature and, therefore, meets the nexus test requirement to be eligible for incentives under Order No. 679. We find that the scope of the Project is significant, as evidenced by the length and regional nature of the Project, the large overall investment of approximately \$1 billion, and the planned capital outlay in comparison to Petitioners' existing transmission rate bases and average annual transmission investments.<sup>21</sup> We find that the Project will provide substantial benefits in terms of ensuring reliability in the PJM region and will also reduce congestion costs.<sup>22</sup> Additionally, we find that the Project faces significant siting, construction, regulatory, financing, and technology risks. For example, the Project requires a long lead time and will encounter siting challenges due to its expected 130-mile length and the geographical features it is expected to traverse, such as the Delaware River in the vicinity of the Delaware Water Gap National Recreation Area, the Pocono Mountains, freshwater wetlands, state parks, and developed areas in northeastern Pennsylvania. Further, the Project will require numerous federal, state, and local approvals, including authorizations from the United States Army Corps of Engineers, the National Park Service, and the Federal Aviation Administration. The Project will also

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<sup>20</sup> This list is not exhaustive. These are merely examples of evidence that may help inform the Commission on the question of whether a project is routine in nature.

<sup>21</sup> *See supra* at P 12 (indicating that PPL's share of the Susquehanna Line, which is estimated to be between \$300 and \$350 million, is approximately 60 percent of PPL's net transmission plant in service, and equates to approximately three times its average annual transmission investment, and that PSE&G's share of the Project, which is estimated to be between \$600 and \$650 million, is approximately 80 percent of PSE&G's net transmission plant in service, and equates to approximately three times its average annual transmission investment).

<sup>22</sup> With respect to the expected reductions in congestion costs, we note that the project is located in a national interest electric transmission corridor designated by the Secretary of Energy under FPA section 216. *See* Petition at 16.

require specialized equipment, such as helicopters, to construct the line in remote, rocky mountainous terrain. Lastly, because the Project is an approved baseline project in PJM's RTEP, by definition, it is a regional project and, thus, is not routine.<sup>23</sup>

33. Accordingly, we find that Petitioners have satisfied the Commission's nexus requirement for the requested incentives for the Susquehanna Line.

**D. Requested Incentives**

**1. Incentive for Membership in PJM**

34. Petitioners request a 50-basis-point incentive adder for their continuing membership in PJM, pursuant to Order No. 679. We find that the Petitioners' proposal to increase its ROE by 50-basis-points for continued participation in PJM is just and reasonable and not unduly discriminatory, provided that the final ROEs are within the zone of reasonable returns, to be determined when Petitioners make their future section 205 filings. As we stated in Order No. 679-A, we will authorize incentive-base rate treatment for public utilities that continue to be a member of an RTO.<sup>24</sup> Section 219 of the FPA specifically provides that the Commission shall provide for incentives to each transmitting utility that joins a transmission organization.<sup>25</sup>

35. The Commission rejects the protest by Consumer Advocates of the 50-basis-point ROE incentive for RTO participation and finds that the 50-basis-point adder is appropriate. The consumer benefits, including reliable grid operation, provided by such organizations are well documented and consistent with the purpose of section 219. The best way to ensure these benefits is to provide member utilities of an RTO with incentives for joining and remaining a member. As explained in Order No. 679-A, the decision to provide incentives for participation in an RTO is a policy one, aimed at promoting particular policy objectives, unrelated to any particular project.

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<sup>23</sup> See, *BG&E*, 120 FERC ¶ 61,084 at P 58 (“Projects that are identified as ‘baseline’ projects in the PJM RTEP process are those that benefit customers in one or more transmission owner zones for the purpose of maintaining reliability or mitigating congestion on the PJM grid. Such projects therefore are, by definition, regional projects and thus, not routine.”).

<sup>24</sup> Order No. 679-A, FERC Stats. & Regs. ¶ 31,236 at P 86.

