

126 FERC ¶ 61,219  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

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

Public Service Electric and Gas Company

Docket No. ER09-249-000

ORDER ON TRANSMISSION RATE INCENTIVES  
AND PROPOSED FORMULA RATE MODIFICATIONS

(Issued March 13, 2009)

1. On November 3, 2008, as supplemented on November 5, 2008 and January 12, 2009, Public Service Electric and Gas Company (PSE&G), requested authorization, pursuant to sections 205 and 219 of the Federal Power Act (FPA),<sup>1</sup> and Order No. 679,<sup>2</sup> to recover, in PSE&G's formula rate, at Schedule H-10A, Attachment 7, of the PJM Interconnection, L.L.C. (PJM) Open Access Transmission Tariff (OATT), a 150 basis-points return on equity (ROE) transmission rate incentive as applicable to PSE&G's portion of the Mid-Atlantic Power Pathway Project (MAPP Project).<sup>3</sup> PSE&G also requests authority to recover 100 percent of all prudently-incurred development and construction costs if the MAPP Project is abandoned or cancelled for reasons beyond PSE&G's control. In addition, PSE&G requests authority to assign its project authorizations to an affiliate, if PSE&G so chooses.

2. For the reasons discussed below, we grant PSE&G's requests and accept for filing PSE&G's proposed tariff modifications, effective January 3, 2009, as requested contingent upon PSE&G's portion of the MAPP Project being approved by PJM's Board of Managers as a Regional Transmission Expansion Plan (RTEP) project.

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<sup>1</sup> 16 U.S.C. §§ 824d and 824s (2006).

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

<sup>3</sup> Rate incentive applications applicable to the two remaining segments of the MAPP Project, covering transmission project expansions extending from Virginia to Delaware, were previously addressed by the Commission in *Pepco Holding, Inc.*, 125 FERC ¶ 61,130 (2008), *reh'g pending*, (*PHI Rate Incentive Order*) and *Virginia Electric and Power Company*, 124 FERC ¶ 61,207 (2008), *reh'g pending*, (*VEPCO Rate Incentive Order*).

## **Background**

### **A. PSE&G**

3. PSE&G is a wholly-owned subsidiary of Public Service Enterprise Group Incorporated and is responsible for providing transmission and distribution service to approximately 1.7 million gas customers and approximately 2.1 million electric customers. PSE&G is a transmission-owning member of the PJM regional transmission organization (RTO). PSE&G states that under the PJM Consolidated Transmission Owners Agreement (TO Agreement), PJM's transmission owners are required, subject to certain restrictions, to construct and own or finance transmission enhancements or expansion specified by PJM in the RTEP or to expand or modify transmission facilities, as may be required under the PJM OATT.<sup>4</sup> PSE&G states that under the TO Agreement, PSE&G also retains the right to file, under FPA section 205, rate proposals applicable to its transmission revenue requirement.<sup>5</sup> PSE&G recovers its revenue requirement under a Commission-approved formula rate, as set forth at Schedule H-10A of the PJM OATT.<sup>6</sup> The rate incentives requested herein by PSE&G are represented in work papers, as included at Attachment 7 of Schedule H-10A.

### **B. The MAPP Project**

4. A detailed description of the MAPP Project, as it relates to the separate segments to be built by PSE&G's two project co-sponsors, Pepco Holding, Inc. (PHI) and Virginia Electric and Power Company (VEPCO), was provided by the Commission in the *PHI Rate Incentive Order* and in the *VEPCO Rate Incentive Order*.<sup>7</sup> Briefly, the MAPP Project is one of the largest transmission projects to be undertaken within the PJM

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<sup>4</sup> TO Agreement at section 4.2.1.

<sup>5</sup> *Id.* section 7.5.1(iv).

<sup>6</sup> *See Public Service Elec. and Gas Co.*, 124 FERC ¶ 61,303 (2008).

<sup>7</sup> *PHI Rate Incentive Order*, 125 FERC ¶ 61,130 at P 3-9 and *VEPCO Rate Incentive Order*, 124 FERC ¶ 61,207 at P 5-17. As described in those orders, the MAPP Project will begin at VEPCO's Possum Point Station, southwest of Washington, D.C. on the western side of Potomac River, and will traverse an approximately 230-mile route across the Potomac River, across Southern Maryland and under the Chesapeake Bay, across Maryland's eastern shore and then up the Delmarva Peninsula, across the Delaware River to the PSE&G-owned Salem and Hope Creek Switching Stations in New Jersey.

footprint and was included by PJM in its 2007 RTEP.<sup>8</sup> The MAPP Project was later approved for construction as a baseline project by the PJM Board. However, the PSE&G-portion of the MAPP Project is undergoing further review by PJM.

5. PSE&G states that the termination point for its portion of the MAPP Project will be at the Salem and Hope Creek Switching Stations located on Artificial Island in southern New Jersey. The proposed line will traverse approximately 4 to 10 miles, north, depending on where PHI intends to cross over the river from Delaware, along the New Jersey side of the Delaware River through marsh and wetlands on a vacant PSE&G-controlled right-of-way.<sup>9</sup> PSE&G states that PHI will need to obtain a new right-of-way in order to traverse the final route chosen in Delaware, and will be responsible for designing and permitting the crossing of the Delaware River to connect with the PSE&G-constructed section of the line.<sup>10</sup> PSE&G states that it is working with PHI to coordinate the anticipated above-ground crossing of the Delaware River crossing and that the crossing would likely begin on the Delaware side, directly west and north of Artificial Island, and end on the New Jersey side, north of the Salem and Hope Creek Switching Stations.

6. PSE&G states that there will be reliability benefits attributable to its portion of the MAPP Project. PSE&G states the MAPP Project will address: (i) the increase in loads in the eastern portion of PJM; (ii) current and impending retirements of generation in eastern PJM; and (iii) transmission capacity limits. PSE&G notes that in the PJM Market Monitor's 2007 State of the Market Report, PJM's Market Monitor found that nearly 40 percent of the PJM generation resources that are 40 years or older (12,781 MW out of 34,432 MW) are located in the MAAC region of PJM (now known as the ReliabilityFirst Corporation (RFC) region). The Market Monitor concluded that significant retirements were likely to occur within the next 10 to 20 years. PSE&G adds that a PJM analysis performed as part of the 2008 RTEP (for the 2013-23 planning period), identified additional overloads that will be relieved if the MAPP Project is constructed. PSE&G states that PJM has also determined that the MAPP Project will significantly improve the reactive performance of eastern PJM and the transient stability margins of the Artificial

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<sup>8</sup> Schedule 6 of the PJM Operating Agreement requires PJM to develop an annual RTEP in order to meet system enhancement requirements for transmission service, load growth and interconnection requests. PJM conducts its planning for the expansion and enhancement of transmission facilities based on a planning horizon of at least 10 years.

