142 FERC ¶ 61,100
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.

Dairyland Power Cooperative | Docket No. EL13-19-000

ORDER ON PETITION FOR DECLARATORY ORDER

(Issued February 8, 2013)

1. On November 9, 2012, Dairyland Power Cooperative (Dairyland) filed a petition for a declaratory order (Petition) under Rule 207 of the Commission's Rules of Practice and Procedure,[1] section 219 of the Federal Power Act (FPA)[2] and Order No. 679.[3] In the Petition, Dairyland requests approval of certain transmission rate incentives in connection with its investment in the Hampton-Rochester-La Crosse Project (La Crosse Project). Specifically, Dairyland requests that the Commission authorize: (1) a hypothetical capital structure of 35 percent equity and 65 percent debt (Hypothetical Capital Structure); and (2) recovery of 100 percent of prudently-incurred costs of transmission facilities that are abandoned for reasons beyond the control of Dairyland (Abandoned Plant Recovery). In this order, we grant the Petition, as discussed below.

I. Background

A. Description of Dairyland

2. Dairyland states that it is a non-stock, not-for-profit Wisconsin generation and transmission cooperative headquartered in La Crosse, Wisconsin. Dairyland states that it is not subject to the rate-making jurisdiction of the Commission. Dairyland is owned by

[1] 18 C.F.R. § 385.207 (2012).

[2] 16 U.S.C. § 824(s) (2006).

[3] *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).

and provides the wholesale power requirements for 25 separate distribution cooperatives in southern Minnesota, western Wisconsin, northern Iowa, and northern Illinois. Dairyland has all-requirements contracts extending through 2055 with its member distribution cooperatives. Dairyland's 25 member distribution cooperatives serve approximately 256,000 member customers. Dairyland is a market participant in the Midwest Independent Transmission System Operator, Inc. (MISO) energy market and has been a MISO transmission owning member since 2010. In its capacity as a MISO transmission owner, Dairyland recovers its annual transmission revenue requirement under Attachment O of the MISO Open Access Transmission, Energy and Operating Reserve Markets Tariff (Tariff).[4]

B. Description of the La Crosse Project

3. The La Crosse Project is part of the CapX2020 regional transmission planning initiative located primarily in the MISO footprint.[5] The La Crosse Project is planned to consist primarily of a double-circuit-capable 345 kV transmission line and related 161 kV lines running from Hampton, Minnesota, through the vicinity of Rochester, Minnesota, and terminating in La Crosse, Wisconsin. Dairyland states that the La Crosse Project would be the first 345 kV project owned in whole or in part by Dairyland. Dairyland states that its 11 percent share in the currently projected $471 million La Crosse Project will require an investment of approximately $52 million.[6] The La Crosse Project is expected to be completed in early 2016.[7]

II. Notice of Filing and Responsive Pleadings

4. Notice of Dairyland's Petition was published in the *Federal Register*, 77 Fed. Reg. 69,618 (2012), with interventions and protests due on or before December 10, 2012. Upper Midwest Municipal Power Agency (UMMPA) filed a timely motion to intervene and comments. On December 19, 2012, WPPI Energy (WPPI) filed a motion to intervene out-of-time and comments. On December 26, 2012, Dairyland filed an answer.

---

[4] Petition at 3.

[5] The Project is being developed by Xcel Energy/Northern States Power Company (Xcel) (64 percent ownership), Southern Minnesota Municipal Power Agency (13 percent ownership), Dairyland (11 percent ownership), Rochester Public Utilities (nine percent ownership), and WPPI Energy (three percent ownership).

[6] Petition at 4 (citing Ex. DPC-6 (Iverson Test.) at 10).

[7] Ex. DPC-6 (Iverson Test.) at 12.

III. Discussion

A. Procedural Matters

5. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2012), UMMPA's timely, unopposed motion to intervene serves to make it a party to this proceeding.

6. Pursuant to Rule 214(d) of the Commission's Rules of Practice and Procedure,[8] the Commission will grant WPPI's motion to intervene out-of-time and accept its late-filed comments, given its interest in the proceeding, the early stage of the proceeding, and the absence of undue prejudice or delay.

7. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure[9] prohibits an answer to a protest unless otherwise ordered by the decisional authority. We will accept Dairyland's answer because it has provided information that assisted us in our decision-making process.

B. Substantive Matters

1. Section 219 Requirement

8. In the Energy Policy Act of 2005,[10] 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. 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 Dairyland.

9. Pursuant to Order No. 679, an applicant may seek to obtain incentive rate treatment for transmission infrastructure investment that satisfies the requirements of section 219, i.e., the applicant must show that "the facilities for which it seeks incentives either ensure reliability or reduce the cost of delivered power by reducing transmission congestion."[11] Order No. 679 established a process for an applicant to follow to

---

[8] 18 C.F.R. § 385.214(d) (2012).

[9] 18 C.F.R. § 385.213(a)(2) (2012).

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

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

demonstrate that it meets this standard, including a rebuttable presumption that the standard is met if: (1) the transmission project results from a fair and open regional planning process that considers and evaluates projects for reliability and/or congestion and is found to be acceptable to the Commission; or (2) a project has received construction approval from an appropriate state commission or state siting authority.[12] 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.[13]

a. Dairyland's Proposal

10. Dairyland states that the La Crosse Project is entitled to the rebuttable presumption that it meets the requirements of FPA section 219(a) by ensuring reliability or reducing the cost of delivered power by reducing congestion. Dairyland states that the La Crosse Project qualifies for the rebuttable presumption because it was approved and included in the 2008 MISO Transmission Expansion Plan, through which MISO reviewed and affirmed the La Crosse Project's congestion relief and reliability benefits. Dairyland also states that the Minnesota Public Utilities Commission (Minnesota Commission) has issued a Certificate of Need for the facility based upon its own verification of the La Crosse Project's reliability and congestion benefits, which the Commission has previously found also establishes a rebuttable presumption under Order No. 679. In addition, Dairyland states that the Public Service Commission of Wisconsin (Wisconsin Commission) issued a Certificate of Public Convenience and Necessity based upon, among other things, its examination of regional reliability needs.[14]

---

[12] *Id*.

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

[14] Petition at 7-8.

b. **Commission Determination**

11. Based on the Minnesota Commission's Certificate of Need, which the Commission already has found satisfies the rebuttable presumption,[15] as well as the Wisconsin Commission's Certificate of Public Convenience and Necessity, we find that the La Crosse Project satisfies the requirements of the section 219.

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

12. In addition to satisfying the section 219 requirement of ensuring reliability or reducing the cost of delivered power by reducing congestion, an applicant must demonstrate a nexus between the incentives being sought and the investment being made. In Order No. 679-A, the Commission clarified that the nexus test is met when an applicant demonstrates that the incentives requested are "tailored to address the demonstrable risks or challenges faced by the applicant."[16]

13. As part of the evaluation of whether the incentives requested are tailored to address the demonstrable risks or challenges faced by the applicant, the Commission has found the question of whether a project is "routine" to be probative.[17] In *Baltimore Gas & Elec. Co.*, the Commission provided guidance on the factors it will consider when determining whether a project is routine. The Commission stated that it will consider all relevant factors presented by the applicant, including evidence on: (1) the scope of the project (e.g., dollar investment, increase in transfer capability, involvement of multiple entities or jurisdictions, size, effect on region); (2) the effect of the project (e.g., improving reliability or reducing congestion costs); and (3) the challenges or risks faced by the project (e.g., siting, long lead times, regulatory and political risks, specific financing challenges, or other impediments).[18] The Commission also explained that, when an applicant has adequately demonstrated that the project for which it requests an

---

[15] *See WPPI Energy*, 141 FERC ¶ 61,004, at P 9 (2012) (*WPPI*); *Xcel Energy Svcs., Inc.*, 121 FERC ¶ 61,284, at P 53 (2007) (*Xcel*).