<sup>25</sup> *Id.*

## 2. 150-Basis-Point ROE Incentive

36. Petitioners seek authorization of a 150-basis-point ROE adder due to risks and challenges faced by the Susquehanna Line, pursuant to Order No. 679. We find that the Susquehanna Line faces siting risks due to the fact that it will traverse approximately 130-miles over two states with geographical construction challenges. For example, as shown in Exhibit F of the Incentive Proposal, the Susquehanna Line is not a straight line from northeastern Pennsylvania to northern New Jersey. Rather, the Susquehanna Line begins at the Susquehanna station, sharply proceeds northeast to the Lackawanna station, and then gradually declines southeast from Lackawanna station through the Jefferson station to the Roseland station. As stated previously, the Project requires regulatory approvals from two state agencies as well as multiple federal agencies. In addition, the Susquehanna Line entails construction risks, one of which is the accelerated construction schedule requested by PJM to resolve the reliability violations identified in the 2007 RTEP analysis that PJM has projected will begin to occur in 2013. There are regulatory risks because multiple approvals must be obtained but have not yet been requested (or issued), which creates uncertainty as to when, and whether, the planned Project may be completed. The financial risk for PPL is estimated between \$300 million and \$350 million while PSE&G's financial risk is estimated between \$600 million and \$650 million.

37. We find that Petitioners have made a sufficient showing that, in constructing the Susquehanna Line, they face significant risks and challenges that warrant the requested incentive. We find that the Susquehanna Line faces significant risks related to the magnitude of the financial investment required, the involvement of multiple jurisdictions, and regulatory risks. We concur with Petitioners that the Susquehanna Line faces significant siting issues such as the difficulty in obtaining right-of-way approvals, which can be both protracted and challenging.

38. The Commission rejects Consumer Advocates' protest of the 150-basis-point ROE incentive. Our decision, as discussed below, to approve a 125-basis-point ROE incentive adder here is warranted based on the facts of this case, and, moreover, is consistent with the goal of FPA section 219 to encourage transmission investment. We disagree with Consumer Advocates that we must deny a ROE adder by virtue of the fact that Petitioners failed to analyze the effectiveness of a lower ROE adder. First, we believe the 125-basis-point ROE adder, as discussed below, is appropriate in light of the risks of the Project. Moreover, the ultimate ROE granted to Petitioners will be subject to a determination under FPA section 205.

39. Accordingly, as discussed below, we grant a 125-basis-point ROE incentive adder for the Susquehanna Line, to be bound by the upper end of the zone of reasonableness, to be determined in Petitioners' future section 205 filings. We find that based on the facts of this case, Petitioners overall risk is reduced by our granting the requested CWIP and

abandoned plant cost recovery incentives, as discussed below. We therefore conclude that a reduction in Petitioners' proposed ROE adder for the Project by 25 basis points is appropriate.<sup>26</sup>

### 3. Incentive for CWIP

40. Petitioners claim that granting 100 percent of CWIP in rate base will provide regulatory certainty, rate stability and improve cash flow. In addition, Petitioners state the Susquehanna Line involves a lead time of approximately four years until the in-service date of the Project.

41. 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.<sup>27</sup> It noted that this rate treatment will further the goals of section 219 by providing up-front regulatory certainty, rate stability, and improved cash flow for applicants thereby reducing the pressures on their finances caused by investing in transmission projects.<sup>28</sup> We find that Petitioners have shown a nexus between the proposed CWIP incentive and their investment in the Project. PPL's share of the cost of the Project will represent approximately 60 percent of its net transmission plant investment while PSE&G's share will represent more than 80 percent of its net transmission plant in service.

42. Consistent with Order No. 679, we find that authorizing 100 percent of CWIP treatment for Petitioners would enhance their cash flow, reduce interest expense, assist Petitioners with financing, and improve Petitioners' coverage ratios used by rating agencies to determine credit quality by replacing non-cash AFUDC with cash earnings. This, in turn, will reduce the risk of a down grade in Petitioners' debt ratings. Considering the relative size of Petitioners' \$900 million - \$1 billion investment in the Susquehanna Line, we find that authorization of the CWIP incentive is appropriate.

43. We also find that allowing Petitioners to recover 100 percent of CWIP in its rate base will result in better rate stability for customers. As we have explained in prior

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<sup>26</sup> Order No. 679-A, FERC Stats. & Regs. ¶ 31,236 at P 6 (“[i]f some of the incentives in the package reduce the risks of the project, that fact will be taken into account in any request for an enhanced ROE”).

<sup>27</sup> Order No. 679, FERC Stats. & Regs. ¶ 31,222 at P 29, 117.