<sup>9</sup> Rodney L. Dickens Testimony (Dickens Test.) Ex. No. PEG-1 at 10.

<sup>10</sup> *Id.*

Island complex in New Jersey, which contains the Salem and Hope Creek nuclear generating facilities.<sup>11</sup>

7. PSE&G states that there will also be economic benefits attributable to the MAPP Project. PSE&G states that the overall production cost of the entire PJM RTO will be reduced by the MAPP Project.<sup>12</sup> PSE&G states that the MAPP Project will traverse a number of zones in the eastern PJM region where congestion costs have been among the highest in all of PJM. PSE&G states these congestions costs are due, principally, to constraints on the eastern and central interfaces. PSE&G states that the MAPP Project will help resolve these constraints by adding a significant amount of transfer capability across the eastern PJM region.<sup>13</sup>

8. PSE&G states that the total estimated construction cost of the MAPP Project is \$1.05 billion, for which PSE&G's share will be approximately \$150 million. PSE&G states that the MAPP Project will require it to invest \$60 million over approximately 24 months, representing 85 percent of PSE&G's historical annual transmission investment. PSE&G states that while the PJM Board is currently evaluating the need for certain portions of the MAPP Project, including PSE&G-sponsored portions of the project, this factor should not impede the Commission in authorizing PSE&G's requested rate incentives, as requested in its filing.

9. On January 2, 2009, the Director, Division of Tariffs and Market Development – East, acting under delegated authority, issued a deficiency letter (Deficiency Letter) seeking additional information relating to PSE&G's November 4, 2008 filing.

10. On January 12, 2009, PSE&G filed its response to the Deficiency Letter. PSE&G states that the estimated \$150 million needed to complete PSE&G's portion of the MAPP Project was developed based on the following preliminary estimate, subject to change pending final project approval and design by PJM's Board of Managers:

- (1) Salem 500 kV Switch Station Reconfiguration and System Control Installation including smart grid controls - \$35 million.
- (2) Hope Creek 500 kV Switch Station Reconfiguration and System Control Installation including smart grid controls - \$60 million.

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<sup>11</sup> *Id.* 18-19 (noting that PSE&G's portion of the MAPP Project will also allow for higher output of Artificial Island nuclear generation output during outage conditions).

<sup>12</sup> PJM estimates that the MAPP Project will result in annual savings of \$113 million to the Mid-Atlantic region and \$70 million to the RTO as a whole.

<sup>13</sup> *Id.* 20.

- (3) Salem- Hope Creek Transmission Line - \$5 million.<sup>14</sup>
- (4) Hope Creek - Delaware River Transmission Line - \$50 million.<sup>15</sup>

### C. Incentive Rate Requests

11. PSE&G requests that it be granted: (i) a 150-basis point ROE adder for the MAPP Project to be added to PSE&G's existing ROE of 11.68, resulting in an overall ROE of 13.18 percent;<sup>16</sup> (ii) authorization to recover all prudently-incurred costs if the MAPP Project is abandoned or cancelled for reasons beyond the control of PSE&G; and (iii) authority to assign its rate incentive authorizations, as granted herein, to an affiliate, should PSE&G elect to so assign its ownership interests in the MAPP Project.

### Notice of Filing and Responsive Pleadings

12. Notice of PSE&G's filing was published in the *Federal Register*, 73 Fed. Reg. 70,993-94 (2008), with interventions and protests due on or before November 25, 2008. Motions to intervene and notices of intervention were timely filed by the Joint Consumer Advocates,<sup>17</sup> the Public Service Commission of Maryland, and the New Jersey Board of Public Utilities. Motions to intervene out-of-time were submitted by Old Dominion Electric Cooperative (ODEC) and Exelon Corporation (Exelon). Motions to comment and/or protest were filed by Joint Consumer Advocates and the Public Service Commission of Maryland. On December 10, 2008, PSE&G filed an answer to the protests. Notice of PSE&G's January 12, 2009 response to the Deficiency Letter was published in the *Federal Register*, 74 Fed. Reg. 4,421 (2009), with interventions and protests due on or before February 2, 2009. On February 2, 2009, PHI filed a timely motion to intervene. No comments and/or protests were filed.

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<sup>14</sup> This line will connect the Salem and Hope Creek Switching Stations.

<sup>15</sup> This line will connect with the PHI portion of the MAPP Project.

<sup>16</sup> Michael J. Vilbert Testimony (Vilbert Test.) Ex. No. PEG-3 at 1-4. A base ROE of 11.18 percent, plus 50 basis points to reward PSE&G's continued RTO participation was approved by the Commission in *Public Service Electric & Gas Co.*, 124 FERC ¶ 61,303 (2008) (*PSE&G Formula Rate Order*). PSE&G seeks no changes with respect to its base-level ROE.

<sup>17</sup> The New Jersey Division of Rate Counsel, Pennsylvania Office of Consumer Advocate, Maryland Office of People's Counsel, and the Public Service Commission of West Virginia.

## **Discussion**

### **A. Procedural Matters**

13. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2008), the notices of intervention and timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding. Given the early stage of this proceeding, the parties' interests, and the absence of any undue prejudice or delay, we grant the late-filed motions to intervene submitted by ODEC and Exelon.

14. Rule 213(a) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a) (2008), prohibits an answer to a protest, unless otherwise permitted by the decisional authority. We will accept PSE&G's answer because it has provided information that assisted us in our decision-making process.

### **B. Section 219 Requirement to Ensure Reliability or Relieve Congestion**

15. In the Energy Policy Act of 2005 (EPAAct 2005), Congress added section 219 to the FPA, directing the Commission to establish, by rule, incentive-based rate treatments to promote capital investment in transmission infrastructure. The Commission subsequently issued Order No. 679, which set forth the criteria by which a public utility could obtain transmission rate incentives pursuant to section 219. We consider, below, each of these criteria.

16. Order No. 679 requires that an applicant seeking incentive rate treatment for transmission infrastructure investment demonstrate that the facilities for which it seeks its incentive either ensure reliability or reduce the cost of delivered power by reducing transmission congestion.<sup>18</sup> Order No. 679 also establishes a rebuttable presumption that this standard is met if: (i) 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 (ii) a project has received construction approval from an appropriate state commission or state siting authority.<sup>19</sup>

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<sup>18</sup> 18 C.F.R. § 35.35(i) (2008).

<sup>19</sup> Order No. 679-A, FERC Stats. & Regs. ¶ 31,236 at P 58. 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. *Id.* P 49.

