

129 FERC ¶ 61,246  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

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

Southern California Edison Company

Docket No. EL10-1-000

ORDER ON PETITION FOR DECLARATORY ORDER

(Issued December 17, 2009)

1. On October 1, 2009, Southern California Edison Company (SoCal Edison) filed a petition for declaratory order (Petition) pursuant to Rule 207 of the Commission's Rules of Practice and Procedure.<sup>1</sup> SoCal Edison requests Commission approval of certain incentive rate treatments for its proposed Eldorado-Ivanpah Transmission Project (EITP) under Federal Power Act (FPA) section 219<sup>2</sup> and Order No. 679.<sup>3</sup> In this order, we conditionally grant SoCal Edison's Petition.

**I. Background**

**A. Description of the Project**

2. The proposed EITP involves the following key features: building a new substation located in the Ivanpah Dry Lake area in southern California; removal of approximately 35 miles of the Eldorado leg of the existing Eldorado-Baker-Cool Water-Dunn Siding-Mountain Pass 115 kV line; and constructing a new 35-mile double-circuit 220 kV transmission line and towers between the proposed Ivanpah substation and SoCal

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<sup>1</sup> 18 C.F.R. § 385.207 (2009).

<sup>2</sup> 16 U.S.C. § 825s (2006).

<sup>3</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).

Edison's existing Eldorado substation, near Boulder City, Nevada.<sup>4</sup> The EITP also involves associated upgrades to the Eldorado substation and the addition of new telecommunications facilities. The estimated in-service date for the EITP is mid-2013.

3. SoCal Edison states that the EITP will significantly improve the reliability of the California Independent System Operator Corporation's (CAISO) bulk power transmission system and reduce the cost of power to customers by reducing transmission congestion on the CAISO-controlled transmission grid. SoCal Edison states that the EITP will provide the electrical facilities necessary to deliver over the CAISO grid up to 1,400 MW of proposed new solar generation located near the southern California-Nevada border.

4. SoCal Edison estimates that the total cost for the EITP will be between \$446 million and \$484 million. SoCal Edison states that its proposed project will provide substantial benefits to California and the West by fostering the development of renewable generation in the Ivanpah Dry Lake area, and increasing the ability of this proposed location-constrained renewable solar generation to access the CAISO-controlled grid. This, in turn, will support SoCal Edison's compliance with California's Renewable Portfolio Standard (RPS)<sup>5</sup> and California legislation requiring reductions in greenhouse gas emissions.

#### **B. SoCal Edison's Petition and Proposed Incentives**

5. SoCal Edison states that it is seeking narrowly-tailored incentive rate treatment for the EITP, consistent with Order Nos. 679 and 679-A as well as subsequent decisions implementing those orders, and that each requested incentive is rationally related to the proposed investments. Specifically, SoCal Edison requests: (1) a return on equity (ROE) adder of 150-basis points for the EITP, which will be in addition to the 50-basis point ROE adder previously granted by the Commission for SoCal Edison's participation in the CAISO;<sup>6</sup> (2) inclusion of 100 percent of construction work in progress (CWIP) for the EITP in rate base; and (3) recovery of 100 percent of prudently-incurred abandoned plant

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<sup>4</sup> Approximately 28 miles of this proposed transmission line would be located in Nevada and 7 miles would be located in California. SoCal Edison October 1, 2009 Petition at 16 (Petition).

<sup>5</sup> SoCal Edison states that on September 15, 2009, the Governor of California issued an executive order increasing the state's RPS target to 33 percent by 2020. *Id.* 6.

<sup>6</sup> See *Southern California Edison Co.*, 121 FERC ¶ 61,168, at P 158 (2007) (2007 Incentive Order); *reh'g denied*, 123 FERC ¶ 61,293 (2008) (Order Denying Rehearing).

costs if the EITP is cancelled or abandoned for reasons beyond SoCal Edison's control. SoCal Edison also requests that the Commission declare the EITP facilities to be network facilities, eligible to be rolled into SoCal Edison's Commission-jurisdictional transmission revenue requirement (TRR).

6. While SoCal Edison is not requesting incentive ratemaking treatment for employing innovative transmission technologies, it includes a technology statement for the EITP, as required by Order No. 679.<sup>7</sup> Specifically, SoCal Edison states that, among other things, the EITP will use special protection systems, which require fiber optic technologies to provide reliable high speed data communication between substations and allow the monitoring systems to take corrective action in the event of outage contingencies. In addition, SoCal Edison states that the EITP will use advanced transmission technologies, i.e., upgrades to the existing 1900 Amp 898 MVAR series capacitor at the Eldorado Substation on the Eldorado-Lugo 500 kV transmission line, which fall under section 1223(a)(19) of EPAct 2005.<sup>8</sup>

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

7. Notice of SoCal Edison's Petition was published in the *Federal Register*, 74 Fed. Reg. 52,959-60 (2009), with interventions and comments due on or before November 2, 2009.

8. The California Public Utilities Commission (CPUC) filed a notice of intervention and protest. Timely motions to intervene, raising no substantive issues, were filed by San Diego & Gas Electric Company (SDG&E); Golden State Water Company (Golden State); and Modesto Irrigation District (Modesto). Timely motions to intervene, comments and protests were filed by the CAISO, Cities of Anaheim, Azusa, Banning, Colton, Pasadena, and Riverside, California (collectively, Six Cities); California Municipal Utilities Association (CMUA); California Department of Water Resources State Water Project (SWP); the M-S-R Public Power Agency and the City of Santa Clara, CA (collectively, MSR/Santa Clara); Transmission Agency of Northern California (TANC); Metropolitan Water District of Southern California (Metropolitan); and

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<sup>7</sup> See Order No. 679, FERC Stats. & Regs. ¶ 31,222 at P 302.

<sup>8</sup> Energy Policy Act of 2005, Pub. L. No. 109-58, 119 Stat. 594, § 1223(a)(19) (2005) (EPAct 2005).

Northern California Power Agency (NCPA).<sup>9</sup> A motion to intervene out-of-time was filed by Sacramento Municipal Utility District (SMUD).<sup>10</sup>

9. Timely motions to intervene and comments in support of the Petition were filed by American Wind Energy Association (AWEA); NRG Solar LLC and Padoma Wind Power LLC (collectively, NRG Solar); the Large-Scale Solar Association (LSA); BrightSource Energy, Inc. (BrightSource); First Solar Development, Inc. (First Solar); and Iberdrola Renewables, Inc. (Iberdrola). A motion to intervene out-of-time and comments were filed by the California Wind Energy Association (CalWEA).<sup>11</sup> SoCal Edison and BrightSource filed answers on November 17, 2009. SoCal Edison filed a corrected answer on November 18, 2009.

### **III. Discussion**

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

10. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2009), the notice of intervention and timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding. We will grant the unopposed, late-filed motions to intervene of SMUD and CalWEA, given their interests in this proceeding, the early stage of the proceeding, and the lack of undue prejudice or delay.

11. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2009), prohibits an answer to a protest unless otherwise ordered by the decisional authority. Accordingly, we will reject SoCal Edison's and BrightSource's answers.

#### **B. Timing of Commission Action and the CAISO's Planning Process**

##### **1. Comments**

12. Protesters argue that SoCal Edison's Petition is premature. Specifically, Metropolitan contends that the Petition is speculative regarding its potential impact on

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<sup>9</sup> NCPA supports the position of TANC.

<sup>10</sup> SMUD supports the position of CMUA.

<sup>11</sup> AWEA, NRG Solar, LSA, BrightSource, First Solar, Iberdrola and CalWEA all filed comments in support of SoCal Edison's Petition, and will be referred to herein collectively as the "Renewable Parties."

reliability, the viability of developers bringing their generation projects to fruition, and the ability of SoCal Edison to reduce risks associated with the EITP through appeals to the Department of Energy (DOE) and the CPUC. Six Cities argue that the Petition seeks incentives for a project that has yet to even be submitted in the CAISO's transmission planning process request window, much less evaluated and approved through the CAISO's transmission planning process. MSR/Santa Clara argue that the EITP has not been fully developed and contains too many variables and unanswered questions to merit incentive rate treatment at this time. MSR/Santa Clara state that, according to SoCal Edison, the EITP will relieve future congestion that may materialize if the solar generation projects are fully developed. As such, MSR/Santa Clara argue, SoCal Edison's concerns are entirely theoretical. The CPUC insists that the Petition is premature because neither the CAISO nor the CPUC has determined that the EITP should be built.

13. The CAISO points out that the Petition raises questions as to how an incentive request affects the CAISO's generation interconnection process. Specifically the CAISO states that SoCal Edison is requesting incentives for the EITP before that project has been fully considered through the CAISO's generation interconnection process. According to the CAISO, the Commission should either defer action on the incentives request until the CAISO determines if the EITP is needed, or make the grant of any incentives contingent on the inclusion of that project in the generator interconnection agreement for a proposed generating facility. The CAISO states that, while the Commission has declined to make participation in a generator interconnection or regional planning process a prerequisite to obtaining incentives, this does not preclude the Commission from waiting for the results of those processes prior to acting on an incentive request. In the alternative, the CAISO asks the Commission to declare that a grant of incentives for the EITP does not prejudice the outcome of the CAISO generator interconnection process or render unnecessary a CAISO determination as to the need for the EITP.<sup>12</sup>

14. The CAISO acknowledges that the Commission has in the past granted incentives for proposed transmission projects prior to those projects being fully evaluated, adding that the Commission's grant of incentives in these orders was not conditioned upon approval by an interconnection authority.<sup>13</sup> Nonetheless, the CAISO states that the criteria for receiving incentive approval pursuant to Order No. 679 is different from the

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<sup>12</sup> CAISO November 2, 2009 Comments at 6 (CAISO Comments).

