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January 30, 2024

New Jersey Board of Public Utilities
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Post Office Box 350
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Sherri L. Golden,
Secretary
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Genevieve DiGiulio
SAA 1.0 Project Manager
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**Re: In The Matter of Declaring Transmission to Support Offshore Wind a Public Policy of the State of New Jersey
Docket No. QO20100630
Developer Quarterly Report for Close of Fourth Quarter 2023**

On October 26, 2022, the New Jersey Board of Public Utilities (“BPU” or “Board”) staff (“Staff”) issued the [SAA Order](#)¹ awarding a series of projects under the SAA.

The SAA Order sets forth certain quarterly reporting obligations. Specifically, the SAA Order’s Item 6 of Appendix B requires the following:

The SAA Developer shall provide regular, quarterly status reports in writing to the Board. The reports shall contain, but not be limited to, updates and information regarding: (a) current permitting and land acquisition status of the project; (b) current engineering and construction status of the project; (c) project completion percentage, including milestone completion; (d) current target project and phase completion date(s); and (e) cost expenditures to date, including any associated overhead and fringe benefits related costs and revised projected cost estimates for completion of the project.

¹ In the Matter of Declaring Transmission to Support Offshore Wind a Public Policy of the State of New Jersey, BPU Docket No. QO20100630, Order dated October 26, 2022 (“SAA Order”).

In addition, the SAA Order requires that that these quarterly reports “shall include, but are not limited to, updates on construction activities, community engagement, all PJM and FERC filings and updates, schedule updates and notification of delays.”²

In compliance with these requirements, Public Service Electric and Gas Company (“PSE&G”) herein submits its quarterly report for the three months ended on December 31, 2023, which appears on Attachment A hereto.

By: Aaron I. Karp
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cc: Jim Ferris
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Ryann Reagan
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² SAA Order, at 71.

Public Service Electric and Gas Company
Case Name: SAA1 Quarterly Report
Docket No(s): SAA1 Quarterly Report

Response to Discovery Request: Q4-2023-0001
Date of Response: January 30, 2024

Question:

EXECUTIVE SUMMARY

Project Name: _____

Scope Summary (please provide a high-level summary). Please highlight any major project developments or changes to previous quarterly reports, including not limited to scope changes or completion dates:

Attachments Provided Herewith: 0

Response:

Project Name: NJSAA Central Jersey Grid Upgrades

There are no project scope developments or changes since PSE&G's prior Quarterly Report.

Public Service Electric and Gas Company
Case Name: SAA1 Quarterly Report
Docket No(s): SAA1 Quarterly Report

Response to Discovery Request: Q4-2023-0002
Date of Response: January 30, 2024

Question:

Current Permitting and Land Acquisition of the Project

Provide update. Highlight milestones, outstanding items, and issues. Include percentage completion.

Attachments Provided Herewith: 0

Response:

The company is currently evaluating what permits will be needed to complete the project. A Permit Matrix has been developed. At this time no land acquisition is anticipated to be required as all work is being performed at the existing stations. These activities are <5% complete.

Public Service Electric and Gas Company
Case Name: SAA1 Quarterly Report
Docket No(s): SAA1 Quarterly Report

Response to Discovery Request: Q4-2023-0003
Date of Response: January 30, 2024

Question:

Current Engineering and Construction Status of the Project

Provide update. Highlight milestones, outstanding items, issues, and proposed or approved scope change.

Attachments Provided Herewith: 0

Response:

Engineering is currently underway. Procurement process for new 345/230kV transformer at the Linden Switching station (b3737.38) has commenced. Construction has not yet started.

Public Service Electric and Gas Company
Case Name: SAA1 Quarterly Report
Docket No(s): SAA1 Quarterly Report

Response to Discovery Request: Q4-2023-0004
Date of Response: January 30, 2024

Question:

Provide update on milestone progress, including percentage complete of each milestone. This can be a table, if preferred. Please do not only reference another document.

Attachments Provided Herewith: 0

Response:

The project is currently in the engineering and permitting phase. Total project is at <5% completion.

Public Service Electric and Gas Company
Case Name: SAA1 Quarterly Report
Docket No(s): SAA1 Quarterly Report

Response to Discovery Request: Q4-2023-0005
Date of Response: January 30, 2024

Question:

Current Target Projects and Phase Completion Dates

Provide updates, project milestones that are in the pipeline, and when projects in the pipeline are expected to be completed. Please include overall project completion date. Please do not only reference another document.

Attachments Provided Herewith: 0

Response:

The projects are currently in the engineering and permitting phase. All milestones are currently on-track. The projected in service dates for each project are as follows:

- b3737.38 (Linden) → 12/31/27
- b3737.39 (Bergen) → 12/31/27
- b3737.42 (Lake Nelson I) → 6/1/29
- b3737.43 (Kilmer W - Lake Nelson) → 6/1/29
- b3737.44 (Lake Nelson – Middlesex - Greenbrook W) → 6/1/29

Public Service Electric and Gas Company
Case Name: SAA1 Quarterly Report
Docket No(s): SAA1 Quarterly Report

Response to Discovery Request: Q4-2023-0006
Date of Response: January 30, 2024

Question:

Cost Expenditures

Include any associated overhead and fringe benefits-related costs and revised projected cost estimates for completion of the project. Highlight any cost adjustments. Provide initial project cost (at time of SAA Order), overall (current) expected project cost, and current spend.