## 1. PSE&G's Position

17. PSE&G states that the portion of the MAPP Project for which it seeks a rate incentive satisfies the Commission's rebuttable presumption. Specifically, PSE&G relies on the rebuttable presumption treatment previously accorded by the Commission in both the *PHI Rate Incentive Order* and in the *VEPCO Rate Incentive Order*. PSE&G asserts that its portion of the MAPP Project is expected to be an essential part of the overall project. PSE&G asserts that, as such, it would be discriminatory, unjust and unreasonable for the Commission not to make a rebuttable presumption finding here.

18. PSE&G also asserts that the MAPP Project will provide reliability benefits for the PJM region as a whole and will also provide significant improvements for import capability congestion relief, particularly in the Mid-Atlantic region. Specifically, PSE&G states that the MAPP Project will resolve reliability and congestion issues triggered by PJM's central and eastern interface, including those portions of the PJM transmission system supports west-to-east flows of power and the load centers of New Jersey.

19. PSE&G states that while the PJM Board is currently evaluating the need for the PSE&G portion of the MAPP Project, this factor should not impede the Commission in authorizing PSE&G's incentive rate request here. First, PSE&G points out that the incentives will only apply if PSE&G's portion of the MAPP Project is approved by the PJM Board. In addition, PSE&G relies on the Commission's rulings in *New York Regional Interconnect, Inc.*<sup>20</sup> and *Pacific Gas and Electric Co.*<sup>21</sup> PSE&G asserts that in *NYRI*, the Commission granted approval of a 275 basis-point ROE adder conditioned on the New York Public Service Commission finding that the proposed high voltage transmission project will ensure reliability or reduce congestion. PSE&G claims that, similarly, the Commission in *PG&E* authorized recovery of prudently-incurred abandonment costs even though the project at issue was in its early planning stages and had not been reviewed or approved by a state commission, siting authority, or regional planning group. PSE&G concludes that, here, the Commission's policy is to approve the requested rate incentive, subject to the approval of the project in regional planning process.

## 2. Protests

20. The Joint Consumer Advocates argue that a consideration of PSE&G's rate incentive request is premature, given the fact that RTEP approval has yet to be granted.

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<sup>20</sup> 124 FERC ¶ 61,259 at P 36 (2008) (*NYRI*).

<sup>21</sup> 123 FERC ¶ 61,067 at P 33 (2008) (*PG&E*).

### 3. Answer

21. PSE&G asserts that Joint Consumer Advocates' argument ignores the Commission policy and precedent, as cited above, regarding transmission projects that are still under regional planning process review. PSE&G adds that the Commission, in Order No. 679, specifically recognized an applicant's right to submit its request for a project which is still undergoing consideration in a regional planning process.<sup>22</sup> PSE&G states that, under these circumstances, the Commission has made any incentive-rate treatment contingent on the project being approved under the regional planning process.

### 4. Commission Determination

22. The MAPP Project as a whole was approved by the PJM Board of Managers in October 2007. PSE&G's portion of the MAPP Project, however, is undergoing further review by PJM in its RTEP process. Because each portion of MAPP Project is dependent on the other to achieve the reliability and congestion relief benefits attributable to the project, our evaluation here, as it relates to the Commission's rebuttable presumption, focuses on the MAPP Project in its entirety. We conclude, for the reasons previously articulated by the Commission in the *PHI Rate Incentive Order*, that there are significant region-wide benefits attributable to the MAPP Project, including increased import capability and congestion relief. We also find that these benefits, to be fully realized, depend on the construction of the MAPP Project in each of its planned segments. PJM included the MAPP Project in its 2007 RTEP, listing the project as a baseline project. In connection with that approval, PJM determined that the MAPP Project would be needed in order to relieve expected overloads on the PJM system. As such, we find that PSE&G's portion of the MAPP Project conditionally satisfies the Commission's rebuttable presumption.

23. In Order No. 679, the Commission stated that it would consider a request for an ROE incentive rate, even where the project at issue is pending approval in a regional planning process. The Commission added, however, that in these circumstance, it may be appropriate to make any requested rate treatment contingent on the outcome of the regional planning process.<sup>23</sup> Similarly, in *Xcel* the Commission granted an incentive rate request, subject to the applicants' receipt of a certificate of need from the state siting authority.<sup>24</sup> Applying this approach here, we condition our finding that PSE&G's portion

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<sup>22</sup> PSE&G answer at 4, *citing* Order No. 679, FERC Stats. & Regs. ¶ 31,222 at P 58, n.39.

<sup>23</sup> Order No. 679, FERC Stats. & Regs. ¶ 31,222 at n.39.

<sup>24</sup> *Xcel Energy Services*, 121 FERC ¶ 61,284, at P 53, 61 (2007) (*Xcel*).

of the MAPP Project has satisfied the Commission's rebuttable presumption contingent upon the PJM Board of Managers approving PSE&G's portion of the project as an RTEP project.

### **C. Nexus Demonstration for ROE Adder**

24. Order No. 679 requires that an applicant seeking a transmission expansion incentive rate 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>25</sup> The Commission stated that the most compelling case for incentives are new projects that present special risks or challenges, not routine investments made in the ordinary course of business of expanding the system to provide safe and reliable transmission service.<sup>26</sup>

25. In *Baltimore Gas and Electric Co.*,<sup>27</sup> the Commission clarified how it will evaluate projects to determine whether they are routine. Specifically, to determine whether a project is routine, the Commission will consider all relevant factors presented by the applicant. For example, an applicant may present evidence on: (i) the scope of the project (e.g., dollar investment, increase in transfer capability, involvement of multiple entities or jurisdictions, size, effect on region); (ii) the effect of the project (e.g., improving reliability or reducing congestion costs); and (iii) 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>28</sup>

#### **1. PSE&G's Position**

26. PSE&G requests a 150 basis-points ROE adder, as applicable to its portion of the MAPP Project, pursuant to FPA sections 205 and 219, and Order No. 679. PSE&G asserts that the MAPP Project is not routine and therefore satisfies the Commission's nexus requirement given (i) its risk profile (PSE&G identifies financial risks, regulatory risks; and environmental risks); (ii) the technical challenges associated with the MAPP

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<sup>25</sup> Order No. 679-A, FERC Stats. & Regs. ¶ 31,236 at P 40.

<sup>26</sup> *Id.* P 23.

<sup>27</sup> 120 FERC ¶ 61,084 (2007).

<sup>28</sup> *Id.* P 52.