<sup>13</sup> CAISO Comments at 7 (citing *Green Power Express LP*, 127 FERC ¶ 61,031 (2009), *reh'g pending (Green Power Express)*; *Pioneer Transmission, LLC*, 126 FERC ¶ 61,281 (2009), *reh'g pending (Pioneer)*; *Pacific Gas and Elec. Co.*, 123 FERC ¶ 61,067 (2008) (*PG&E*)).

criteria for inclusion of a project as a network upgrade in a generator interconnection agreement, which requires the CAISO to perform detailed interconnection studies. As such, the CAISO argues, if a Commission finding that a proposed project has reliability or economic benefits for purposes of Order No. 679 pre-determined the outcome of the CAISO interconnection process, the objectives of that process would be undermined and could result in developers submitting incentive requests that would circumvent the review performed in a generator interconnection process.

15. In support of SoCal Edison's Petition, the Renewable Parties state that the availability and timing of the EITP is a critical element to facilitate development of renewable projects in the Ivanpah region, including those currently being developed and those proposed to be developed, and the necessary transmission to access the southern California market.<sup>14</sup> The Renewable Parties state that this project is consistent with the Commission's policy to encourage the development and delivery of renewable power. The Renewable Parties further contend that the EITP is appropriately sized to meet near- and mid-term renewable energy needs, making the EITP prudent from both economic and environmental perspectives.

16. The Renewable Parties assert that the costs of providing up-front credit support for new and expensive transmission lines is one of the major obstacles to bringing new clean generation resources to market. The Renewable Parties contend that the rate incentives requested by SoCal Edison would encourage utilities to provide up-front financing for transmission investments, and could serve as a critical tool to help address the "chicken and egg" problem with transmission investment. This, the Renewable Parties add, would encourage development and delivery of renewable power and further California's RPS and its objective to reduce greenhouse gases.

## **2. Commission Determination**

17. We will not delay acting on the Petition. As the CAISO notes, we have acted on incentive rate requests prior to the conclusion of the applicable regional planning process or before any permits have been issued by the relevant governmental authorities.<sup>15</sup> As we have stated in previous orders, the Commission does not intend to prejudge the outcome of any regional planning process, including the CAISO's planning process, or any governmental permitting or similar proceeding, by granting rate incentives under

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<sup>14</sup> LSA November 2, 2009 Comments at 2.

<sup>15</sup> See, e.g., *The Nevada Hydro Co.*, 122 FERC ¶ 61,272, at P 24-27 (2008), *reh'g pending* (independently supplied reliability studies).

Order No. 679.<sup>16</sup> Further, we find that the EITP has not satisfied FPA section 219,<sup>17</sup> which requires that a company seeking rate incentives for transmission projects demonstrate that such projects ensure reliability and/or reduce the price of delivered power by reducing congestion. Therefore, we are conditioning the grant of incentives on the EITP receiving approval via the CAISO's planning process, as discussed below.

### C. Section 219 Requirement

18. In Order No. 679, the Commission stated that an applicant for transmission rate incentives must demonstrate that the facilities for which it seeks incentives satisfy the requirements of FPA section 219 by either ensuring reliability or reducing the cost of delivered power by reducing transmission congestion.<sup>18</sup> The Commission established a rebuttable presumption that a project is eligible for incentives under section 219 if it: (1) 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) has received construction approval from an appropriate state commission or state siting authority.<sup>19</sup> The Commission also stated that it will consider incentive requests for projects that are still undergoing consideration in a regional planning process, but may make any requested incentive rate treatment contingent on the project being approved under the regional planning process.<sup>20</sup> However, the Commission has stated that a project that does not qualify for the rebuttable presumption may nevertheless satisfy the section 219 standards if the project sponsor presents a factual record supporting a finding that the project is needed to maintain reliability or reduce

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<sup>16</sup> See, e.g., *Green Power Express*, 127 FERC ¶ 61,031 at P 42 (“ruling on a request for incentives pursuant to Order No. 679 does not prejudice the findings of a particular transmission planning process or the siting procedures at state commissions”); see also *Green Energy Express LLC*, 129 FERC ¶ 61,165, at P 13 (2009) (*Green Energy Express*).

<sup>17</sup> 16 U.S.C. § 825s (2006).

<sup>18</sup> Order No. 679, FERC Stats. & Regs. ¶ 31,222 at P 57-58.

<sup>19</sup> *Id.* In Order No. 679-A, the Commission clarified the operation of this rebuttable presumption by noting that the authorities and/or processes on which it is based (i.e., a regional planning process, a state commission, or siting authority) must, in fact, consider whether the project ensures reliability or reduces the cost of delivered power by reducing congestion. Order No. 679-A, FERC Stats. & Regs. ¶ 31,236 at P 49.

<sup>20</sup> Order No. 679, FERC Stats. & Regs. ¶ 31,222 at n.39.

congestion.<sup>21</sup> In order to meet this requirement, a project sponsor may present detailed studies, engineering affidavits, or state siting approvals demonstrating that the section 219 criteria are met.<sup>22</sup>

### 1. SoCal Edison's Proposal

19. SoCal Edison states that the EITP has not been approved through a regional planning process and therefore does not qualify for the rebuttable presumption under section 219 that it ensures reliability or reduces transmission congestion.<sup>23</sup> However, SoCal Edison contends that it has presented a factual record to support a finding that the EITP is needed to maintain reliability or reduce congestion.

20. SoCal Edison states that the CAISO has performed system impact studies and one facilities study, and is in the process of performing other facilities studies for three new solar generation projects that would add 414 MW of renewable generation in the Ivanpah Dry Lake area. According to SoCal Edison, the system impact studies indicate that, absent new construction, the total amount of new generation that could be integrated in the Ivanpah Dry Lake area would be limited to approximately 80 MW.<sup>24</sup> SoCal Edison further asserts that the EITP has been identified in the relevant interconnection studies as the transmission upgrade that most effectively and efficiently remedies the reliability and congestion problems posed by the new generation.

21. SoCal Edison further asserts that the system impact studies have identified that the EITP is needed to connect to the CAISO grid numerous projects in the Ivanpah Dry Lake area that are in the interconnection queue, in a manner that addresses the generation needs and minimizes the environmental impacts, service interruptions and overall cost exposure to ratepayers. SoCal Edison states that the findings in these studies indicate that it is best to build transmission facilities once rather than rebuilding and expanding facilities over a number of years.<sup>25</sup> SoCal Edison further states that the EITP will reduce

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<sup>21</sup> *Id.* P 57.

<sup>22</sup> *See Duquesne Light Co.*, 118 FERC ¶ 61,087, at P 68 (2007); *see also Green Power Express*, 127 FERC ¶ 61,031 at P 41.

<sup>23</sup> Petition at 4-5.

<sup>24</sup> *Id.* Vol. 1, Exh. G at P 12 (Affidavit of Jorge Chacon).

<sup>25</sup> *Id.* Vol. 1, Exh. C at 9-10 (SoCal Edison's Testimony on Cost Recovery and Cost Support for the Eldorado-Ivanpah Transmission Project, Sept. 22, 2009).

congestion in southern California, which DOE has identified as a critical congestion area.<sup>26</sup>

22. Finally, SoCal Edison contends that the EITP will assist the company in achieving the existing 20 percent RPS target, as well as the recently-established 33 percent RPS target by the year 2020, and will reduce congestion over a key corridor for renewable energy. As a result, SoCal Edison states, the EITP will provide for reduced costs to ratepayers when compared with alternative solutions identified in the system impact study process.<sup>27</sup>

## 2. Comments

23. Protesters argue that SoCal Edison has failed to demonstrate that the EITP would reduce congestion or enhance reliability and, therefore, the EITP does not qualify for incentives under FPA section 219. Specifically, the protesters assert that the EITP has not yet been evaluated or approved by the CPUC or the CAISO, and as such cannot be verified as needed to ensure reliability or reduce costs.<sup>28</sup> MSR/Santa Clara argue that SoCal Edison's discussion of reliability goes no further than stating that Southern California has been designated by the DOE as a "critical congestion area" and that the EITP will alleviate this congestion.<sup>29</sup> Metropolitan asserts that the Petition is speculative regarding the EITP's impact on reliability and congestion.<sup>30</sup> Similarly, TANC and the CPUC contend that SoCal Edison proposes to relieve future congestion that could materialize if the proposed solar generation projects are fully developed.<sup>31</sup>

24. The Renewable Parties contend that SoCal Edison, through its Petition and supporting affidavits and exhibits, has met its burden of demonstrating that the EITP

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<sup>26</sup> *Id.* at 20-21.

<sup>27</sup> *Id.* Vol. 1, Exh. C at 9-11.

<sup>28</sup> MSR/Santa Clara November 2, 2009 Protest at 11 (MSR/Santa Clara Protest); Metropolitan November 2, 2009 Protest at 12 (Metropolitan Protest); TANC November 2, 2009 Protest at 11 (TANC Protest); CPUC November 2, 2009 Protest at 9; SWP November 2, 2009 Protest at 12.