<sup>28</sup> *Id.* P 115.

orders,<sup>29</sup> when certain large-scale transmission projects come on line, there is a risk that consumers may experience “rate shock” if CWIP is not permitted in rate base. By allowing CWIP in rate base, the rate impact of the Susquehanna Line can be spread over the entire construction period and will help consumers avoid a return on and of capitalized AFUDC.<sup>30</sup>

44. The Commission disagrees with Consumer Advocates’ argument that CWIP is excessive and unnecessary in light of the investment in the Project compared to the size of Petitioners’ rate bases. We find that granting the recovery of 100 percent of CWIP in rate base will provide benefits to consumers and Petitioners, as discussed above.

45. Our acceptance of Petitioners’ proposal to recover 100 percent of CWIP in rate base is conditioned upon Petitioners fulfilling the Commission’s requirements for CWIP inclusion for these transmission facilities in its future section 205 filing.<sup>31</sup> Finally, in their future section 205 filings to implement a stand-alone balancing account mechanism to recover the CWIP revenue requirement, Petitioners must provide a detailed explanation of their accounting methods and procedures to: (1) implement the stand-alone balancing account, (2) comply with 18 C.F.R. § 35.13(h)(38) and § 35.25, and (3) maintain comparability of financial information.<sup>32</sup>

#### **4. Incentive for Recovery of Abandoned Plant Costs**

46. Petitioners request recovery of 100 percent of prudently incurred costs in the event the Susquehanna Line is abandoned for reasons beyond Petitioners’ control. In Order No. 679, we found that this incentive is an effective means to encourage transmission development by reducing the risk of non-recovery of costs.<sup>33</sup> We find that Petitioners

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<sup>29</sup> See, e.g., *American Electric Power Service Corp.*, 116 FERC ¶ 61,059, at P 59 (2006), *order on reh’g*, 118 FERC ¶ 61,041, at P 27 (2007) (*AEP*).

<sup>30</sup> *Id.*

<sup>31</sup> *Construction Work in Progress for Public Utilities; Inclusion of Costs in Rate Base*, Order No. 298, FERC Stats. & Regs. ¶ 30,455 (1983), *order on reh’g*, Order No. 298-B, FERC Stat. & Regs. ¶ 30,524 (1983).

<sup>32</sup> See, e.g., *American Transmission Co., LLC*, 105 FERC ¶ 61,388 (2003), *order providing clarification*, 107 FERC ¶ 61,117, at P 16-17 (2004) and *Trans-Allegheny Interstate Line Co.*, 119 FERC ¶ 61,219, at P 44-45 (2007), *reh’g denied*, 121 FERC ¶ 61,009 (2007) (*TrAILCo*).

<sup>33</sup> Order No. 679, FERC Stats. & Regs. ¶ 31,222 at P 163.

have shown, consistent with Order No. 679, a nexus between the recovery of prudently incurred costs associated with abandoned transmission projects and its planned investment. Thus, we will grant Petitioners' request for recovery of 100 percent of prudently-incurred costs associated with abandonment of the Susquehanna Line, provided that the abandonment is a result of factors beyond the control of Petitioners, which must be demonstrated in any subsequent section 205 filings for recovery of abandoned plant.<sup>34</sup>

47. We find that this incentive will be an effective means to encourage the completion of Petitioners' Susquehanna Line. For example, besides its scope and size, the Susquehanna Line requires approvals from multiple jurisdictions, along with various federal approvals and could be cancelled through the PJM RTEP process. Dependence upon approval by multiple jurisdictions introduces a significant element of risk to the Susquehanna Line that is not faced by utilities building transmission facilities within a single jurisdiction. Granting the Petitioners' request for an abandonment incentive will help to ameliorate these risks and help ensure completion of the Susquehanna Line. Accordingly, the Commission rejects Consumer Advocates' protest that the incentive of abandoned plant costs is unwarranted.

48. The Commission will not determine the justness and reasonableness of Petitioners' abandoned plant recovery, if any, until Petitioners seek such recovery in a section 205 filing. Order No. 679 specifically reserves the prudence determination for the later section 205 filing which every utility is required to make if it seeks abandonment recovery.<sup>35</sup> At this stage of the proceeding, we are granting this incentive, subject to Petitioners making the appropriate demonstration in a future section 205 filing.

##### **5. Assigning the Incentives to an Affiliate**

49. Petitioners seek authority to assign these incentives to affiliates, if need be, which would construct and/or own the Susquehanna Line. Consumer Advocates argue that incentive rate proceedings should be fact-sensitive and that it would be inappropriate to allow the transfer of incentives to unidentified affiliates.