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

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

[18] *Id.* P 52.

incentive is not routine, that applicant has shown, for purposes of the nexus test, that the project faces risks and challenges that merit an incentive.[19]

a. Dairyland's Proposal

14. Dairyland asserts that the La Crosse Project is not routine and faces significant hurdles and associated risks. Specifically, the La Crosse Project will be the first 345 kV transmission project owned, in whole or in part, by Dairyland. Additionally, the La Crosse Project will be regionally planned, involving multiple owners including investor-owned utilities, cooperatives, and municipal utilities. Consequently, Dairyland argues that it will have limited control of whether the La Crosse Project is cancelled or of the La Crosse Project's costs, which it argues are highly variable. Further, the La Crosse Project crosses state boundaries, requiring many federal and state approvals and permits. Dairyland also contends that the La Crosse Project represents a significant increase in transmission capacity in the upper Midwest and will provide transmission capacity for renewables. Dairyland describes how each requested incentive addresses a different risk or challenge and contends that the requested incentives complement each other.[20] Dairyland also asserts that the La Crosse Project is not routine because of its use of advanced technologies.[21]

---

[19] *Id*. P 54. In a policy statement issued on November 15, 2012, the Commission reframed the application of its nexus test. However, the Commission stated that it will apply the new policy statement to incentive applications received after the date of issuance of the policy statement. *Promoting Transmission Investment Through Pricing Reform*, 141 FERC ¶ 61,129, at P 1 (2012). Thus, the new policy statement does not apply to the instant incentives request.

[20] Petition at 9-13; Ex. DPC-8 (Pardikes Test.) at 16-23.

[21] Dairyland states that the La Crosse Project will make use of advanced conductor designs of steel supported aluminum conductors with trapezoidal wire, micro-processor based digital protective relays, digital fault recorders, Programmable Logic Controller-based control and annunciation, tubular steel structures, and fiber-optic based communication. Dairyland further states that the La Crosse Project will utilize helicopters for some construction, use sophisticated aerial surveying methods, use vibratory caissons in appropriate locations to minimize environmental impact, employ various configurations at refuge/river crossings to reduce bird kills, and make use of fiber-optic shield wire for utility system protection. Ex. DPC-6 (Iverson Test.) at 13-14. As noted above, the Commission's November 15, 2012 policy statement on transmission

(continued…)

b. Commission Determination

15. The Commission has previously determined that the La Crosse Project is a non-routine project.[22] Consistent with these holdings, we make a similar finding that Dairyland's request for incentives meets the nexus requirement. We also find that Dairyland has demonstrated that the requested incentives address the risks and challenges of the La Crosse Project. As discussed below, the Commission grants Dairyland's request for Abandoned Plant and Hypothetical Capital Structure incentives.

3. Abandoned Plant Recovery

a. Dairyland's Proposal

16. Dairyland requests that it be permitted to recover 100 percent of prudently incurred costs of transmission facilities that are cancelled or abandoned due to factors beyond its control. Dairyland states that it requests the Abandoned Plant Recovery incentive because its position as a minority owner of the La Crosse Project provides little control over decisions related to its cancellation.[23] Dairyland notes that the Commission has issued orders approving the Abandoned Plant Recovery incentive for CapX2020 projects, including the La Crosse Project.[24] Dairyland also asserts that its position is similar to that of WPPI, for whom the Commission approved the Abandoned Plant

---

incentives, including statements therein with respect to proposed use of new or advanced technologies, does not apply to Dairyland's proposal.

[22] *WPPI*, 141 FERC ¶ 61,004 at P 14 (citing *Xcel*, 121 FERC ¶ 61,284 at P 56).

[23] Ex. DPC-8 (Pardikes Test.) at 12.

[24] Petition at 19, (citing *WPPI*, 141 FERC ¶ 61,004, at P 24; *Missouri River Energy Services*, 138 FERC ¶ 61,045, at P 24 (2012) (*MRES*); *Midwest Indep. Transmission Sys. Operator, Inc.*, 138 FERC ¶ 61,043, at PP 13, 17 (2012); *Otter Tail Power Co.*, 137 FERC ¶ 61,255, at P 52 (2011); *Central Minnesota Municipal Power Agency*, 134 FERC ¶ 61,115, at P 21 (2011) (*Central Minnesota*); *ALLETE, Inc.*, 133 FERC ¶ 61,270, at P 6 (2010); *Great River Energy*, 130 FERC ¶ 61,001, at P 33 (2010); *Otter Tail Power Co.*, 129 FERC ¶ 61,287 (2009), *order on compliance filing*, 131 FERC ¶ 61,129, at P 12 (2010); *Xcel*, 121 FERC ¶ 61,284 at P 63).