<sup>29</sup> MSR/Santa Clara Protest at 15.

<sup>30</sup> Metropolitan Protest at 12.

<sup>31</sup> TANC Protest at 10; CPUC Protest at 7.

promotes reliability and reduces the cost of delivering power by reducing transmission congestion, in accordance with Order No. 679.

### 3. Commission Determination

25. Because the EITP has not received approval through the CAISO's transmission planning process or received construction approval from the relevant state authorities, SoCal Edison is not entitled to the rebuttable presumption that the EITP is needed to maintain reliability or reduce congestion. Consequently, SoCal Edison must provide a factual record sufficient to support a finding that the EITP is needed to meet the requirements of FPA section 219.<sup>32</sup>

26. We have previously granted requests for rate incentives for projects that were not relying on section 219's rebuttable presumptions. However, in those cases, the applicants clearly demonstrated reliability or congestion concerns that the proposed project would address and supported such assertions with comprehensive and clear data, as well as internal and, in several cases, external studies. For example, in *Green Power Express*, we found the project met the section 219 requirement based on studies and an engineering affidavit submitted by the applicant that showed the impact of the proposed transmission project on the existing network and demonstrated the project's ability to relieve congestion on DOE-identified congested paths.<sup>33</sup> In addition, the applicant in that proceeding submitted an outside study by the Brattle Group that confirmed the applicant's own results. In *Pioneer*, we found that the applicant had provided sufficient information to demonstrate the project's reliability and congestion benefits, such as comprehensive power flow analyses that the Commission could use to verify the applicant's contention that its project ensured reliability or reduced the cost of delivered power by reducing congestion. Finally, in *Tallgrass*,<sup>34</sup> we similarly concluded that the applicant had satisfied the section 219 requirement based on both the data presented in the filing and due to the project's similarity with other transmission projects studied by the Southwest Power Pool, the relevant regional transmission organization in that proceeding.<sup>35</sup>

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<sup>32</sup> Order No. 679, FERC Stats. & Regs. ¶ 31,222 at P 57.

<sup>33</sup> See *Green Power Express*, 127 FERC ¶ 61,031 at P 41.

<sup>34</sup> See *Tallgrass Transmission, LLC*, 125 FERC ¶ 61,248, at P 42 (2008), *reh'g pending* (*Tallgrass*).

<sup>35</sup> See *Pioneer*, 126 FERC ¶ 61,281 at P 37.

27. In contrast, SoCal Edison has not provided the Commission with the necessary support to determine whether the EITP ensures reliability or reduces the price of delivered power by reducing congestion. SoCal Edison has provided three Interconnection System Impact Studies, which were conducted by the CAISO in coordination with SoCal Edison as part of the CAISO's generator interconnection process.<sup>36</sup> Those studies conclude that the current system is inadequate to accommodate the projects discussed therein.<sup>37</sup> We note, however, that the studies provided by SoCal Edison are less comprehensive than the above-noted studies that the Commission found sufficient to satisfy the section 219 requirement when an applicant was not entitled to a rebuttable presumption under Order No. 679. For example, the studies provided by SoCal Edison focus on only three of the generators that the EITP is intended to serve, and the studies offer no indication of the broader impacts that the EITP will have on the CAISO system. Accordingly we cannot find that the EITP satisfies the section 219 requirement.<sup>38</sup>

28. However, because the CAISO's transmission planning process may adequately consider the reliability and congestion-relieving impacts of the EITP, the Commission will conditionally grant the incentives requested by SoCal Edison. We direct SoCal Edison to submit a filing within 30 days of the approval or disapproval of the EITP in the CAISO's transmission planning process. If the EITP is approved in the CAISO's planning process, SoCal Edison must provide in this filing evidence not only that the EITP was approved in the CAISO's planning process, but also that the transmission planning process included a finding that the EITP will ensure reliability or reduce the cost of delivered power by mitigating congestion, consistent with Order No. 679-A.<sup>39</sup>

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<sup>36</sup> SoCal Edison's Petition also includes affidavits from several project managers, economists and engineers. We note, however, that the information contained in these affidavits, when considered alongside the other information contained in the Petition, is not sufficient to support a determination that the EITP meets the requirements of FPA section 219. While the evidence an applicant may submit to support a finding that the FPA section 219 criteria are met includes, among other things, engineering affidavits, the affidavits contained in the Petition, lack sufficient detail.

<sup>37</sup> See Petition, Vol. 1, Exh. G at P 17.

<sup>38</sup> Our decision here does not preclude SoCal Edison from submitting additional support in a new proceeding to satisfy these section 219 requirements.

<sup>39</sup> See Order No. 679-A, FERC Stats. & Regs. ¶ 31,236 at P 49. See also *Green Energy Express*, 129 FERC ¶ 61,165 at P 30; *Central Maine Power Co.*, 125 FERC

(continued...)

#### **D. Nexus Requirement and Requested Incentives**

29. In addition to satisfying section 219's requirement that a project ensure reliability or reduce the cost of delivered power by reducing congestion, an applicant must demonstrate that there is a nexus between the incentive sought and the investment being made. In Order No. 679-A, the Commission clarified that the nexus test is met when an applicant demonstrates that the total package of incentives requested is "tailored to address the demonstrable risks or challenges faced by the applicant."<sup>40</sup>

30. 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 particularly probative. In *BG&E*, the Commission provided guidance on the factors that it will consider when determining whether a project is routine.<sup>41</sup> 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, other impediments). The Commission also explained that when an applicant has adequately demonstrated that the project for which it requests an 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.<sup>42</sup>

31. Based on the evidence, we find that SoCal Edison has demonstrated that the EITP is not routine. We also conclude that SoCal Edison has demonstrated that the total package of incentives, as modified and conditioned in this order, is tailored to the risks and challenges faced by the EITP. We discuss below our finding that the EITP is not

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¶ 61,182, at P 57 (2008) (directing further filing). We note that, to the extent the EITP is still subject to study and review in the generator interconnection process, it must satisfy all requirements of that process. Nothing in this order predetermines the outcome of the CAISO's generator interconnection process.

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

<sup>41</sup> *Baltimore Gas & Elec. Co.*, 120 FERC ¶ 61,084, at P 52-55 (2007), *order denying reh'g*, 123 FERC ¶ 61,262 (2008) (*BG&E*).

<sup>42</sup> *Id.* P 54.

routine and the nexus between each requested incentive and the particular risks and challenges SoCal Edison faces in connection with the EITP.

**1. Routine Nature of Project**

**a. SoCal Edison's Proposal**

32. SoCal Edison argues that the EITP is not routine in scope because it will provide regional benefits by fostering the development of location-constrained renewable resources in the Ivanpah Dry Lake area which, SoCal Edison asserts, has the potential to be a vital center for solar generation. SoCal Edison contends that the EITP will be a necessary addition to enable these new resources to be developed and integrated into the CAISO-controlled grid. According to SoCal Edison, the Commission has recognized that construction or enhancement of transmission facilities to provide access to remote, location-constrained renewable resources is not routine.<sup>43</sup> Moreover, SoCal Edison states that the estimated cost of the EITP, between \$446 and \$484 million, is not routine as it represents over 20 percent of SoCal Edison's current transmission rate base. SoCal Edison further states that the EITP is not routine in scope because it requires over 35 determinations from governmental authorities and regulatory agencies from multiple jurisdictions, adding significant complexity and risk to the EITP.<sup>44</sup>

33. SoCal Edison asserts that the effect of the EITP is not routine because of its impact on the CAISO and regional transmission grids. Specifically, SoCal Edison states that system impact studies have shown that the EITP will remedy reliability problems posed by the addition of new solar generation and relieve congestion that interconnecting generation would create.<sup>45</sup> SoCal Edison adds that the EITP will be integrated with the existing CAISO-controlled network, and will increase the transfer capability from the Ivanpah Dry Lake area to the CAISO-controlled grid.<sup>46</sup>

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<sup>43</sup> Petition at 24 (citing *Green Power Express*, 127 FERC ¶ 61,031 at P 46; *PacifiCorp*, 125 FERC ¶ 61,076, at P 45 (2008) (*PacifiCorp*)).

<sup>44</sup> SoCal Edison has identified at least eight Federal permits, at least fifteen permits from state and local agencies within California, and at least twelve permits from state and local agencies within Nevada. See Petition, Vol. 1, Exh. D at P 7-11 (Affidavit of Charles B. Adamson).

<sup>45</sup> *Id.* Vol. 1, Exh. G at P 18.

<sup>46</sup> *Id.* at 30-31.

34. SoCal Edison argues that the challenges and risks associated with the EITP are not routine, adding that the EITP will require multiple approvals from governmental authorities and regulatory agencies in California and Nevada, as well as Federal agencies. Further, SoCal Edison states that obtaining construction approval from out-of-state regulatory agencies (i.e., Nevada) is not guaranteed, which adds an element of risk that would not be present in an otherwise routine project. SoCal Edison adds that it will be expending substantial amounts of money prior to obtaining the necessary regulatory approvals for the EITP, which will expose it to the risk that the proposed renewable generation projects may not materialize. Finally, SoCal Edison states that financing the EITP will adversely impact SoCal Edison's cash flow, particularly when considered in conjunction with its ongoing projects.