Project; and (iii) its size and scope. In support of its requested rate incentive, PSE&G also provides an advanced technology statement, as required by Order No. 679.<sup>29</sup>

27. (i) Financial Risks: PSE&G states that it will incur substantial financial risk in connection with its planned participation in the MAPP Project. PSE&G asserts that with an estimated project cost of \$150 million, project financing will place a further burden on PSE&G's financial metrics. PSE&G states that when combined with the Susquehanna/Roseland 500 kV transmission line that PSE&G is already committed to financing (Susquehanna/Roseland Project), at a cost currently estimated to be \$750 million, it will be necessary for PSE&G to make significant outlays of cash, which will dramatically increase PSE&G's debt levels.<sup>30</sup> PSE&G notes that PSE&G's net transmission plant in service as of December 31, 2007 totals \$898 million, while its combined expenditures on the MAPP Project and the Susquehanna/Roseland Project will total \$900 million.

28. PSE&G states that the MAPP Project will also require a substantial investment in transmission facilities well over that of PSE&G's average annual investments in recent years. PSE&G asserts that over the past five years, PSE&G has invested approximately \$70 million annually in transmission projects and that the MAPP Project will require an average annual investment of \$60 million over a projected 24-month period. PSE&G adds that its portion of the MAPP Project will require an investment equal to 85 percent of PSE&G's historical average annual transmission investment.

29. PSE&G claims that these planned investments are a continuing concern for the financial rating agencies. PSE&G notes that in a recent report issued by Moody's Investors Service, the conclusion was offered that PSE&G's upcoming investments could be expected to contribute to incremental earnings and cash flows, but that the realization of these earnings and cash flows would be dependent on achieving an acceptable level of regulatory support and regulatory incentives.<sup>31</sup> PSE&G states that its planned investment in transmission has also been recognized by Standard & Poor's (S&P) as having an impact on its creditworthiness, citing a report in which S&P concluded that the substantial deployment of capital needed to support PSE&G's planned transmission projects will also require supportive regulatory treatment to maintain PSE&G's credit

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<sup>29</sup> Order No. 679, FERC Stats. & Regs. ¶ 31,222 at P 302.

<sup>30</sup> Mark G. Kahrer Testimony (Kahrer Test.) Ex. No. PEG-2 at pp. 3-5.

<sup>31</sup> *Id.* at PEG-1A (Moody's Investors Service, *Credit Opinion: Public Service Electric and Gas Company* (July 18, 2008)).

quality.<sup>32</sup> PSE&G also states that given the current state of the financial markets, approval of its proposed ROE adder is even more important.

30. PSE&G states that it intends to use a combination of internal and external sources to fund the MAPP Project. PSE&G clarifies that for external funding, the financial markets will take account of PSE&G's cash flows, financial metrics and credit ratings when evaluating PSE&G as an investment opportunity. PSE&G states that it will be competing for funding with other utilities that have significant capital programs that also includes constructing backbone transmission projects in PJM, some of which have already been granted incentive ROE adders and other incentives by the Commission.<sup>33</sup>

31. PSE&G asserts that the financial risks it faces are compounded by the project's long lead time, a circumstance that increases the probability that the overall costs of the project may rise. Specifically, PSE&G asserts that a long lead time poses the risk of unhedgeable increases in materials and labor costs.<sup>34</sup>

32. (ii) Regulatory Risks: PSE&G states that the MAPP Project requires numerous federal and state regulatory approvals. PSE&G states that siting and construction permits must also be obtained for many portions of the project, even those that will track existing rights-of-way. PSE&G states that the key state-level permits required include a Coastal Wetlands Permit from the New Jersey Department of Environmental Protection and various other permits from the New Jersey Department of Community Affairs. PSE&G further points out that New Jersey is a "Home Rule" state, where the utility must deal with each municipality individually in negotiating right-of-ways, zoning approval, permits and easements.<sup>35</sup> PSE&G adds that the key federal approvals required include permits from the U.S. Army Corps of Engineers. PSE&G states that the MAPP Project, as a whole, will encounter significant siting challenges due to its expected 230-mile length and the variety of terrain and geographical features at issue. In relation, PSE&G notes that failure to get regulatory approval for the VEPCO and PHI portions of the

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<sup>32</sup> *Id.* at PEG-1B (Standard & Poor's, *RatingsDirect: Public Service Enterprise Group Inc.* (April 30, 2008)).

<sup>33</sup> PSE&G Transmittal Letter at 8, citing *American Electric Power Service Corporation*, 116 FERC ¶ 61,059 (2006); *Allegheny Energy, Inc.*, 116 FERC ¶ 61,058 (2006); *Duquesne Light Co.*, 118 FERC ¶ 61,087 (2007); *Baltimore Gas & Electric Co.*, 120 FERC ¶ 61,084 (2007); *VEPCO Rate Incentive Order*; *PPL Elec. Utils. Corp. and Pub. Serv. Elec. and Gas Co.*, 123 FERC ¶ 61,068 (2008); and *PHI Rate Incentive Order*, 125 FERC ¶ 61,130.

<sup>34</sup> Dickens Test., Ex. No. PEG-1 at 25-26.

<sup>35</sup> *Id.* P 32.

MAPP Project, as well as its portion, could jeopardize the completion of the whole project.

33. (iii) Environmental Risks: PSE&G states that it will be faced with its own set of environmental challenges, given the fact that the proposed location, in southern New Jersey, is accessible by water only. PSE&G states that the construction at issue will take place in tidal wetlands, along busy shipping lanes. PSE&G notes that in order to construct the project, material will need to be supplied by barge, a process that expose the construction crews and equipment to additional risk from inclement weather and tides. PSE&G states that some construction activities may require the use of helicopters.

34. (iv) Technical Challenges: PSE&G asserts that its construction of the MAPP Project will involve technical challenges. In addition, PSE&G states that the timing of the construction must be closely coordinated with the operations and outages of the nuclear generating stations located at Salem and Hope Creek. In order to do this, construction will need to be staged to minimize operational impacts and conform to the availability of outages within PJM, and PJM's outage schedule for nuclear generating stations. PSE&G states for example, that the nature of bus re-configuration associated with the protective controls can only be accomplished within a short re-fueling outage window of approximately 21 days, while still conforming to the Nuclear Regulatory Commission's minimum requirements for off site station power.<sup>36</sup>

35. PSE&G further asserts that it will be designing the project facilities for its portion of the MAPP Project and that there are only limited supplies of such equipment. PSE&G claims that there is also a limited pool of workers qualified to construct the core elements of the project. Finally, PSE&G states that the high-voltage cable that PSE&G plans to utilize presents technical challenges because these lines and related equipment must be custom-designed and proof-tested.