50. As discussed below, the Commission denies Consumer Advocates' requests to prohibit the transfer of the 125-basis-point ROE adder, 100 percent CWIP in rate base, and abandoned plant cost recovery incentive. Regarding the 50-basis-point adder for RTO participation, it is not clear to the Commission whether the Petitioners are seeking

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<sup>34</sup> *Id.* P 165-66.

<sup>35</sup> Order No. 679, FERC Stats. & Regs. ¶ 31,222 at P 165-66.

authority to transfer this incentive to affiliates. As discussed below, the Commission will not allow the Petitioners to assign the 50-basis-point adder for RTO participation to affiliates.

51. Regarding the 125-basis-point ROE adder, 100 percent CWIP in rate base, and abandoned plant cost recovery, the Commission views Petitioners' requests to assign these three incentives to affiliates in the same manner as if Petitioners' had requested the incentives for the Susquehanna Line on behalf of named affiliates.<sup>36</sup> Based on the narrow parameters of this case, the Commission grants Petitioners' requests because these three incentives "follow" the Project. That means that if either Petitioner assigns construction and/or ownership to an affiliate, the incentive follows the assignment and consequently, PPL or PSE&G would lose the incentive. For the reasons discussed *supra*, we find that the 125-basis-point ROE adder recognizes the risks and challenges faced by the Susquehanna Line, independent of who owns or constructs the line. Likewise, the transfer of the incentive to allow 100 percent of CWIP expenses in rate base recognizes that a four-year lead time before the estimated in-service date adversely affects the Project sponsors' ability to earn a return on their investment during the construction period. Finally, the incentive for recovery of abandoned plant costs, provided that the Susquehanna line is abandoned for reasons beyond management's control, is appropriate because of the Project's risk due to the multiple federal and state approvals needed. Accordingly, we grant Petitioners' request to be able to transfer these three specific incentives to any affiliates, even though the affiliates are not identified at this time, subject to the necessary section 203 and 205 filings being made with the Commission. Thus, the Commission denies Consumer Advocates' request regarding the transfer of these three incentives.

52. Finally, while it not clear to the Commission whether Petitioners are requesting authorization to assign the 50-basis-point ROE adder for RTO participation to yet-to-be-named affiliates, we deny such request. This incentive is tied to a specific entity being a member of PJM. It is not normally tied to a specific project unless the company owns a single transmission asset, which is not the case here. In order for the yet-to-be-named affiliates to be eligible for the 50-basis-point ROE adder, the affiliates would first have to become members of PJM and then file a section 205 filing with the Commission requesting such incentive.

## **6. Total Package of Incentives**

53. As noted earlier, 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

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<sup>36</sup> See, e.g., *AEP*, 116 FERC ¶ 61,059.



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,<sup>37</sup> the Commission has, in prior cases, approved multiple rate incentives for particular projects.<sup>38</sup> This is consistent with our interpretation of FPA section 219 as 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 the FPA section 219 and that there is a nexus between the incentives being proposed and the investment being made.

54. Petitioners state the interrelationship between these incentives will address the significant risks and uncertainties faced by the Susquehanna Line. In addition, Petitioners claim each of these incentives operates independently and they work together in order to help ensure that the necessary transmission upgrade is completed.<sup>39</sup>

55. We find that Petitioners have shown that, consistent with Order No. 679-A, the total package of incentives, as modified below, is tailored to address the demonstrable risks or challenges faced by Petitioners.<sup>40</sup> The incentive rate treatments proposed by Petitioners are not mutually exclusive. Further, Petitioners have explained why they are seeking each incentive and how each is relevant to the proposed Susquehanna Line. As discussed above, we find that Petitioners face significant risks and challenges in constructing the Susquehanna Line. We find here that granting the ROE incentives, together with CWIP and abandoned plant recovery, will encourage investors to invest in a transmission project with substantial financial risks, like the Susquehanna Line. Due to the number of approvals needed, the cost of the Project construction impediments, and expedited in-service date, the increase of such large amounts of debt, Petitioners are exposed to greater risks of project failure which results in increased risks to debt. Thus, we reject Consumer Advocates' argument that the total package of incentives is unwarranted, and find that Petitioners have shown a nexus for the total package of incentives, as modified below.

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<sup>37</sup> Order No. 679, FERC Stats. & Regs. ¶ 31, 222 at P 55.