Recovery incentive, in that Dairyland has a similar small share relative to the lead investor and thus has little or no control over whether the La Crosse Project is abandoned.[25]

17. Dairyland also adds that American Transmission Company's recent complaint filed in Docket No. EL13-9-000 raises the prospect of some participants being denied ownership, thereby complicating financing for the La Crosse Project.[26] Furthermore, Dairyland states that key approvals from both federal and state agencies still need to be obtained. Dairyland argues that any difficulties with permitting regarding the La Crosse Project's route crossing various rivers, along with the Upper Mississippi National Wildlife and Fish Refuge, could result in delaying the selection of the final route and threatening the La Crosse Project's progress. Dairyland notes that it will have to wait 11 years (starting from 2007) to begin cost recovery for the La Crosse Project, and, as a result, any further delays could create an additional financial burden.[27]

18. Dairyland argues that the Abandoned Plant Recovery incentive is necessary to provide cost recovery assurance to credit rating agencies. To this end, Dairyland asserts, the combination of abandoned plant and Hypothetical Capital Structure incentives will lessen its debt burden regarding the La Crosse Project, thus contributing to a healthier credit rating and contributing to lower financing costs for Dairyland.[28] Additionally, Dairyland notes that because the Commission granted the Abandoned Plant Recovery incentive to Xcel and WPPI,[29] they would be authorized to recover their abandoned plant costs from Dairyland load in the Northern States Power pricing zone. According to Dairyland, the Abandoned Plant Recovery incentive would prevent Dairyland from being

---

[25] *Id*. at 20.

[26] *Id*. at 11-12. We note that the Commission denied the complaint by order issued on February 4, 2013. *American Transmission Company LLC v. Midwest Indep. Transmission Sys. Operator, Inc. and Xcel Energy Services, Inc., Northern States Power Company (Wisconsin) and Northern States Power Company (Minnesota)*, 142 FERC ¶ 61,090 (2013).

[27] *Id.* at 10-11, Ex. DPC-8 (Pardikes Test.) at 45-46.

[28] Ex. DPC-8 (Pardikes Test.) at 13.

[29] *Xcel*, 121 FERC ¶ 61,284 at P 63; *WPPI*, 141 FERC ¶ 61,004 at 24.

forced to pay a share of other La Crosse Project owners' abandoned plant costs in addition to its own investment costs stemming from cancellation.[30]

b. Commission Determination

19. We will grant the Abandoned Plant Recovery incentive such that Dairyland has the opportunity to recover 100 percent of its prudently incurred costs for the La Crosse Project, if it is abandoned for reasons beyond Dairyland's control. In Order No. 679, the Commission found that the Abandoned Plant Recovery incentive is an effective means of encouraging transmission development by reducing the risk of non-recovery of costs.[31] We find that Dairyland has demonstrated, consistent with Order No. 679, a nexus between the recovery of 100 percent of prudently incurred abandonment costs and its planned investment in the La Crosse Project. We agree with Dairyland that the La Crosse Project faces substantial risks outside of Dairyland's control.

20. We note, however, that if the La Crosse Project is cancelled before it is completed, Dairyland is required to make a filing under section 205 of the FPA to demonstrate that the costs were prudently incurred before it can recover any abandoned plant costs, as Dairyland commits to doing in the filing.[32] Dairyland must also propose in its section 205 filing a just and reasonable rate to recover these costs. Order No. 679 specifically requires that any utility granted this incentive that then seeks to recover abandoned plant costs must submit such a section 205 filing.[33]

4. Hypothetical Capital Structure

a. Dairyland's Proposal

21. Dairyland requests that the Commission grant use of a Hypothetical Capital Structure composed of 35 percent equity and 65 percent debt for the entire period of debt

---

[30] Ex. DPC-8 (Pardikes Test.) at 12-13, 47. We note that Dairyland, in its filing, commits to making a section 205 filing should it wish to recover 100 percent of prudently incurred costs of transmission facilities that are cancelled or abandoned due to factors beyond its control. Petition at 19; Ex. DPC-8 (Pardikes Test.) at 48.