36. (v) Size and Scope: PSE&G asserts that the non-routine nature of the MAPP Project is illustrated by its size and scope. The project will connect four states and will be financed by four separate transmission companies. PSE&G notes that investment in new high-voltage transmission facilities across the United States has lagged over the past 30 years and that those facilities that have been constructed, especially in the Mid-Atlantic region, have addressed localized rather than regional issues.

37. PSE&G asserts that the MAPP Project stands in contrast to localized, short-range transmission investments in the region over the past decade. Specifically, PSE&G asserts that the MAPP Project is intended to address reliability and will also provide beneficial congestion relief and import capability on a PJM-wide basis. PSE&G notes that the MAPP Project will add from 1,000 to 2,500 MW of additional import capability across

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<sup>36</sup> PSE&G response to Deficiency Letter at 4.

eastern PJM and add significant transfer capability. PSE&G states that this substantial increase in import and transfer capability will help integrate and reliably deliver PJM queued generation projects located in various parts of the PJM grid, including large base load generation in various portions of PJM.

38. (vi) Advanced Technologies: PSE&G asserts that the MAPP Project is not routine because it will incorporate significant advanced technologies. Specifically, PSE&G states that the MAPP Project will use some of the most advanced state-of-the-art and innovative electrical power equipment available, including “smart grid” technologies, as recommended by the U.S. Department of Energy.<sup>37</sup> The proposed technologies include: advanced conductor materials, microprocessor-based relays, digital fault recorders, fiber optic protection and communication links, substation-wide area networks, integrated substation automation and equipment and line monitoring.<sup>38</sup> PSE&G states that the MAPP Project will utilize advanced conductor materials such as exotic metallurgical composites, non-metallic cores, and specialized hardware and materials in the manufacture and design of conductors. PSE&G states that these advanced conductors will avoid line sag associated with heavy loading during peak load and emergency periods and achieve longer span lengths between poles without increasing tower height. PSE&G also plans to use microprocessor-based relays and digital fault recorders that represent a digital enhancement of electromechanical relays and analog fault recorders. PSE&G claims that microprocessor-based relays and digital fault recorders provide a higher level of performance, reliability, and efficiency than their analog counterparts.

39. Additionally, fiber optic protection and communication links will provide high-speed, reliable communications between substations/facilities, remotely-monitored equipment and operations centers. PSE&G states that it will investigate the use of substation-wide area networks to provide high-speed communication utilizing industry standard Ethernet capabilities at Salem and Hope Creek switching stations. Finally, PSE&G states that it will use integrated substation automation, equipment and line monitoring devices that will allow for additional data gathering from across the network leading to increased information and feedback. PSE&G states that these refer to “smart” remote terminal units, “smart” sensors, and other sensors that permit the remote and at times automatic operation and monitoring of substations, equipment, and interconnecting circuits that will make up the MAPP Project. PSE&G asserts that the combined effect of these advanced technologies will be to render the MAPP Project a “smart grid.” PSE&G explains that at the transmission level, “smart grid” features should allow the grid operator considerably more control, and provide better optimization of resources, than a typical transmission system. Among other key goals of a “smart grid” at the transmission level, PSE&G lists the Project’s abilities to: (1) optimize assets and operate efficiently;

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<sup>37</sup> Ex. No. PEG-1B at 1.

<sup>38</sup> *Id.* at 1-13.

(2) minimize sags, spikes, and other disturbances; (3) correct any problems quickly and with a minimum of intervention by the grid operator; and (4) monitor, self-analyze and diagnose the health and condition of equipment, and predict the malfunction or failure of a device before the event occurs in order to take action to prevent the malfunction or failure from occurring. PSE&G states that its investments in “smart grid” technology for the MAPP Project will support interoperability encouraged by the U.S. Department of Energy and the GridWise Architecture Council.<sup>39</sup>

## 2. Protests

40. The Joint Consumer Advocates assert that the requested adder should be rejected, or reduced, given its assessment of PSE&G’s overall risk factors. First, the Joint Consumer Advocates point out that PSE&G’s portion of the MAPP Project represents less than four percent of the anticipated investments of PSE&G’s parent entity’s obligation to build transmission that is needed for reliability, under the PJM OATT. The Joint Consumer Advocates conclude that, as such, PSE&G’s project is routine in nature.

41. The Joint Consumer Advocates also dispute PSE&G’s claims regarding the size and scope of its project and the corresponding rating implications. The Joint Consumer Advocates assert that rating agencies relied upon by PSE&G considered the consolidated financial status and liquidity of PSE&G’s parent entity. The Joint Consumer Advocates notes that, in doing so, S&P concluded that the business risk profile of PSE&G’s parent “is strong and is driven by subsidiary PSEG Power LLC’s . . . exposure to merchant power offset by [PSE&G’s] excellent regulated utility operations.” The Joint Consumer Advocates also cite S&P’s conclusion that PSE&G is a low-risk regulated business reflecting reasonable rate-case outcomes and favorable market fundamentals. The Joint Consumer Advocates conclude that the size and scope of the MAPP Project and whether the 150 basis point ROE incentive is granted will have little impact on PSE&G’s parent’s ratings.

42. The Maryland Commission argues that PSE&G’s requested rate incentive adder does not properly reflect the reduction in risk associated with PSE&G’s OATT-recovered formula rate.<sup>40</sup> The Joint Consumer Advocates adds that in addition to the expenses and rate base items booked annually at the end of the prior year, PSE&G’s formula rate filing also reflects the *pro rata* costs of any transmission projects expected to enter service during the year the rates are in effect. The Joint Consumer Advocates note that there is a true-up in the subsequent year for any mistakes in cost or in-service date estimates. The Joint Consumer Advocates argue that while the filing of a traditional rate case is costly and time consuming, a formula rate allows for the timely recovery of transmission investment with a minimal expenditure of effort and regulatory costs. The Joint

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<sup>39</sup> *Id.* at 14.

<sup>40</sup> *See also* Joint Consumer Advocates protest at 41-42.

Consumer Advocates conclude that formula rates generally encourage transmission construction and reduce any attendant risks attributable to these projects.

43. The Maryland Commission further argues that PSE&G has failed to demonstrate any clear nexus between its requested incentive, on the one hand, and any heightened risk or use of advanced technologies, on the other hand. The Maryland Commission notes, in this regard, that PSE&G repeatedly refers to the above-water crossing of the Delaware River and the under-water crossing of the Chesapeake Bay as challenges associated with the MAPP Project. The Maryland Commission points out, however, that PSE&G will not own, and will not be responsible for constructing, either of these segments. The Maryland Commission further asserts that PHI will employ several special technologies in constructing its portion of the MAPP Project that will not be used by PSE&G. The Maryland Commission concludes that PSE&G should not be rewarded for challenges faced by other transmission owners.