<sup>38</sup> See, e.g., *Allegheny Energy, Inc.*, 116 FERC ¶ 61,058, at P 60, 122 (2006) (approving ROE at the upper end of the zone of reasonableness and 100 percent abandoned plant recovery); *Duquesne*, 118 FERC ¶ 61,087 at P 55 (granting an enhanced ROE, 100 percent CWIP, and 100 percent abandoned plant recovery).

<sup>39</sup> Petition at 53.

<sup>40</sup> Order No. 679-A, FERC Stats. & Regs. ¶ 31,236 at P 21, 27.

56. Under the facts presented here, we will reduce Petitioners' requested ROE Project adder. Order No. 679-A provides that if some of the incentives in the total package reduce the risk of a project, that fact will be taken into account in any request for an enhanced ROE.<sup>41</sup> While Petitioners' requested incentives fall within the scope of incentives outlined in Order No. 679, consistent with Order No. 679-A, we conclude that CWIP and abandonment of plant cost incentives serve to reduce Petitioners' overall risk. First, because of increased cash infusion resulting from the CWIP incentive, Petitioners will have less financial risk during the construction period. Moreover, an entity allowed to include CWIP in rate base is not required to refund the prudently-incurrent costs collected.<sup>42</sup> Second, the abandoned plant recovery ensures that investors will recover a return *on* and *of* investment, thereby further reducing financial risk associated with these investments. For this reason, we stated in Order No. 679 that "a utility that receives approval to recover abandoned plant in rate base would likely face lower risk and thus may warrant a lower ROE than would otherwise be the case without this assurance."<sup>43</sup> Therefore, under the facts of this proceeding, we find that a 125-basis point adder (rather than 150 basis points) for the Susquehanna Line is warranted.

57. Finally, we deny Consumer Advocates' requests to set this matter for hearing. In general, the Commission sets matters for a trial-type evidentiary hearing only to resolve

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<sup>41</sup> Order No. 679-A, FERC Stats. & Regs. ¶ 31,236 at P 8. Applicants' reliance on *Boston Edison* is inapposite. In *Boston Edison*, the Commission found that the CWIP incentive and the ROE incentive were not mutually exclusive. *Boston Edison Company*, 111 FERC ¶ 61,266, at P 11 (2005). However, we also premised our finding on Order No. 298, which states that "whatever the size of any effect that the inclusion of CWIP in rate base will have on the cost of capital, [it] will generally provide a downward pressure on those costs." Order No. 298, FERC Stats. & Regs. ¶ 30,455 at 30,515.

<sup>42</sup> Order No. 679-A, FERC Stats. & Regs. ¶ 31,236 at P 116 "...where an applicant has satisfied our nexus requirement and has been granted authority to recover CWIP or abandoned plant, and subsequently the applicant's project is unable to obtain state or federal siting authority (and thus no showing is made with respect to ensuring reliability or reducing the cost of delivered power by reducing congestion because the applicant was relying upon those processes) we would not require refunds for the costs already prudently-incurred by the applicant. To require refunds in such circumstances would be contrary to our long-standing policy, which permits recovery of all prudently-incurred costs." (footnote omitted).

<sup>43</sup> Order No. 679, FERC Stats. & Regs. ¶ 31,222 at P 167.

material issues of law and fact. In this case, however, since Petitioners have satisfied the requirements of Order No. 679 based on the record presented in their Petition, we conclude that setting this matter for hearing is not appropriate.

The Commission Orders:

The petition for declaratory order is hereby granted, with one modification, as discussed in the body of this order.

By the Commission. Commissioner Kelly dissenting in part with a separate statement attached.

Commissioner Wellinghoff dissenting in part with a separate statement attached.

( S E A L )

Kimberly D. Bose,  
Secretary.

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

PPL Electric Utilities Corporation  
Public Service Electric and Gas Company

Docket No. EL08-23-000

(Issued April 22, 2008)

KELLY, Commissioner, *dissenting in part*:

In this order, the Commission addresses a request for transmission rate incentives submitted by PPL Electric Utilities Corporation (PPL) and Public Service Electric and Gas Company (PSEG) for their proposed Susquehanna-Roseland Line. The proposed line is a new 500 kV transmission line extending from Pennsylvania into northern New Jersey. Its estimated cost is \$900 million to \$1 billion. PPL and PSEG assert that the projected date of completion is June 2012, noting that PJM requested that it be completed in that timeframe. PPL and PSEG request the following incentives: 1) a 50 basis point adder for continued membership in PJM; 2) a project-specific 150 basis point adder to their respective returns of equity (ROE); 3) authority to include 100% of prudently incurred Construction Work in Progress (CWIP) expenses in rate base; and 4) recovery of 100% of prudently incurred costs in the event the line is abandoned as a result of factors beyond their control. PPL and PSEG further request the authority to assign incentives to yet-to-be identified affiliates. I dissent from the order only with respect to the project-specific ROE adder.