**b. Protests**

35. The CPUC contends that SoCal Edison's cost estimates may not be reasonable, as they contain high contingency percentages of 35 percent which, according to the CPUC, appears to be inflated and which overstate the projected costs of the project. The CPUC asserts that, in its Certificate of Public Necessity and Convenience proceeding, SoCal Edison's cost estimates will be analyzed, and adds that the estimates provided by SoCal Edison should be given little weight until such analysis can be performed.

36. The CPUC argues that SoCal Edison's estimate that the EITP is over 20 percent of its net plant in service at the end of 2008 is misleading, adding that SoCal Edison's projected investment in the EITP is only a fraction of its total projected capital expenditures of \$20.4 billion, including \$6.2 billion in transmission, during the 2009-2013 period.<sup>47</sup> According to the CPUC, then, projects for which the Commission has granted incentive rates are generally larger in cost or make up a greater portion of an applicant's overall investments than does the EITP.<sup>48</sup>

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<sup>47</sup> CPUC Protest at 12-13. According to the CPUC, SoCal Edison added significant plant in 2009 and will continue to do so prior to the EITP being built. The CPUC contends that in 2013, when the EITP goes into service, SoCal Edison's total rate base will have increased to \$22.9 billion, compared to \$12.5 billion at the end of 2008.

<sup>48</sup> CPUC states that the EITP's \$448 million project cost is much lower than SoCal Edison's Devers-Palo Verde II Project (DVP2) (\$506 million) and Tehachapi Transmission Project (Tehachapi) (\$1.7 billion), which the Commission found eligible for transmission investment incentives in its 2007 Incentive Order. CPUC Protest at 11-12 (*citing* 2007 Incentive Order, 121 FERC ¶ 61,168 at P 4, 6).

37. The CPUC also argues that the EITP is routine due to its size and effect on the region, adding that the EITP's replacement of an existing 35-mile 115 kV line with a 220 kV line is small compared to other projects for which incentives were granted.<sup>49</sup> The CPUC further states that SoCal Edison has not demonstrated that the EITP will improve reliability or reduce congestion costs.

38. Finally, the CPUC argues that SoCal Edison does not demonstrate that the financing or regulatory challenges facing the EITP are non-routine or present significant hurdles to SoCal Edison, especially given the size of the EITP and the fact that it covers an existing right-of-way. The CPUC further argues that SoCal Edison does not discuss the availability of CPUC backstop authority for the EITP, which assures SoCal Edison rate recovery and greatly reduces its financial and regulatory risks. As such, the CPUC urges the Commission to consider not only the challenges facing SoCal Edison, but also the California-specific facts that minimize these risks.

**c. Commission Determination**

39. SoCal Edison has presented evidence on the EITP's scope and effect, as well as the risks and challenges faced by the project. Based on this evidence, we conclude that SoCal Edison has adequately demonstrated that the EITP is not routine. The EITP represents a significant investment of up to \$484 million in a transmission project that would deliver up to 1400 MW of otherwise location-constrained renewable resources in the Ivanpah Dry Lake area. Access to these proposed renewable resources will contribute towards meeting California's RPS goals.

40. The Commission has previously found that, in addition to other considerations, construction or enhancement of transmission facilities to provide access to remote, location-constrained renewable resources is not routine.<sup>50</sup> We find that the EITP will provide the following regional benefits: enabling the development of up to 1400 MW of renewable resources in the Ivanpah Dry Lake area, a potentially vital center for solar

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<sup>49</sup> CPUC points to: (1) the DVP2 project, proposed to FERC as a 230-mile long 500 kV line between Central Arizona and California, and a 500 kV line between Devers substation and Valley Substation; (2) Tehachapi, consisting of more than 200 miles of 500 kV transmission lines, and 10 miles of 220 kV transmission lines; and (3) *Green Power Express*, intended to cover 3,000 miles over a seven-state area. CPUC Protest at 15 (citing 2007 Incentive Order, 121 FERC ¶ 61,168 at P 4, 6; *Green Power Express*, 127 FERC ¶ 61,031 at P 46).

<sup>50</sup> *Green Power Express*, 127 FERC ¶ 61,031 at P 46; see also *PacifiCorp*, 125 FERC ¶ 61,076 at P 45; see also *Green Energy Express*, 129 FERC ¶ 61,165 at P 62.

generation; allowing these new resources to be integrated into the CAISO-controlled grid; and providing assistance in meeting California's RPS targets.

41. We also find that the risks and challenges faced by SoCal Edison are not routine. Specifically, the EITP must receive at least 35 approvals from several agencies and jurisdictions, including the CPUC, the Public Utilities Commission of Nevada, and the United States Department of Interior Bureau of Land Management. As a result, SoCal Edison faces numerous financial, regulatory, environmental and siting challenges. Despite the fact that the EITP will be constructed on an existing right-of-way, SoCal Edison must still procure multiple approvals from governmental authorities and regulatory agencies across two states, California and Nevada, as well as Federal agencies.

42. SoCal Edison has also demonstrated that since the EITP is not expected to be in service until mid-2013, it will have exposure to uncertainties arising from future unforeseen circumstances during this time period. In addition, SoCal Edison is proposing to expend substantial funds prior to obtaining all necessary approvals for the EITP, thereby exposing itself to the risk that the proposed generation projects the EITP is being developed to serve may not materialize. Based on this evidence, we find that SoCal Edison has adequately demonstrated that the EITP is not routine.

43. With respect to the CPUC's argument that SoCal Edison's risks are reduced by California law and the CPUC's backstop authority, we find that any reduction in risk that may be attributable to the CPUC's regulatory actions is difficult to quantify. Moreover, cost recovery through state regulatory mechanisms does not necessarily create adequate incentives to build necessary infrastructure. We reiterate that Congress enacted FPA section 219, and we subsequently issued Order No. 679, based on the fact that existing cost-based recovery mechanisms have been insufficient to stimulate investment in infrastructure to ensure reliability and/or reduce congestion costs.<sup>51</sup> As we have stated in previous orders, we do not find that section 399.25 of the California Code excludes SoCal Edison from eligibility for ROE incentives pursuant to FPA section 219.<sup>52</sup>

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<sup>51</sup> Order No. 679, FERC Stats. & Regs. ¶ 31,222 at P 10. Section 219(b)(2)-(3) of the FPA directed the Commission to ensure that its rule, as applied, provides "a return on equity that attracts new investment in transmission facilities (including related transmission technologies); encourage deployment of transmission technologies and other measures to increase the capacity and efficiency of existing transmission facilities and improve the operation of the facilities . . . ." 16 U.S.C. § 824s(b)(2)-(3) (2006).

<sup>52</sup> 2007 Incentive Order, 121 FERC ¶ 61,168 at P 147 (noting that "[s]ection 219 does not exclude transmission projects with guaranteed cost recovery from eligibility of incentives"); *see also* Order Denying Rehearing, 123 FERC ¶ 61,293 at P 49.

## 2. Construction Work In Progress

### a. SoCal Edison's Proposal

44. SoCal Edison claims that there is a nexus between its investment in the EITP and its request to include 100 percent of CWIP in rate base. SoCal Edison contends that recovery of CWIP will improve SoCal Edison's cash flow at a time when it is financing a significant expansion and upgrade of its transmission system.<sup>53</sup> Thus, SoCal Edison states that the EITP, with a projected cost of up to \$484 million, will add to the financial burdens and risks associated with its transmission investment program.

45. SoCal Edison asserts that because it is expending large amounts of capital on transmission investments over the next several years, it is important for SoCal Edison to have an increased cash flow prior to the in-service date of the EITP. SoCal Edison adds that traditional rate recovery mechanisms would not allow it to recover the costs of construction until the EITP is placed into service, which could serve as a barrier to transmission investment.<sup>54</sup> In addition, SoCal Edison contends that unless it is permitted to recover CWIP in rate base, its investors will have to wait over two years before receiving a return on their investment which, SoCal Edison contends, would diminish the attractiveness of this investment.<sup>55</sup>

46. SoCal Edison also argues that allowing it to recover 100 percent of CWIP in rate base would facilitate financing and improve its coverage ratios used by rating agencies to determine credit quality and debt ratings.<sup>56</sup> Accordingly, SoCal Edison states that in the long term, customers benefit from smoothing out large rate increases and stronger credit ratings for the utility, because the company will be able to obtain better financing terms that will ultimately be passed on to customers.

47. SoCal Edison asserts that, given the size and scope of its transmission investment plan relative to its current rate base, there will be a significant rate increase when the EITP is completed and added to rate base. SoCal Edison therefore argues that including

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<sup>53</sup> SoCal Edison anticipates investing \$6.2 billion in its transmission system over the next five years to interconnect renewable resources and maintain reliability. Petition at 32.

<sup>54</sup> *Id.* at 33.

<sup>55</sup> *Id.* at 40.

<sup>56</sup> *Id.* at 39.

CWIP in rate base would phase-in the rate increase during the construction period, and will result in a lower future rate base than would occur by accruing Allowance for Funds Used During Construction (AFUDC) until the in-service date, thereby reducing rates in the future through a lower revenue requirement over the remaining life of the project.

48. Finally, SoCal Edison proposes to include the CWIP for the EITP in the stand-alone balance account mechanism previously approved by the Commission, adding that this mechanism should be appropriate for inclusion in rate base of CWIP associated with the EITP.<sup>57</sup> SoCal Edison states that the Commission, in approving that account mechanism, determined that SoCal Edison has established the appropriate regulatory and accounting controls, adding that those controls will insure that CWIP for the EITP will be treated appropriately.