### 3. Answers

44. PSE&G responds that the MAPP Project warrants an incentive because it will be more complex and challenging than a typical project, because it is required to maintain the reliability of PJM's system, and because a contrary conclusion (i.e., a conclusion that this reliability project is routine) would result in the denial of any rate incentive request applicable to any RTEP-approved reliability project. PSE&G adds that the same argument now being advanced by the Joint Consumer Advocates was considered and rejected by the Commission in the *PHI Rate Incentive Order*.<sup>41</sup>

45. PSE&G also responds to the Joint Consumer Advocates' arguments regarding the asserted low-risk financial status of PSE&G and PSE&G's parent. First, PSE&G asserts that the Joint Consumer Advocates misconstrue the Commission's standard regarding cash flow considerations and the financial status of a rate incentive applicant. PSE&G asserts that, in fact, the Commission has provided a non-exhaustive list of examples regarding the issue of whether a given project may be considered routine in nature. PSE&G argues that, as such, PSE&G is not required to demonstrate that its proposed incentive ROE adder is needed to redress financial concerns. PSE&G also asserts that the Joint Consumer Advocates misconstrue the S&P report submitted by PSE&G in its filing. PSE&G argues that S&P, in its report, clearly states that supportive regulatory treatment will be key to PSE&G's credit quality.

46. PSE&G also responds to the Maryland Commission's argument that PSE&G's formula rate reflects PSE&G's overall low financial risk. PSE&G responds that formula rates do not result in lower financial risks *vis a vis* stated rates. PSE&G argues to the

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<sup>41</sup> PSE&G answer at 5-6, citing *PHI Rate Incentive Order*, 125 FERC ¶ 61,130 at P 56.

contrary that both stated rates and formula rates provide for full recovery of the costs of new investment. PSE&G adds that, in fact, formula rates could be viewed as more risky than stated rates because formula rates are subject to automatic adjustment, whereas stated rates are not.

47. PSE&G also responds to the Maryland Commission's arguments regarding the MAPP Project's above-water crossing of the Delaware River, the under-water crossing of the Chesapeake Bay, and the asserted lack of PSE&G involvement in either of these two line segments. PSE&G responds that, in fact, it will utilize advanced technologies with respect to its portion of the MAPP Project, as identified in PSE&G's advanced technology statement. PSE&G asserts that, regardless, it is not relying on its advanced technology statement and its use of advanced transmission technology alone to justify a specific incremental incentive ROE adder. PSE&G asserts, instead, that it is seeking a ROE incentive adder because the MAPP Project will be non-routine in nature and faces substantial design, engineering, construction and siting risks.

#### **4. Commission Determination**

48. As discussed herein, we find that a sufficient nexus exists between the incentive rate requested by PSE&G and the investment PSE&G will be required to make in the MAPP Project. We find that MAPP Project is not a routine project, given the project's scope, effects, and the special risks and challenges that the construction of the project will present. We will thus grant PSE&G a 150 basis point ROE adder, as discussed further below, contingent upon PSE&G's portion of the MAPP Project being approved by the PJM Board of Managers as an RTEP project.

49. In response to intervenors' assertion that our review of PSE&G's incentive rate request is required to focus on the PSE&G segment alone, we clarify, here, that PSE&G's portion of the MAPP Project is an integral part of the MAPP Project as a whole. The risks and challenges faced by PHI and VEPCO, as well as the need for coordination among the partners to the MAPP Project, could impact the construction of the entire project. We provide further clarification below as to circumstances in which the Commission will consider such characteristics of an entire project in evaluating requests for transmission rate incentives.

50. As noted above, the MAPP Project will span four states and has been approved as a PJM RTEP baseline project. As such, the MAPP Project will provide regional as well as local benefits. We find that the MAPP Project will improve import capability, reduce congestion, and improve reliability in the Mid-Atlantic region. We agree with PSE&G that the ROE adder incentive it requests will promote these goals by recognizing the importance of these new facilities and the risks and challenges inherent in bringing them to completion.

51. The MAPP Project will involve significant regulatory, siting, and construction risks.<sup>42</sup> We agree with PSE&G that there are increased regulatory challenges posed by the fact that New Jersey is a “Home Rule” state where the utility must negotiate with each municipality individually in terms of right-of-ways, zoning approval, permits and easements. We also find that PSE&G’s portion of the MAPP Project faces increased completion risks because it is tied to the overall MAPP Project, which faces challenges presented by its large scope and size, requiring approvals from multiple municipalities, multiple state siting authorities, and various federal approvals. A failure to obtain the necessary permits by any utility involved with the MAPP Project could adversely impact the entire MAPP Project.

52. Moreover, we find that the MAPP Project will require a substantial investment in transmission facilities well over that of PSE&G’s average annual investments in recent years. We agree that its requested 150 basis-point adder will improve PSE&G’s cash flows, which are taken into account in the financial metrics used to attract external funding. We also find that the requested incentives and the cash flow implications attributable to PSE&G’s authorized formula rate are not mutually exclusive but rather, together, will operate to encourage investors to invest in the MAPP Project.<sup>43</sup>

53. We reject the Maryland People’s Counsel’s argument that PJM’s obligation to build requirement disqualifies PSE&G from receiving a transmission rate incentive. While in Order No. 679-A, the Commission clarified that an obligation to build “may have a bearing on [the Commission’s] nexus evaluation of individual applications,”<sup>44</sup> we have considered here, and in other orders, incentives for the MAPP Project as part of a regional plan and find that the incentives here are consistent with the Commission’s policy objectives.<sup>45</sup>

54. We also reject intervenors’ assertions that PSE&G is required to demonstrate financial distress as a condition to its receipt of its requested rate incentive. While in certain circumstances the Commission may find that an applicant’s financial position is

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<sup>42</sup> See Dickens Test., Ex. No. PEG-1 at 6-10 and Ex. No. PEG-1A at 1-2.

<sup>43</sup> *Duquesne Light Company*, 125 FERC ¶ 61,028, at P 57 (2008), citing *VEPCO Rate Incentive Order*, 124 FERC ¶ 61,207 at P 113.

<sup>44</sup> Order No. 679-A, FERC Stats. & Regs. ¶ 31,236 at P 122.