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

[32] Petition at 19.

[33] Order No. 679, FERC Stats. & Regs. ¶ 31,222 at P 166.

financing for the La Crosse Project, which it expects to conclude in 2046.[34] Dairyland argues that issues related to joint ownership, limited control as a minority owner, outstanding permits and rights-of-way, and use of advanced technologies create risk that Dairyland might not otherwise face in internal projects.[35] Dairyland asserts that a 35 percent equity ratio would provide a return commensurate with this risk. Dairyland states that without such compensation, Dairyland would be better off investing in more routine transmission projects.[36]

22. Dairyland asserts that the requested Hypothetical Capital Structure will improve Dairyland's financial metrics enough to solidify its targeted credit rating of "A" with Standard & Poor (S&P) and improve to an A2 rating with Moody's.[37] Dairyland argues that such a credit rating would provide some leeway to withstand unexpected downturns in margin and/or unexpected increases in capital expenditures without falling out of Moody's "A" category into the "B" category, which would result in significantly higher financing costs.[38] Dairyland states that a 35 percent Hypothetical Capital Structure has been analytically derived to maintain the requisite financial metrics to support its desired credit rating.[39] Dairyland additionally argues that a Hypothetical Capital Structure is necessary for the length of the financing period (and not just the construction period) for the La Crosse Project because it cannot issue common stock to raise equity to a targeted ratio once the La Crosse Project is completed, unlike investor-owned utilities (IOUs).[40] Dairyland also points out that the Commission has previously approved a Hypothetical

---

[34] Petition at 16. Dairyland states that its actual capital structure consists of 16.5 percent equity and 83.5 percent debt. Ex. DPC-9 (Pardikes Exh. (Estimated Revenue Requirements Difference between Dairyland and Xcel/NSP with Actual Capital Structure)) at 1.

[35] Petition at 11-13.

[36] Ex. DPC-8 (Pardikes Test.) at 7-8.

[37] Dairyland states that it is currently rated "A" by S&P and "A3" by Moody's. Ex. DPC-1 (Moilien Test.) at 6-7.

[38] Ex. DPC-8 (Pardikes Test.) at 30.

[39] Petition at 14-15.

[40] Ex. DPC-8 (Pardikes Test.) at 43-44.

Capital Structure for the duration of the financing for other CapX2020 members who are reliant on non-equity financing, such as Central Minnesota, MRES, and WPPI.[41]

23. Dairyland argues that use of the requested Hypothetical Capital Structure would assist in balancing Dairyland's risk with the IOU majority investor, Xcel. Dairyland notes that in the event an IOU defaulted on its debt, it would not be obligated to make the relevant bondholders whole, whereas, because Dairyland is a cooperative, its members would be required by its all-requirements contract to assume rate increases in order to ensure all debt is paid.[42] Dairyland asserts that this all-requirements contract improves credit rating agencies' view of Dairyland, but also creates greater risk. Dairyland also argues that without the requested Hypothetical Capital Structure, there would be a large disparity between Dairyland's returns and revenue requirements and Xcel's. Dairyland asserts that because its risks are as great, if not greater, than Xcel's, the Commission should grant the requested Hypothetical Capital Structure in return to lessen this disparity.[43]

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

24. UMMPA requests that the Commission predicate any determination of the justness and reasonableness of the proposed Hypothetical Capital Structure on an express limitation of such capital structure to Dairyland's investment in the La Crosse Project. UMMPA argues that such a limitation would be consistent with previous Commission precedent that incentives determinations are case-specific and would prevent a substantially higher rate increase. Moreover, UMMPA requests that, to the extent that Dairyland makes future investments in high risk transmission projects on the strength of an improved balance sheet, such investments should not be presumed to be subject to the same Hypothetical Capital Structure proposed in this proceeding. Rather, the justness and reasonableness of applying any incentive rate treatment to each such investment

---

[41] *Id*. at 44 (citing *Central Minnesota*, 134 FERC ¶ 61,115 at P 31; *MRES*, 138 FERC ¶ 61,045 at P 37; *WPPI*, 141 FERC ¶ 61,004 at P 32).