**b. Comments**

49. MSR/Santa Clara state that under Order No. 679, an applicant for CWIP incentives must propose accounting procedures that ensure customers will not be double-charged. According to MSR/Santa Clara, SoCal Edison's request for CWIP recovery does not demonstrate how it will separately account for CWIP to ensure that there is no double recovery through capitalized AFUDC.

50. TANC and Metropolitan state that SoCal Edison fails to demonstrate that a nexus exists between its need for cash flow and the CWIP incentive. Specifically, TANC contends that SoCal Edison has not demonstrated that cash flow is of great concern to the company, noting that SoCal Edison had sufficient funds available by the end of 2008 to make a dividend payment of \$345 million to Edison International.

51. The Six Cities contend that the only incentive that should be authorized by the Commission at this time is the inclusion of 100 percent of CWIP in rate base. The Six Cities state that recovery of CWIP costs through the balancing account mechanism that the Commission previously approved for SoCal Edison's other ratemaking incentive-eligible projects adequately mitigates cash flow burdens that SoCal Edison may experience if it elects to fund the EITP.

**c. Commission Determination**

52. In Order No. 679, the Commission established a policy that allows utilities to include, where appropriate, 100 percent of prudently-incurred transmission-related CWIP

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<sup>57</sup> *Id.* at 35 (citing *Southern California Edison Co.*, 122 FERC ¶ 61,187, at P 33 (2008)).

in rate base.<sup>58</sup> The Commission stated that this rate treatment will further the goals of FPA section 219 by providing up-front regulatory certainty, rate stability, and improved cash flow, reducing the pressures on an applicant's finances caused by investing in transmission projects.<sup>59</sup> As discussed below, we find that SoCal Edison has shown a nexus between the proposed CWIP incentive and its investment in the EITP, and, therefore, we accept SoCal Edison's proposal to recover 100 percent of CWIP in rate base, conditioned upon SoCal Edison fulfilling the Commission's requirements for CWIP inclusion for these transmission facilities in its future section 205 filing.<sup>60</sup>

53. The EITP will cost up to \$484 million and is not expected to go into service until mid-2013. The cost and timing for completing the EITP will put pressure on SoCal Edison's finances. Granting the CWIP incentive will help ease this pressure by providing upfront certainty, improved cash flow, and reduced interest expense. We believe it will also assist SoCal Edison with its financing, and improve SoCal Edison's coverage ratios used by rating agencies to determine credit quality by replacing non-cash AFUDC with cash earnings. This, in turn, will reduce the risk of a downgrade in SoCal Edison's debt ratings. In Order No. 679, the Commission stated that it will consider each proposal on the basis of the particular facts of the case.<sup>61</sup> Considering the relative size of SoCal Edison's investment in the EITP, as compared to its current transmission rate base, we find that authorization of the CWIP incentive is appropriate to assist in the construction of new transmission facilities.

54. Further, SoCal Edison's recovery of 100 percent of CWIP in its rate base will result in better rate stability for customers. As we have previously explained, without including CWIP in rate base, a new project has no direct effect on customer rates until it begins to provide service.<sup>62</sup> If SoCal Edison were not permitted to include CWIP in rate base, all of the EITP's borrowing costs will be accrued over several years, and then capitalized after the EITP goes into service, along with a return of the investment cost

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<sup>58</sup> Order No. 679, FERC Stats. & Regs. ¶ 31,222 at P 29, 117.

<sup>59</sup> *Id.* P 115.

<sup>60</sup> *Construction Work in Progress for Public Utilities; Inclusion of Costs in Rate Base*, Order No. 298, FERC Stats. & Regs. ¶ 30,455 (1983), *order on reh'g*, Order No. 298-B, FERC Stats. & Regs. ¶ 30,524 (1983).

<sup>61</sup> Order No. 679, FERC Stats. & Regs. ¶ 31,222 at P 117.

<sup>62</sup> *See, e.g., American Electric Power Serv. Corp.*, 116 FERC ¶ 61,059, at P 59 (2006), *order on reh'g*, 118 FERC ¶ 61,041, at P 27 (2007).

through depreciation expense. Such a process would increase SoCal Edison's customers' bills more significantly than if the Commission were to allow inclusion of in rate base.<sup>63</sup> By permitting SoCal Edison to recover CWIP, the Commission is mitigating this potential future rate increase to customers.

55. Accordingly, we find the EITP is eligible to recover 100 percent of CWIP in rate base contingent on the EITP's approval in the planning process, discussed above. As noted above, our acceptance of SoCal Edison's proposal to recover 100 percent of CWIP in rate base is also conditioned upon SoCal Edison fulfilling the Commission's requirements for CWIP inclusion for these transmission facilities in a future filing under section 205 of the FPA. In such future filing, we direct SoCal Edison to include the CWIP for the EITP in the stand-alone balance account mechanism previously approved by the Commission.<sup>64</sup>

### 3. Abandoned Cost Recovery

#### a. SoCal Edison's Proposal

56. SoCal Edison seeks 100 percent recovery of its prudently incurred costs for the EITP if the project is cancelled or abandoned for reasons outside of its control.<sup>65</sup> SoCal Edison states that its request for full abandonment recovery is tailored to the risks faced by SoCal Edison with respect to the EITP. SoCal Edison notes that the Commission has explained that recovery of abandoned plant is important when utilities "encounter investment opportunities with significant risk associated with factors beyond their control, such as developers' decisions to develop or terminate the development of potential resources or difficulty obtaining state or local siting approvals."<sup>66</sup>

57. SoCal Edison argues that the EITP demonstrates a clear nexus for abandoned plant recovery because it requires approvals from multiple regulatory bodies, including the CPUC, the Public Utility Commission of Nevada, and Federal and local governmental and regulatory authorities, each of which, SoCal Edison contends, carries considerable

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<sup>63</sup> See, e.g., *Green Power Express*, 127 FERC ¶ 61,031 at P 67.

<sup>64</sup> The Commission previously found that the CWIP ratemaking mechanism demonstrated that SoCal Edison had accounting procedures in place to prevent double recovery. See *Southern California Edison Co.*, 122 FERC ¶ 61,187 at P 31, 33.

<sup>65</sup> Petition at 28.

<sup>66</sup> *Id.* (citing Order No. 679, FERC Stats. & Regs. ¶ 31,222 at P 155).

risk. In addition, SoCal Edison asserts that there is risk that the solar resources that are the impetus for the EITP will not be developed, adding that this is a factor the Commission has previously relied upon when granting recovery of prudently incurred costs associated with abandoned projects.<sup>67</sup> Moreover, SoCal Edison contends that it has agreed to provide upfront financing for the EITP, and will therefore be required to expend substantial amounts of money beginning in early 2010, well before all necessary project approvals are granted.

58. Finally, SoCal Edison argues that its ability to provide upfront financing for the EITP is dependent upon the Commission's assurance to SoCal Edison that it will be able to recover abandonment costs of the EITP.

**b. Comments**

59. Protesters argue that SoCal Edison's request for recovery of 100 percent of abandoned plant attempts to shift the risks associated with the EITP from the generation developers to wholesale transmission customers.<sup>68</sup>

60. Six Cities states that SoCal Edison should be required to follow the Commission's policy of allocating equitably the risk of project cancellation between ratepayers and shareholders.<sup>69</sup> According to Six Cities, this approach would not require SoCal Edison's shareholders to bear an undue degree of risk in the event of cancellation but, should the Commission determine the EITP to constitute network facilities recoverable through the CAISO access charge, would share all risk of abandonment with CAISO ratepayers. Six Cities argues that the Commission should not permit SoCal Edison to shift all risk of abandonment to ratepayers for a project that has not been developed through the CAISO's regional planning process, which would have provided an opportunity for input from ratepayers.<sup>70</sup> Further, Six Cities contends that SoCal Edison could avoid all risk of

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<sup>67</sup> See, e.g., *Green Power Express* 127 FERC ¶ 61,031 at P 51; *Southern California Edison Co.*, 112 FERC ¶ 61,014, at P 61 (2005).

<sup>68</sup> Metropolitan Protest at 14; Six Cities Protest at 15-16; TANC Protest at 17.

<sup>69</sup> Six Cities Protest at 15-16 (citing *New England Power Co.*, Opinion No. 295, 42 FERC ¶ 61,016, at 61,068, *order on reh'g*, Opinion No. 295-A, 43 FERC ¶ 61,285 (1988)).

<sup>70</sup> *Id.* at 17.

abandoned plant by requiring generator interconnection customers to provide initial funding for network upgrades to facilitate interconnections.<sup>71</sup>

61. Six Cities argues that the SoCal Edison is the *de facto* beneficiary of a considerable portion of the anticipated output from the proposed generation projects. Both Six Cities and MSR/Santa Clara contend that SoCal Edison's decision to acquire this output is critical to the viability of these solar projects. According to Six Cities, this distinguishes the EITP from SoCal Edison's Antelope Project, where the Commission granted recovery of 100 percent of abandonment costs because SoCal Edison did not control the decision to develop or cancel the generation project, its shareholders did not share in the earnings associated with the generation project, and because it was decided that SoCal Edison might be at a higher risk in developing the project due to factors beyond its control.<sup>72</sup> MSR/Santa Clara add that SoCal Edison is in a position to control multiple aspects of the project and is therefore equipped to avoid construction of the EITP if the generation will not be built. As such, MSR/Santa Clara and Six Cities argue that SoCal Edison's shareholders should assume a portion of the abandonment risks for the EITP.