<sup>45</sup> *PHI Rate Incentive Order*, 125 FERC ¶ 61,130 at P 30-32; *VEPCO Rate Incentive Order*, 124 FERC ¶ 61,207 at P 32-35.

relevant, Order Nos. 679 and 679-A do not require a showing of financial weakness to be entitled to incentive rate treatment.<sup>46</sup>

55. We note that PSE&G is the third transmission owner involved in the MAPP Project to request incentives for its incremental portion of the overall MAPP Project.<sup>47</sup> The Commission encourages prospective owners of a transmission project for which multiple owners intend to request transmission rate incentives for their segments of the project-- and where those multiple owners intend to rely on the scope, effects, and risks and challenges of the entire project as a basis for qualifying for such incentives-- to submit a single joint filing requesting transmission rate incentives that are applicable to the entire project.<sup>48</sup> When presented with one such filing for a project, the Commission can analyze most effectively the overall scope, effects, and risks and challenges of the project as it evaluates requested transmission rate incentives. The submittal of a single joint filing will also avoid the need for piecemeal review of a project through individual applications for incentives that may obscure the relationship among integral parts of a project and the overall project's characteristics and benefits. A prospective owner retains the option of filing a separate request for transmission rate incentives for its segment of a transmission project that involves multiple owners, in isolation from the other prospective owners. In such instances, however, the individual prospective owner may not be able to rely on the overall scope, effects, and risks and challenges of the entire project as a basis for qualifying for the requested incentives.

#### **D. Section 205 Demonstration**

56. FPA section 219(d) provides that all rates approved by the Commission under its rate incentive rules, i.e., under Order No. 679, are subject to the requirements of sections 205 and 206 of the FPA, a standard that requires that all rates, charges, terms and conditions be just and reasonable and not unduly discriminatory or preferential.<sup>49</sup>

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<sup>46</sup> *Southern California Edison Co.*, 121 FERC ¶ 61,168, at P 145 (2007), *reh'g denied*, 123 FERC ¶ 61,293 (2008).

<sup>47</sup> See *PHI Rate Incentive Order* and *VEPCO Rate Incentive Order*. Additionally, Baltimore Gas and Electric Co. submitted on February 20, 2009, in Docket No. ER09-745-000 a request for transmission rate incentives for its portion of the MAPP Project.

<sup>48</sup> Such an application must demonstrate that the segments are appropriately viewed as constituting a single project. See, e.g., *PacifiCorp*, 125 FERC ¶ 61,076 (2008).

<sup>49</sup> 16 U.S.C. § 824s (d) (2006).

### 1. PSE&G's Position

57. PSE&G asserts that the ROE that results from the application of PSE&G's requested adder falls within the zone of reasonableness, as established under the discounted cash flow (DCF) analysis favored by the Commission. PSE&G adds that an ROE above the mid-point of this range is consistent with the above-identified risks attributable to the MAPP Project.<sup>50</sup> PSE&G submitted testimony to show that the requested ROE adder will result in an overall ROE that is within a range of reasonable returns.

58. PSE&G notes that its DCF witness, Mr. Vilbert, estimated the cost of equity capital for a sample of regulated electric companies doing business within the three northeastern RTO markets, consistent with the Commission's guidelines.<sup>51</sup> PSE&G states that a range of reasonableness was then determined for the cost of equity by applying a DCF analysis to these sample companies. PSE&G states that the resulting range is 8.10 percent to 15.39 percent.

59. PSE&G notes that in the Commission's order accepting PSE&G's formula rate, including its authorized ROE, the Commission established a baseline ROE of 11.18 percent to which a 50 basis point incentive adder was included for RTO participation.<sup>52</sup> PSE&G states that starting from this approved 11.68 percent ROE (inclusive of the 11.18 percent base ROE and 50 basis point incentive adder), the incentive rate requested herein produces a combined ROE of 13.18 percent, well below the updated upper end of the range of reasonableness.

### 2. Protests

60. The Joint Consumer Advocates argue generally that the PSE&G's requested rate incentive makes PSE&G's rates unjust and unreasonable.

### 3. Answers

61. PSE&G argues that its rates are not unjust and unreasonable because its allowed ROE, including the incentive ROE adder, is well within the upper end of the zone of

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<sup>50</sup> Kahrer Test., Ex. No. PEG-2 at 5-7.

<sup>51</sup> Vilbert Test., Ex. No. PEG-3 at 2, *citing VEPCO Rate Incentive Order*, 124 FERC ¶ 61,303 (2008).

<sup>52</sup> *Public Service Elec. & Gas Co.*, 124 FERC ¶ 61,303 (2008) (*PSE&G Formula Rate Order*).

reasonableness. PSE&G notes, in particular, that no intervenor has protested PG&E's filed testimony on this issue.

#### 4. Commission Determination

62. As noted above, FPA section 219(d) provides that all rates approved by the Commission under its rate incentive rules, i.e., under Order No. 679, are subject to the requirements of sections 205 and 206 of the FPA, a standard that requires that all rates, charges, terms and conditions be just and reasonable and not unduly discriminatory or preferential.<sup>53</sup> The Joint Consumer Advocates provide no basis for their assertion that granting the requested rate incentive will result in unjust and unreasonable rates. Therefore, we deny their protest. We find that PSE&G's proposed 150 basis point ROE incentive adder, when added to the 11.18 percent base ROE that was accepted as part of its formula rate and PSE&G's previously-approved 50 basis points adder for continued membership in PJM, produces an ROE of 13.18 percent that is within the range of reasonable returns and is just and reasonable.<sup>54</sup> In this case, PSE&G submitted testimony to show that the requested ROE adder results in a project ROE that falls within the zone of reasonableness. To support its analysis, PSE&G relies on a DCF proxy group made up of transmission owning entities doing business within the interrelated northeastern RTO markets, as operated by PJM, ISO New England, Inc., and the New York Independent System Operator, Inc. We have previously accepted, as reasonable, the utilization of a DCF proxy group made up of entities from these interrelated RTO markets.<sup>55</sup> We find that the DCF analysis presented by witness Vilbert, at Ex. No. PEG-3C, has applied the appropriate screening criteria to exclude, from the DCF proxy group, companies whose risk profiles may not be sufficiently comparable to PSE&G's risk profile. Specifically, PSE&G has excluded from its proxy group, consistent with Commission precedent: (i) companies that do not pay common dividends; (ii) companies for whom no IBES or Value Line data is available; (iii) companies that have been involved in merger activities; (iv) companies with business operations focused mainly on natural gas; (v) companies with corporate credit ratings outside the range of BBB- to BBB+ (given PSE&G's corporate credit rating of BBB); and (vi) companies with unsustainable growth rates.

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<sup>53</sup> 16 U.S.C. § 824s (d) (2006).

<sup>54</sup> Pursuant to Order No. 679-A, any ROE must be within the range of reasonableness. Order No. 679-A, FERC Stats. & Regs. ¶ 31,236 at P 38.

<sup>55</sup> *Potomac-Appalachian Transmission Highline, L.L.C.*, 122 FERC ¶ 61,188, at P 105 (2008).