I find that the Susquehanna-Roseland Line warrants incentive rate treatment based on the criteria I have identified and relied upon to evaluate previous requests to transmission incentive rate treatment.<sup>1</sup> I base my finding on several factors. First, this is a 500 kV project that crosses state lines and will contribute to reductions in system congestion costs estimated at \$1.4 billion over 8 years.<sup>2</sup> Second, PPL and PSEG are cooperatively undertaking construction of the Susquehanna-Roseland Line, the total cost of which is estimated between \$900

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<sup>1</sup> See *American Electric Power Service Corporation*, 118 FERC ¶ 61,041 (2007).

<sup>2</sup> Exhibit E at p. 21.

million and \$1 billion, under an accelerated timetable requested by PJM Interconnection (PJM). Third, PJM's analysis clearly shows that the line will relieve several reliability violations. Finally, I find that the overall cost of the project, when combined with the investment required of both PPL and PSEG relative to their transmission plant in service levels (60% and 80%, respectively), warrants incentive rate treatment.

However, I cannot support the full range of requested incentives, despite the laudable characteristics I have mentioned above. While I support approving the requested CWIP and abandoned plant incentives, as well as that for RTO participation, I do not believe that a project-specific basis point ROE adder is appropriate for the Susquehanna-Roseland Line. PPL and PSEG identify four primary risk areas associated with undertaking the project: the significant investment, regulatory approval process, abandonment, and unique construction risks and challenges.<sup>3</sup> I believe that the CWIP and abandoned plant incentives adequately address the first three identified risks and that a project-specific ROE adder is not required to ensure that this project is built. Recovery of 100% of prudently incurred CWIP will help alleviate strain on the applicants' financial standing as they undertake expenditures during the four year lead time. Authority to recover costs in the event of abandonment will provide relief to PPL and PSEG if regulatory approvals are denied or the project is somehow canceled through the PJM RTEP process.

With regard to the construction risks and challenges, PPL and PSEG identify an accelerated construction schedule, unique line configurations, and work "in remote and mountainous terrain that will require specialized equipment."<sup>4</sup> Based on these risks, I do not believe that an ROE adder is warranted on top of the CWIP and abandoned plant incentives. CWIP and abandoned plant should be sufficient to address any risks created by an accelerated construction schedule. I do not believe that an ROE adder is required to address the identified construction risks.

Finally, I note that PPL and PSEG supplemented their project-specific ROE adder request by comparing their project to those approved for incentive rate treatment in previous proceedings,<sup>5</sup> and I did not approve the use of project-specific ROE adders in either case.

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<sup>3</sup> Petition at pp 2-5.

<sup>4</sup> Petition at 39.

<sup>5</sup> *Duquesne Light Co.*, 118 FERC ¶ 61,087 (2007) and *Southern California Edison Company*, 121 FERC ¶ 61,168 (2007). Petition at 42-43.

For these reasons, I respectfully dissent in part from this order.

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Sudeen G. Kelly

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

PPL Electric Utilities Corporation  
Public Service Electric and Gas Company

Docket No. EL08-23-000

(Issued April 22, 2008)

WELLINGHOFF, Commissioner, dissenting in part:

PPL and PSE&G (Applicants) have requested a number of rate incentives for their proposed Susquehanna-Roseland Line (Project), including, but not limited to: (1) rate base treatment for 100 percent of CWIP expenses; (2) recovery of 100 percent of prudently incurred costs in case of project abandonment; and (3) a 150-basis-point incentive ROE adder. In today's order, the majority grants each of those requests, though it determines that an incentive ROE adder of 125 basis points (rather than the requested 150 basis points) is warranted.