[42] Dairyland states that its 25 distribution cooperatives are both the owners and customers of Dairyland bound by all-requirements contracts. According to Dairyland, the all-requirements contracts stipulate that Dairyland's members must assume all responsibility for all of its cost of service, including debt. Ex. DPC-8 (Pardikes Test.) at 37-38.

[43] Petition at 15-16; Ex. DPC-8 (Pardikes Test.) at 37-38, 40-41.

should, consistent with the Commission's precedent, be determined by the Commission on a case-by-case basis.[44]

25. WPPI states that it supports the Petition for the reasons stated by Dairyland. WPPI states that it neither opposes nor joins UMMPA's comment, but WPPI also notes that Dairyland's requested incentives are expressly limited to the La Crosse Project.[45]

26. In its answer, Dairyland confirms that its requested incentives, including the proposed Hypothetical Capital Structure, are limited to Dairyland's investment in the La Crosse Project.[46]

c. Commission Determination

27. We find that Dairyland has demonstrated that the requested Hypothetical Capital Structure is tailored to address the risks of its investment in the La Crosse Project. We note that the Commission previously granted use of a Hypothetical Capital Structure to municipal entities that have relied upon non-equity financing, including a separate owner of the La Crosse Project.[47] Consistent with that precedent, we will grant Dairyland use of a Hypothetical Capital Structure for the La Crosse Project's entire financing period,[48] and we find use of the proposed 35 percent equity and 65 percent debt appropriate.

28. In response to UMMPA's concern, and consistent with our case-by-case approach in addressing incentives applications, we note that our determination herein is limited to Dairyland's requested incentives for its investment in the La Crosse Project.

---

[44] UMMPA Motion to Intervene at 3-5.

[45] WPPI Motion to Intervene at 3.

[46] Dairyland Answer at 2-3.

[47] *WPPI*, 141 FERC ¶ 61,004, at PP 31-32. *See also*, *e.g.*, *Central Minnesota*, 134 FERC ¶ 61,115 at P 31; *MRES*, 138 FERC ¶ 61,045 at PP 36-39.

[48] *See*, *e.g.*, *Central Minnesota*, 134 FERC ¶ 61,115 at P 31; *WPPI*, 141 FERC ¶ 61,004 at P 32.

5. Total Package of Incentives

a. Dairyland's Proposal

29. Dairyland states that it has tailored the requested incentives to meet the risks and challenges of the La Crosse Project. Dairyland states that its requested Abandoned Plant Recovery and Hypothetical Capital Structure incentives work together to reduce the substantial risks borne by Dairyland related to its participation in the La Crosse Project. It also states that without these incentives, Dairyland, other generation and transmission entities, and other public power entities would be less willing to invest in major new transmission projects.[49]

b. Commission Determination

30. 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,[50] the Commission has, in prior cases, approved multiple rate incentives for particular projects as long as each incentive satisfies the nexus test.[51] This is consistent with our interpretation of section 219 authorizing the Commission to approve more than one incentive rate treatment for an applicant proposing a new transmission project, as long as each incentive is justified by a showing that it satisfies the requirements of section 219 and that there is a nexus between the incentives proposed and the investment made. We find that the total package of incentives that we are approving is tailored to address the risks and challenges that Dairyland faces in constructing the La Crosse Project. As discussed above, Dairyland has demonstrated that each of the requested incentives will reduce the risks that Dairyland faces and will remove potential obstacles to the construction of the La Crosse Project.

---

[49] Petition at 20-21.

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

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

The Commission orders:

Dairyland's request for a declaratory order authorizing Abandoned Plant Recovery and Hypothetical Capital Structure incentives is hereby granted, as discussed in the body of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.