### **E. Abandonment Authority**

63. PSE&G requests authority to recover all prudently-incurred project costs if its portion of the MAPP Project is abandoned or cancelled for reasons beyond the control of PSE&G. PSE&G notes that PJM could cancel the MAPP Project through the RTEP process. Also, PSE&G states that the MAPP Project requires numerous federal and state regulatory approvals and not receiving these approvals could cause a cancellation of the MAPP Project. PSE&G further notes that inability to obtain siting and construction permits for the project, even those that will track existing rights-of-way could cause project abandonment. PSE&G argues that this abandonment authority is necessary in order to encourage the timely completion of PSE&G's portion of the MAPP Project.

64. The Joint Consumer Advocates argue that PSE&G's requested allowance to recover its prudently-incurred abandonment costs is appropriate but that recovery of these costs would reduce many of the risk factors associated with constructing the MAPP Project. The Joint Consumer Advocates argue that, as such, a grant of abandonment authority should trigger a reduction in PSE&G's requested ROE incentive adder.

65. We agree with PSE&G that the abandonment incentive it seeks will be an effective means to encourage the completion of PSE&G's portion of the MAPP Project. For example, in addition to challenges presented by its scope and size, the MAPP Project will require a series of approvals from multiple municipalities, multiple state siting authorities, and various federal entities. In addition, the MAPP Project risks cancellation should any portion of the project fail to receive siting authority. These factors, considered as a whole, introduce a significant element of risk. Under these circumstances, authorizing recovery of PSE&G's prudently-incurred abandonment costs will help PSE&G ameliorate this risk and will do so in a way that will encourage the project to move forward both expeditiously and efficiently. Moreover, the reliability and congestion benefits expected from the MAPP Project are based on the project as a whole. As such, granting the abandonment authority requested by PSE&G will further encourage the project's completion.<sup>56</sup> We also note that this authorization is consistent with the Commission's approvals, as provided in the *PHI Rate Incentive Order*.<sup>57</sup>

66. We clarify, however, that our granting of this abandonment incentive is contingent on approval from the PJM Board of Managers of PSE&G's portion of the MAPP Project as an RTEP project.

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<sup>56</sup> We address the Joint Consumer Advocates' argument that the ROE incentive should be offset by the abandonment authority incentive below in our discussion of the total package of incentives.

<sup>57</sup> See *PHI Rate Incentive Order*, 125 FERC ¶ 61,130 at P 59.

**F. Assignment Authority**

67. PSE&G requests authority to assign the rate incentives it may be granted herein to an affiliate in the event PSE&G assigns to that entity construction and/or ownership of its portion of the MAPP Project. PSE&G notes that it has not made any decision to assign any incentives to an affiliate. PSE&G also asserts that this authority is substantially similar to an incentive granted to PSE&G for its Susquehanna/Roseland line.<sup>58</sup>

68. The Joint Consumer Advocates assert that PSE&G fails to explain why its request for assignment authority is needed or how this incentive, if granted, will be tailored to address some demonstrable risk.

69. PSE&G responds that under Commission precedent, incentives, if transferred to an affiliate, would be subject to that affiliate making a future section 205 filing to incorporate into its rates any incentive granted.<sup>59</sup> PSE&G argues that this filing requirement would apply to PSE&G, were it to assign its incentives, and would provide an adequate forum to address the concerns of any interested party, including the Joint Consumer Advocates.

70. We grant PSE&G's request for authority to assign the above-granted incentives to an affiliate, subject to the following clarifications. First, should PSE&G elect to assign its incentives, the affiliate to whom that assignment is made will be required to make a section 205 filing to incorporate, into its rates, any such incentives. We further clarify that PSE&G's 50 basis-point ROE adder is a specific incentive adder granted to PSE&G for its participation in PJM and not specific to this Project.<sup>60</sup> In order for the yet-to-be-named affiliate to be eligible for the 50-basis-point ROE adder, the affiliate would first have to become a member of PJM and then file a section 205 filing with the Commission requesting such incentive.

**G. Total Package of Incentives**

71. The Joint Consumer Advocates' assert that PSE&G's request for abandonment authority should operate to lower PSE&G requested ROE incentive adder.

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<sup>58</sup> See *PPL Electric Utilities Corp. and Public Service Elec. and Gas Co.*, 123 FERC ¶ 61,068, at P 51 (2008) (*PPL*).

<sup>59</sup> PSE&G answer at 16, citing *PPL Electric Utilities Corp.*, 123 FERC ¶ 61,068, at P 51 (2008) (*PPL*).

<sup>60</sup> See *PPL*, 123 FERC ¶ 61,068 at P 52 (2008).

72. PSE&G responds to the Joint Consumer Advocates' assertion that the PSE&G's request for abandonment authority should operate to lower PSE&G requested ROE incentive adder. PSE&G relies on Order No. 679 for the proposition that the recovery of abandonment costs is meant to address two primary risks: (i) an inability to obtain the required regulatory approvals; and (ii) cancellation of the project at the RTEP level. PSE&G asserts that these risks are outside the control of management and thus an incentive is warranted as an offset to the ROE adder.

73. 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 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>61</sup> the Commission has, in prior cases, approved multiple rate incentives for particular projects.<sup>62</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.

74. PSE&G has sufficiently demonstrated that its portion of the MAPP Project faces risks and challenges that warrant the full package of incentives. As discussed herein, we are not persuaded by comments that the 150 basis point incentive is unreasonable. The 150 basis point adder is reasonable in light of the risks of this project. The MAPP Project will provide increased imports and transfer capability from western to eastern PJM. PSE&G's portion entails substantial expenditures of \$150 million, creating financial risks for PSE&G.

75. Unlike PHI's portion of the MAPP Project, PSE&G did not ask for Construction Work in Progress (CWIP) cost recovery, but did request project abandonment cost recovery. Given the numerous siting and permitting obstacles the MAPP Project faces, we find that this combination of factors merits the incentives requested and granted herein.

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<sup>61</sup> Order No. 679, FERC Stats. & Regs. ¶ 31, 222 at P 55.

<sup>62</sup> See, e.g., *Allegheny Energy, Inc.*, 116 FERC ¶ 61,058, at P 60 and P 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).

The Commission orders:

(A) PSE&G's requests for incentives are hereby granted, and the proposed tariff sheets are hereby accepted for filing, effective January 3, 2009, subject to conditions, as discussed in the body of this order.

(B) PSE&G is ordered to file revised tariff sheets within 30 days of the date of this order to reflect the ROE incentive granted herein.

By the Commission. Commissioner Kelly concurring in part and dissenting in part with a separate statement to be issued at a later date.  
Commissioner Kelliher is not participating.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.