I do not believe that Applicants have satisfied the Commission's nexus test with regard to their request for an incentive ROE adder. Moreover, I believe that in setting the amount of Applicants' incentive ROE adder, the majority has not adequately accounted for the extent to which the other incentives granted to Applicants address the risks and challenges faced by the Project. For these reasons, I dissent in part.

One important component of Order No. 679 is the requirement that each applicant must demonstrate a nexus between the incentive sought and the investment being made.<sup>1</sup> The Commission has clarified that this nexus requirement means that the incentives sought must be tailored to address the demonstrable risks and challenges faced by the applicant in undertaking the project.<sup>2</sup> I dissented from several recent orders in which I felt that the majority applied an insufficiently rigorous version of the nexus requirement and, therefore, inappropriately granted incentive ROE adders.<sup>3</sup>

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<sup>1</sup> Order No. 679 at P 26.

<sup>2</sup> Order No. 679-A at P 21. In making this clarification, the Commission also stated that it retained its discretion to provide policy-based incentives. *Id.* n. 37.

<sup>3</sup> See, e.g., *Baltimore Gas and Elec. Co.*, 120 FERC ¶ 61,084 (2007); *Baltimore Gas and Elec. Co.*, 121 FERC ¶ 61,167 (2007); *Commonwealth Edison Co.*, 122 FERC ¶ 61,037 (2008).

I have similar concerns about today's order. The majority bases its finding that Applicants have satisfied the nexus requirement, in part, on the statement that "because the Project is an approved baseline project in PJM's RTEP, by definition, it is a regional project and, thus, is not routine." As I have stated before, I disagree with the majority's conclusion that designation as an RTEP baseline project necessarily means that a project satisfies the nexus requirement.<sup>4</sup> The majority also bases its finding as to the nexus requirement on statements concerning siting, construction, regulatory, financing, and technology risks, such as the need to use helicopters to construct the Project in certain terrain. I do not find the majority's rationale on this issue to be persuasive.

In my view, it is noteworthy, but not determinative, if a project is a backbone transmission facility that involves multiple entities and jurisdictions and that will relieve transmission constraints along a critical corridor. As I have stated previously, a more important consideration in identifying non-routine investments worthy of an incentive ROE adder is whether a project will use advanced technologies that will increase efficiency, enhance grid operations and reliability, and result in greater grid flexibility, thus benefiting all users of the grid and ultimate consumers.<sup>5</sup> The use of such advanced technologies often will present distinct risks and challenges. I recently supported an incentive ROE adder for a Potomac-Appalachian Transmission Highline (PATH) project, based in large part on the substantial detail that the company provided on its proposed use of advanced technologies and its commitment to make the project "a model of advanced technology to improve reliability and project efficiency that the Commission intended with Order No. 679-A."<sup>6</sup> Applicants here submitted a technology statement in accordance with another important requirement established in Order No. 679.<sup>7</sup> I do not believe, however, that the discussion in that technology statement – which primarily pertains to design and construction techniques that may allow a 500 kV line to be sited in a right-of-way designed for a 230 kV line<sup>8</sup> – or Applicants' other arguments satisfy the nexus requirement, as needed for the Commission to grant an incentive ROE adder.

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<sup>4</sup> *Potomac-Appalachian Transmission Highline, L.L.C.*, 122 FERC ¶ 61,188 (2007) (separate statement of Commissioner Wellinghoff at 2, n.6).

<sup>5</sup> *Id.* at 2.

<sup>6</sup> *Id.* at 2-3.

<sup>7</sup> Order No. 679 at P 302 ("In as much as EAct 2005 requires the Commission to encourage the deployment of transmission technologies, we will require applicants for incentive rate-treatment to provide a technology statement that describes what advanced technologies have been considered and, if those technologies are not to be employed or have not been employed, an explanation of why they were not deployed.").

<sup>8</sup> Petition at 55.



Moreover, assuming for purposes of argument that Applicants satisfied the nexus requirement and demonstrated that the Project warrants an incentive ROE adder, I am concerned that the majority has not adequately accounted for the extent to which the other incentives granted in today's order address the risks and challenges faced by the Project. To illustrate my concern, it is useful to consider in greater detail the relationship between the incentives granted in today's order and the risks and challenges facing the Project that Applicants identified.