62. Six Cities further argues that the Commission previously denied a request by SoCal Edison for recovery of 100 percent of abandonment costs where it appeared that the transmission project at issue may have been designed for the sole purpose of importing from a SoCal Edison generation resource.<sup>73</sup>

63. MSR/Santa Clara question whether SoCal Edison has fully explored any alternatives to the EITP that might reduce risks to SoCal Edison's transmission customers, while facilitating interconnection with the proposed generation projects. MSR/Santa Clara suggest that the benefits of a larger project such as the EITP be weighed against the risk of generation not being built. MSR/Santa Clara add that SoCal Edison's current proposal assigns these costs and risks to its wholesale customers in the form of recovery of abandoned plant costs.<sup>74</sup>

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<sup>71</sup> *Id.* at 15.

<sup>72</sup> *Id.* at 18-19 (*citing* Order No. 679, FERC Stats. & Regs. ¶ 31,222 at P 156); MSR/Santa Clara Protest at 19.

<sup>73</sup> Six Cities Protest at 19 (*citing* *Southern California Edison Co.*, 112 FERC ¶ 61,014, n.45 (2005)).

<sup>74</sup> MSR/Santa Clara Protest at 18.

64. The CAISO states that SoCal Edison's request for abandonment raises policy issues about the interplay between Order No. 679 and the CAISO generator interconnection process. According to the CAISO, the Commission has in the past approved abandoned plant incentives for proposed transmission projects not yet found to be needed by an interconnection authority or independent system operator.<sup>75</sup> The CAISO adds that it is not clear whether an incentive to recover prudently-incurred costs if a project is abandoned due to forces outside an applicant's control would apply if a transmission project is not constructed because that project is not found to be needed as a network upgrade and approved by the CAISO through the generator interconnection process for inclusion in a generator interconnection agreement. Therefore, the CAISO requests that, if the Commission approves the abandonment incentive for the EITP, it clarify that this incentive does not apply if the EITP is abandoned because the CAISO determines that the project is not needed as a network upgrade in a generator interconnection agreement. In the alternative, the CAISO states that the Commission should condition the availability of the abandonment incentive on the determination that a network upgrade is needed in the CAISO interconnection process.

65. The CAISO states that providing developers with an opportunity to propose projects devoid of any risk will encourage the submission of projects that are not needed, and which could unnecessarily increase costs to ratepayers and clog-up the CAISO's generator interconnection and planning processes. The CAISO adds that permitting recovery of abandoned plant for a proposed project in the CAISO balancing authority area without this requested clarification would conflict with the terms of the CAISO tariff and the Transmission Control Agreement, which provides that any transmission lines or facilities which the CAISO determines not be necessary to fulfill its responsibilities under its tariff shall not be treated as part of a participating transmission owner's network for purposes of the Transmission Control Agreement.<sup>76</sup>

66. The CAISO adds that, regarding California's RPS, it has recently announced an initiative to develop tariff provisions that would permit the CAISO to approve proposed new transmission projects accessing renewable resources on a basis other than the CAISO's current tariff provisions specifying its transmission planning process and generator interconnection process. The CAISO states that while the EITP might be a candidate for this alternative CAISO approval process, these proposed tariff provisions are still in development and therefore not available for application to the EITP.

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<sup>75</sup> CAISO Comments at 11 (*citing Green Power Express*, 127 FERC ¶ 61,031 at P 42; *Pioneer*, 126 FERC ¶ 61,281 at P 41).

<sup>76</sup> *Id.* at 14 (*citing* CAISO Transmission Control Agreement, section 4.1.1).

c. **Commission Determination**

67. In Order No. 679, the Commission found that the abandonment incentive is an effective means of encouraging transmission development by reducing the risk of non-recovery of costs.<sup>77</sup> We find that SoCal Edison has demonstrated, consistent with Order No. 679, a nexus between the recovery of prudently-incurred abandonment costs and its planned investment. Therefore, we conditionally grant SoCal Edison's request for recovery of 100 percent of prudently-incurred costs associated with abandonment of the EITP, provided that the abandonment is a result of factors beyond the control of SoCal Edison, which must be demonstrated in a subsequent FPA section 205 filing for recovery of abandoned plant.<sup>78</sup> In addition, we condition recovery of prudently-incurred abandonment costs to the requirement that the CAISO has vetted and approved the EITP in its transmission planning process.

68. We find that granting the requested abandonment incentive would encourage completion of the EITP, and give SoCal Edison the necessary incentive to develop the project, notwithstanding the risk that factors beyond the company's control, such as inability to obtain one of the numerous required regulatory approvals, could prevent completion of the EITP. The fact that SoCal Edison must obtain at least 35 approvals for the EITP, involving multiple jurisdictions, increases the possibility that the project may be subject to forced abandonment. Additionally, as SoCal Edison points out, it is still uncertain whether the solar resources connecting to the EITP will ultimately be developed. As a result, there remains a great deal of risk for SoCal Edison as it pursues development and construction of the EITP. We conclude that authorizing the abandonment incentive will help ameliorate this risk by providing SoCal Edison with some degree of certainty as it moves forward.

69. We emphasize that conditioning this incentive, as well as the other incentives requested by SoCal Edison, on approval in the CAISO's transmission planning process is limited to the circumstances presented in this docket. As we have stated in a number of orders on rate incentives, we review requests for incentives on a case-by-case basis.<sup>79</sup>

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<sup>77</sup> Order No. 679, FERC Stats. & Regs. ¶ 31,222 at P 163.

<sup>78</sup> Order No. 679, FERC Stats. & Regs. ¶ 31,222 at P 165-66. *See also Green Energy Express*, 129 FERC ¶ 61,165 at P 52.

<sup>79</sup> *See, e.g., Green Energy Express*, 129 FERC ¶ 61,165 at P 54; *Green Power Express*, 127 FERC ¶ 61,031 at P 75 (stating that the Commission "will consider transmission incentive requests on a case-by-case basis"); *ITC Great Plains, LLC*, 126 FERC ¶ 61,223, at P 44 (2009) ("As for whether the projects deserve incentives

(continued...)

While SoCal Edison correctly notes that we previously approved rate incentives for projects that had not yet received approval in the relevant regional planning process, we find that those cases are distinguishable. As noted above, we found that the applicants in the *Green Power Express*, *Pioneer*, and *Tallgrass* proceedings satisfied the requirements of FPA section 219 through the applicants' own submissions, despite the fact that their respective projects had not yet been approved in a regional planning process. In contrast, we find that SoCal Edison has not satisfied the section 219 requirement that the EITP ensures reliability or reduces the price of delivered power by reducing congestion through the information provided in its Petition.<sup>80</sup> For this reason, we condition the abandoned plant recovery incentive on the EITP being approved in the CAISO's planning process. We find that this condition, which is applicable to all incentives we are granting herein, addresses the CAISO's concern with respect to the abandoned plant incentive in this case.

70. Finally, we will not determine the justness and reasonableness of SoCal Edison's abandoned plant recovery, if any, until SoCal Edison seeks such recovery in a section 205 filing. Order No. 679 specifically reserves a prudence determination associated with the abandonment incentive for the subsequent section 205 filing that every utility is required to make if it seeks abandoned plant recovery.<sup>81</sup>

#### 4. ROE Incentive Adder

##### a. SoCal Edison's Proposal

71. SoCal Edison requests that the Commission grant a 150-basis point ROE adder for the EITP, in addition to the 50-basis point adder previously granted to SoCal Edison for CAISO membership.<sup>82</sup> According to SoCal Edison, the Commission explained in Order No. 679 that "large new interstate transmission projects . . . can face substantial risks that ordinary transmission does not," and that "such projects will often be undertaken only at the election of investors, given that no single entity is 'required' to undertake them and thus an incentive-based ROE is appropriate to encourage proactive behavior."<sup>83</sup>

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because there are competing projects, we reiterate that it is the Commission's policy to review each request for incentives on its own merits and on a case-by-case basis.") (*ITC*).

<sup>80</sup> See P 27-31, *supra*.

<sup>81</sup> Order No. 679, FERC Stats. & Regs. ¶ 31,222 at P 165-66.

<sup>82</sup> Petition at 10-11 (*citing* 2007 Incentive Order, 121 FERC ¶ 61,168 at P 158).

<sup>83</sup> *Id.* at 30 (*quoting* Order No. 679, FERC Stats. & Regs. ¶ 31,222 at P 94).

SoCal Edison contends that it is not required to provide upfront financing for the EITP, but is electing to do so to facilitate the development and delivery of renewable generation that, SoCal Edison states, will improve reliability and will reduce the cost to its ratepayers of complying with California's RPS.

72. SoCal Edison further notes that the Commission, in Order No. 679, acknowledged that ROE adders are often necessary for non-routine transmission projects because such projects must compete for financing within utility capital budgets. SoCal Edison argues that over the next five years, it expects to spend about \$6.2 billion in transmission investment which, it states, is only a portion of its projected total capital investment of \$20.4 billion during that time.<sup>84</sup> As such, SoCal Edison argues that granting the requested ROE adder is vital to its financing of the EITP as it will enhance SoCal Edison's cash flow, improve its financial metrics, and support its credit quality.