#### *100 Percent CWIP Treatment*

Applicants assert that the Project will create a cash-flow problem and, thereby, increase the cost of capital. Applicants also state that the Project could have a negative effect on their credit ratings. Applicants explain that the financial metric most important to the rating services is Cash from Operations less Working Capital to Debt. Without a current cash return on the expenditures, Cash from Operations will not change, while debt levels will increase.<sup>9</sup> Applicants further claim that the long lead time before the in-service date for the Project could discourage investors. Applicants state, however, that with 100 percent CWIP treatment, they could recover the financing costs (both equity and debt) of construction for the Project on a current basis during the construction period.<sup>10</sup> Authorizing Applicants' request for 100 percent CWIP treatment, as the Commission does in today's order, resolves these cash flow concerns by replacing non-cash AFUDC with cash earnings.

#### *100 Percent Recovery of Abandoned Plant Costs*

Applicants state that the Project faces regulatory permitting requirements across multiple jurisdictions, and that if any required regulatory approvals is not granted, the Project could be terminated. Applicants state that in light of those requirements, the financial community views project abandonment as a significant risk. Applicants state that abandoned plant recovery reassures the financial community and attracts investors by offsetting the regulatory risks the project faces.<sup>11</sup> Consistent with that statement, granting Applicants' request for 100 percent recovery of abandoned plant costs, as the Commission does in today's order, substantially reduces (and may well eliminate) the regulatory risk faced by the Project.

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<sup>9</sup> See Affidavit of Mark G. Kahrer at P 12.

<sup>10</sup> See Affidavit of Mark A. Velicher at P 13.

<sup>11</sup> See Affidavit of Mark G. Kahrer at 8.

*150-Basis-Point Adder to Base ROE*

Turning to their request for a 150-basis-point incentive ROE adder, Applicants contend that the Project will cost nearly \$1 billion, which will lead to a reduction in cash flow. As noted above, however, authorizing Applicants' request for 100 percent CWIP treatment resolves these cash flow concerns. Applicants also contend that their requested incentive ROE adder will compensate investors for the regulatory risk of a project that faces regulatory permitting requirements across multiple jurisdictions. Again as noted above, granting Applicants' request for 100 percent recovery of abandoned plant costs substantially reduces and may eliminate the regulatory risk faced by the Project

Lastly, Applicants contend that their requested incentive ROE adder will help attract necessary investment capital. Applicants state that financial markets take into account their cash flows, financial metrics, and credit ratings when evaluating Applicants as an investment opportunity.<sup>12</sup> Applicants also express concern that they will be competing for funds with other utilities that have already been granted incentive ROE adders.<sup>13</sup> As noted above, other incentives granted in today's order address concerns about cash-flow, financial metrics, and credit ratings as a result of the Project. In addition, it is important to note that Applicants provide no evidentiary support to indicate that their base ROE is inadequate to address such concerns. If an applicant wished to make this argument, such evidence could include financial analyses and supporting documentation from experts in the financial community. As I have stated before, in setting a utility's base ROE, the Commission must balance the interests of shareholders and consumers, recognizing that the base ROE must be sufficiently high to attract capital and compensate a utility for the risks it faces.<sup>14</sup>

In Order No. 679-A, the Commission stated that it would examine the total package of incentives sought by an applicant, the inter-relationship between any incentives, and how any requested incentives address the risks and challenges faced by the project.<sup>15</sup> The Commission also stated that if some of the incentives in a package reduce the risks of the project, then that fact would be taken into account in any request for an enhanced ROE.<sup>16</sup> In today's order, the majority repeats that pledge and recognizes that granting CWIP and abandoned plant recovery incentives reduces the risk associated

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<sup>12</sup> See Affidavit of Mark A. Velicher at P 8 and Affidavit of Mark G. Kahrer at 9.

<sup>13</sup> See Affidavit of Mark A. Velicher at P 8 and Affidavit of Mark G. Kahrer at 9-10.

<sup>14</sup> *American Elec. Power Serv. Corp.*, 118 FERC ¶ 61,041 (2007) (separate statement of Commissioner Wellinghoff at 5).

<sup>15</sup> Order No. 679-A at P 21.

<sup>16</sup> *Id.* P 6, 27.

with the Project. In turn, the majority finds that the Project warrants a 125-basis-point incentive ROE adder, rather than the 150-basis-point adder that Applicants requested. I do not believe that this 25-basis-point reduction adequately accounts for the extent to which the other incentives granted in today's order address the risks and challenges faced by the Project.

For these reasons, I respectfully dissent in part from today's order.

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Jon Wellinohoff  
Commissioner