73. Finally, SoCal Edison contends that the risks and challenges associated with the EITP go beyond those normally associated with a routine project. Specifically, SoCal Edison states that the EITP will require permits and approvals from multiple jurisdictions. As such, SoCal Edison argues that its requested ROE adder reasonably compensates SoCal Edison for these risks and increases the likelihood that it will be able to finance completion of the EITP.

**b. Protests**

74. Metropolitan and TANC argue that SoCal Edison does not demonstrate a nexus between its requested ROE incentive adder and the proposed investment in the EITP. Specifically, Metropolitan and TANC contend that SoCal Edison's Petition lacks specificity regarding the necessary approvals for the EITP which, they state, suggests that SoCal Edison has not adequately researched them. Metropolitan and TANC also state that SoCal Edison's requested ROE incentive does not account for the reduced capital requirements of other projects which SoCal Edison has recently decided not to pursue.<sup>85</sup>

75. Six Cities and the CPUC argue that an ROE incentive adder would be unjustified, especially if SoCal Edison were permitted to recover 100 percent of CWIP and abandonment costs. According to the protesters, these other incentives, if granted, would eliminate any risk to SoCal Edison's shareholders for funding the EITP.<sup>86</sup> Finally, Six

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<sup>84</sup> *Id.* at 30.

<sup>85</sup> Metropolitan Protest at 13-14; TANC Protest at 14-16.

<sup>86</sup> Six Cities Protest at 20-21; CPUC Protest at 20-23.

Cities contends that an ROE incentive adder is not justified where SoCal Edison proposes to waive Commission policy requiring generation developers to fund network upgrades necessary to support their projects.

76. TANC and MSR/Santa Clara add that SoCal Edison is seeking a DOE loan guarantee for the EITP that, if granted, would cover up to 80 percent of the financing for the EITP.<sup>87</sup> TANC and MSR/Santa Clara argue that this loan guarantee would significantly reduce risks associated with the EITP. Further, TANC disagrees with SoCal Edison's position that it is not required to undertake upfront financing for the EITP, adding that Order No. 679 does not incentivize the financing of individual generators' interconnection costs. Finally, TANC argues that SoCal Edison has not demonstrated a need for an ROE incentive due to poor cash flow of the need to attract investment, adding that SoCal Edison's financial condition is strong.

77. The CPUC argues that the requested ROE adder is not necessary to encourage proactive behavior, nor is it necessary as a result of internal competition for financing. The CPUC contends that SoCal Edison's spending indicates that it views transmission investment favorably, and that further transmission investment will not suffer from internal competition for financing. As such, the CPUC asserts that SoCal Edison will continue to invest heavily in transmission, and is not in need of further incentives in the form of ROE adders.<sup>88</sup>

78. MSR/Santa Clara, Metropolitan and TANC argue that the EITP is not needed to improve reliability or to relieve congestion. Rather, these protesters contend that the impetus for the EITP is SoCal Edison's obligation to comply with California's RPS. These protesters argue that because the EITP is designed to accommodate state regulatory objectives and to benefit end-use customers, SoCal Edison's retail customers should bear the costs of the project. Further, these protesters add that California law already permits SoCal Edison to recoup from its retail customers any costs of compliance with the RPS that the Commission disallows SoCal Edison to recover from its wholesale transmission customers.<sup>89</sup> The protesters add that SoCal Edison's pending request for a Certificate of Public Convenience and Necessity from the CPUC requests a finding that the EITP qualifies for this cost recovery from its retail customers. As such, protesters assert that SoCal Edison can potentially recover all of its transmission investment from its retail

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<sup>87</sup> TANC Protest at 15; MSR/Santa Clara Petition at 19-20.

<sup>88</sup> CPUC Protest at 23-24.

<sup>89</sup> MSR/Santa Clara protest at 13; Metropolitan protest at 9; TANC protest at 21.

ratepayers, which would make the incentives sought by SoCal Edison unnecessary and inconsistent with Commission policy.

**c. Commission Determination**

79. In Order No. 679-A, the Commission found that the most compelling case for incentive ROEs are “new projects that present special risks or challenges, and not routine investments made in the ordinary course.”<sup>90</sup> While SoCal Edison has made a demonstration that the EITP faces certain risks and regulatory challenges beyond those which might be considered routine, we find that SoCal Edison’s demonstration as to the overall package of risks and challenges associated with the EITP does not satisfy this standard to an extent that would warrant an overall ROE adder of 200-basis points. Consequently, we authorize the continuation of the 50-basis point ROE adder for SoCal Edison’s participation in the CAISO, as previously granted,<sup>91</sup> and grant SoCal Edison an additional 100-basis point ROE adder, resulting in an overall 150-basis point ROE adder, as explained below.

80. The EITP consists of construction of a new substation and a 35-mile transmission line to connect that substation to the existing Eldorado substation in Nevada. The total estimated cost of the EITP is up to \$484 million. While the Commission has recognized that the construction of transmission facilities designed to provide access to remote renewable resources is not routine,<sup>92</sup> the record evidence in this proceeding does not compel us to grant such a large ROE incentive adder as SoCal Edison requests. While the EITP may in fact present a degree of risk to SoCal Edison, we find that an additional 150 basis-point adder is excessive when considered alongside the Commission’s conditional grant of CWIP and abandonment incentives, as discussed above. We note that in the past, the Commission declined to authorize such high ROE incentive adders when accompanied by other approved incentives that significantly mitigated the risks associated with a project.<sup>93</sup>

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<sup>90</sup> Order No. 679-A, FERC Stats. & Regs. ¶ 31,236 at P 60.

<sup>91</sup> See 2007 Incentive Order, 121 FERC ¶ 61,168 at P 158. The Commission has also approved the 50-basis point adder for ISO participation in other cases. See, e.g., *Green Energy Express*, 129 FERC ¶ 61,165 at P 57; *Green Power Express*, 127 FERC ¶ 61,013 at P 85; *Tallgrass*, 125 FERC ¶ 61,248 at P 58.

<sup>92</sup> *PacifiCorp*, 125 FERC ¶ 61,076 at P 45.

<sup>93</sup> See, e.g., *Northeast Utils. Co., et al.*, 125 FERC ¶ 61,183, at P 81 (2008) (“We find that Applicants’ overall risk is reduced by our decision... to authorize the requested

(continued...)

81. Further, while we acknowledge that the EITP faces regulatory risk in that SoCal Edison must acquire two state approvals, a Certificate of Public Convenience and Necessity and various other permits and approvals, we note that the proposed transmission line will be built on an existing right-of-way, and as such SoCal Edison will bypass the often contentious proceedings to procure right-of-way permits. This reduces some inherent risk of the EITP relative to other projects that require a right-of-way permit prior to development. Furthermore, we find that our reduction of SoCal Edison's requested ROE incentive adder, as ordered herein, sufficiently addresses the other specific concerns raised by protesters regarding this incentive.

82. Accordingly, we grant a 100-basis point ROE adder, conditioned on the EITP being approved in the CAISO's planning process as discussed above, and subject to SoCal Edison's overall ROE falling within the zone of reasonable returns, which will be determined when SoCal Edison makes its future filing under section 205 updating its transmission revenue requirement to reflect the fact that the facilities have been placed in service. We find that, given the size, scope and risks associated with the EITP, a basis point adder of 100 points provides the appropriate incentive for SoCal Edison to complete the EITP, and thereby deliver energy from location-constrained renewable resources to the CAISO-controlled grid.

### **5. Nexus with Total Package of Incentives**

83. We reiterate that the total package of incentives requested must be tailored to address the demonstrable risks or challenges faced by the applicant. This test is fact-specific and requires the Commission to review each application on a case-by-case basis. The Commission has in prior cases approved multiple rate incentives for particular projects.<sup>94</sup>

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CWIP and abandonment incentives" and reducing requested ROE adder); *see also* Order No. 679, FERC Stats. & Regs. ¶ 31,222 at P 167 ("[A] utility that receives approval to recover abandoned plant in rate base would likely face lower risk and thus may warrant a lower ROE than would otherwise be the case without this assurance."); Order No. 679-A, FERC Stats. & Regs. ¶ 31,236 at P 27 ("If some of the incentives would reduce the risk of the project, that fact will be taken into account in any request for an enhanced ROE.").

<sup>94</sup> *See, e.g., Green Energy Express*, 129 FERC ¶ 61,165 at P 66 (finding that the applicant demonstrated a sufficient nexus between the risks of the project and the requested incentives, which included deferred recovery of pre-commercial expenses; 100 percent CWIP and abandonment recovery; ROE incentives; and a hypothetical capital structure until the project is placed in service); *Green Power Express*, 127 FERC ¶ 61,031 at P 89 (finding that 100 percent CWIP, deferred recovery of pre-construction

(continued...)

84. For the reasons discussed above, and consistent with precedent,<sup>95</sup> we find that the total package of incentives, as conditioned, is tailored to address the demonstrable risks and challenges faced by SoCal Edison in developing the EITP.

**E. Network Facilities and Rolled-In Rate Treatment**

**1. SoCal Edison's Proposal**

85. SoCal Edison asserts that the proposed EITP facilities will be fully integrated with the transmission network once placed under CAISO operational control. SoCal Edison contends that, based on the seven factors used to distinguish transmission facilities from distribution facilities in Order No. 888,<sup>96</sup> as well as the integration criteria promulgated in *Mansfield*,<sup>97</sup> the EITP facilities will constitute transmission facilities, rather than distribution facilities. Specifically, SoCal Edison contends that the EITP facilities would be part of the looped transmission system in which energy is expected to flow in either direction. SoCal Edison adds that the CAISO would be able to use the available capacity for multiple purposes, the EITP facilities would provide capability and reliability to the transmission grid, and an outage on the EITP facilities would affect the transmission system.

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costs, abandonment recovery, and ROE incentives were tailored to the unique challenges faced by the project); *ITC*, 126 FERC ¶ 61,223 at P 61 (finding that applicant demonstrated a sufficient nexus between the risks of the project and the requested incentives, which included abandoned plant recovery, 100 percent of CWIP, deferred recovery of pre-construction costs, and ROE incentives).

<sup>95</sup> See *Green Energy Express*, 129 FERC ¶ 61,165 at P 66; see also 2007 Incentive Order, 121 FERC ¶ 61,168 at P 129.

<sup>96</sup> Petition at 38 (citing *Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Services by Public Utilities; Recovery of Stranded Costs by Public Utilities and Transmitting Utilities*, Order No. 888, FERC Stats. & Regs. ¶ 31,036, at 31,771 (1996), *order on reh'g*, Order No. 888-A, FERC Stats. & Regs. ¶ 31,048, *order on reh'g*, Order No. 888-B, 81 FERC ¶ 61,248 (1997), *order on reh'g*, Order No. 888-C, 82 FERC ¶ 61,046 (1998), *aff'd in relevant part sub nom. Transmission Access Policy Study Group v. FERC*, 225 F.3d 667 (D.C. Cir. 2000), *aff'd sub nom. New York v. FERC*, 535 U.S. 1 (2002))

<sup>97</sup> Petition at 38-39 (citing *Mansfield Mun. Elec. Dep't*, 97 FERC ¶ 61,134, at 61,613-14 (2001), *reh'g denied*, 98 FERC ¶ 61,115 (2002) (*Mansfield*)).

## 2. Comments

86. MSR/Santa Clara argue that by requesting the Commission to declare that the EITP facilities will be network facilities eligible for rolled-in rate treatment, SoCal Edison attempts to shift to its wholesale transmission customers the costs of the interconnection, rather than allowing these costs to be collected from developers pursuant to the CAISO's Large Generator Interconnection Agreement.<sup>98</sup> MSR/Santa Clara contend that this method of cost allocation is unjust and unreasonable. According to MSR/Santa Clara, to determine if an interconnection customer should bear the costs of a transmission facility beyond the point of interconnection, the Commission considers the five *Mansfield* factors to assess whether that facility is integrated.<sup>99</sup> MSR/Santa Clara contend that SoCal Edison's justification for rolled-in rate treatment is minimal, and questions SoCal Edison's assertion that the EITP would meet all of the *Mansfield* standards. MSR/Santa Clara add that SoCal Edison's decision to finance transmission to gain access to renewable generation is a cost that should be borne by SoCal Edison's shareholders or the proposed load, and not network customers. Finally, MSR/Santa Clara argue that, contrary to SoCal Edison's assertion, the Commission has in the past rejected an automatic link between the fact that a facility is under the operational control of the CAISO and the conclusion that the facility is a network facility.<sup>100</sup>

87. SWP argues that the information currently available about the EITP suggests that the project will constitute interconnection facilities.<sup>101</sup> SWP contends that neither the CAISO nor the CPUC has yet to approve the EITP, adding that there are no studies demonstrating that system reliability requires the EITP at this time. SWP adds that SoCal

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<sup>98</sup> MSR/Santa Clara Protest at 22.

<sup>99</sup> MSR/Santa Clara Protest at 23-24 (*citing Mansfield*, 97 FERC ¶ 61,134, at 61,613-14). The *Mansfield* factors include: (1) whether the facilities are radial, or whether they loop back into the transmission system; (2) whether there is a bi-directional flow of power between the transmission system and customer; (3) whether the transmission provider is able to provide transmission service to itself or other transmission customers over the facilities in question; (4) whether the facilities provide capability or reliability benefits to the transmission grid, and whether they can be relied on for continued operation of the grid; and (5) whether an outage on the facilities would affect the transmission system.

<sup>100</sup> MSR/Santa Clara Protest at 25 (*citing Southern California Edison Co.*, 117 FERC ¶ 61,103, at P 30 (2006)).

<sup>101</sup> SWP Protest at 7-8.

Edison's objective of increasing the ability of renewable generation projects to connect to the CAISO grid does not support a designation of the EITP as network facilities, nor does the fact that the solar generators are unable to assume upfront financing of the EITP. SWP contends that even if the EITP were to comprise network facilities, it still would not qualify for immediate ratepayer funding upon startup, but instead would be entitled to reimbursement over a five-year period commencing upon the date of commercial operation of the subject facilities.<sup>102</sup> SWP argues that SoCal Edison's request for rolled-in rate treatment attempts to bypass the Commission's interconnection policy by providing immediate ratepayer funding to generators who opt not to follow this policy.<sup>103</sup>

### 3. Commission Determination

88. As noted above,<sup>104</sup> the EITP facilities include construction of a new 35-mile double-circuit 220 kV transmission line and towers between a proposed Ivanpah substation and SoCal Edison's existing Eldorado substation, near Boulder City, Nevada, as well as associated upgrades to the Eldorado substation and the addition of new telecommunications facilities.

89. We find that SoCal Edison's proposed 220 kV transmission line will be replacing 35 miles of an existing 115 kV line that is currently classified as a network facility. In so doing, SoCal Edison is in effect improving the capacity and rating of an already existing network facility. None of the protesters have provided evidence to persuade the Commission that the proposed EITP facilities should no longer be classified as network facilities. Further, the proposed EITP facilities will connect to two points on the CAISO-controlled network, and will therefore be part of a looped transmission system, thereby permitting the CAISO to rely upon capacity from the EITP in its operation of the grid.<sup>105</sup> For these reasons, we find that the EITP, as proposed by SoCal Edison, will be network facilities.

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<sup>102</sup> *Id.* at 10 (*citing* CAISO, FERC Electric Tariff, Fourteenth Replacement Vol. No. II, Original Sheet No. 1593).

<sup>103</sup> *Id.* at 10-11.

<sup>104</sup> *See* P 2, *supra*.

<sup>105</sup> *See Mansfield*, 97 FERC ¶ 61,134 at 61,613-14.

The Commission orders:

(A) SoCal Edison's Petition is conditionally granted, subject to the EITP's approval in the CAISO's transmission planning process, as discussed in the body of this order.

(B) SoCal Edison is directed to submit a filing within 30 days of the CAISO's approval or disapproval of the EITP in its transmission planning process, as discussed in the body of this order.

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

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Southern California Edison Company	Docket No.	EL10-1-000
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(Issued December 17, 2009)

KELLY, Commissioner, *dissenting in part*:

This order addresses a petition for declaratory order filed by Southern California Edison Company (SoCal Edison) requesting approval of certain transmission rate incentives for its proposed Eldorado-Ivanpah Transmission Project Transmission Project (EITP). SoCal Edison requests a suite of incentives that includes a return on equity (ROE) adder of 150 basis points for new transmission investment and inclusion of 100% of construction work in progress (CWIP) for the EITP in rate base. While the majority reduces this ROE adder to 100 basis points, I dissent from the decision to grant any ROE adder beyond the 50 basis point adder requested for SoCal Edison's participation in the California Independent System Operator Corporation's (CAISO).

I dissent from the decision to grant any ROE adder beyond that for CAISO participation for two reasons. First, the support that SoCal Edison offers for the 150 basis point adder is terse and fails to address an apparent overlap with support offered for the CWIP incentive. To the extent that SoCal Edison articulates a need for this ROE adder, which is limited to a few paragraphs in an affidavit, it relies predominantly on cash flow and credit quality risks introduced by the EITP as part of capital investment program. SoCal Edison asserts that granting the ROE adder "will enhance SCE's cash flow, improve SCE's financial metrics, and support SCE's overall credit quality."<sup>1</sup> However, these are the very same risks that SoCal Edison cites to demonstrate need for the CWIP incentive. For example, SoCal Edison states that CWIP "will improve cash flow at a time when SCE is required to finance a significant expansion and upgrade of its transmission system"<sup>2</sup> and will assist with "financing requirements and rating agency coverage ratios."<sup>3</sup>

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<sup>1</sup> Southern California Edison Company October 1, 2009 Petition for Declaratory Order for Incentive Rate Treatment, Docket No. EL10-1-000, Exhibit E at 6.

<sup>2</sup> *Id.* at 7.

<sup>3</sup> *Id.* at 8.

Because we award CWIP to SoCal Edison there is no need to award a basis point adder to enhance SoCal Edison's cash flow, financial metrics or credit quality. The CWIP incentive will take care of that.

Second, while the majority does reduce the requested adder, the order does not provide an explanation for why 100 (or indeed any) basis points are appropriate for the EITP. And so, it is unclear to me what factors the majority considered in awarding the 100 basis point ROE adder. I do not believe that this is in keeping with the intent of Order No. 679-A, which provides that the incentive sought "must be tailored to address the demonstrable risks and challenges faced by the applicant in undertaking the project."<sup>4</sup>

For these reasons, I dissent in part.

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Suedeem G. Kelly

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<sup>4</sup> *Promoting Transmission Investment through Pricing Reform*, Order No. 679-A, FERC Stats. & Regs. ¶ 31,236, at P 21 (2006), *order on reh'g*, 119 FERC ¶ 61,062 (2007).