Attachments Provided Herewith: 0

Response:

The current expected project cost is about \$53.5 million in escalated costs. As of the end of Quarter 4, the Company has spent \$728,769.61.

Public Service Electric and Gas Company
Case Name: SAA1 Quarterly Report
Docket No(s): SAA1 Quarterly Report

Response to Discovery Request: Q4-2023-0007
Date of Response: January 30, 2024

Question:

Community Engagement

Provide an update regarding any community engagement activity in which you have engaged this quarter.

Attachments Provided Herewith: 0

Response:

There are no updates at this time.

Public Service Electric and Gas Company
Case Name: SAA1 Quarterly Report
Docket No(s): SAA1 Quarterly Report

Response to Discovery Request: Q4-2023-0008
Date of Response: January 30, 2024

Question:

PJM FERC Filing Update

Provide updates on any relevant PJM FERC Filing activities related to the project that occurred during this quarter.

Attachments Provided Herewith: 0

Response:

On November 21, 2023, FERC issued an order approving an Abandoned Plant Incentive for the project. PSE&G provided the draft application to the NJPBU for review in advance of filing with FERC.

The FERC Order is attached to the response to Q3-2023-0009.

Public Service Electric and Gas Company
Case Name: SAA1 Quarterly Report
Docket No(s): SAA1 Quarterly Report

Response to Discovery Request: Q4-2023-0009
Date of Response: January 30, 2024

Question:

Attachments, as applicable (list names of all attachments included, next to the Items number above to which they each refer):

Item #1: _____
Item #2: _____
Item #3: _____
Item #4: _____
Item #5: _____
Item #6: _____
Item #7: _____
Item #8: _____

Attachments Provided Herewith: 1

Q4_2023_0009_20231121_3069_ER23_2916_000.docx

Response:

Item#008 Attachments:

- FERC Order dated November 21, 2023 (Docket No. ER23-2916)

185 FERC ¶ 61,136
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Willie L. Phillips, Acting Chairman;
James P. Danly, Allison Clements,
and Mark C. Christie.

Public Service Electric and Gas Company

Docket No. ER23-2916-000

ORDER ON ABANDONED PLANT INCENTIVE

(Issued November 21, 2023)

1. On September 22, 2023, Public Service Electric and Gas Company (PSE&G), pursuant to sections 205 and 219 of the Federal Power Act (FPA),¹ Part 35 of the Commission's regulations,² and Order No. 679,³ filed a request for authorization to recover prudently incurred costs of certain transmission facilities, which were selected by the New Jersey Board of Public Utilities (NJ BPU) pursuant to the PJM State Agreement Approach, in the event that some or all of the transmission facilities are cancelled or abandoned for reasons beyond PSE&G's control (Abandoned Plant Incentive).⁴

¹ 16 U.S.C. §§ 824d, 824s.

² 18 C.F.R. pt. 35 (2022).

³ *Promoting Transmission Inv. through Pricing Reform*, Order No. 679, 116 FERC ¶ 61,057, *order on reh'g*, Order No. 679-A, 117 FERC ¶ 61,345 (2006), *order on reh'g*, 119 FERC ¶ 61,062 (2007).

⁴ PJM Interconnection, L.L.C. (PJM) filed the proposed tariff revisions pursuant to Order No. 714, on behalf of PSE&G. Under Order No. 714, a utility is required to include a tariff record to make a section 205 filing; to satisfy this requirement in cases where, as here, the tariff already contains a placeholder for recovery of these costs, one procedure that a utility may use is to include a non-substantive tariff record. *See Electronic Tariff Filings*, Docket No. RM01-5-000, Notice of Procedures for Making Statutory Filings when Authorization for New or Revised Tariff Provisions is not required (June 3, 2020); *Pioneer Transmission, LLC*, 169 FERC ¶ 61,265 (2019). PSE&G included a tariff record in its filing. PJM Interconnection, L.L.C., *Intra-PJM Tariffs*, OATT ATT H-10, OATT Attachment H-10 - PSEG (3.0.0).

2. As discussed below, we grant PSE&G's request, effective November 22, 2023, as requested. In granting PSE&G the Abandoned Plant Incentive, we note that, as discussed further below,⁵ the incentive is awarded to a project proceeding under the State Agreement Approach and, as such, New Jersey has agreed that it will pay all related costs for these projects.⁶ Granting the incentive does not change the fact that all related costs for these projects – including any costs related to this incentive – will be allocated to New Jersey load.

I. Background and Filing

A. PJM State Agreement Approach

3. The State Agreement Approach is a supplementary transmission planning and cost allocation mechanism in PJM's Amended and Restated Operating Agreement (Operating Agreement)⁷ through which one or more state governmental entities authorized by their respective states, individually or jointly, may agree to be responsible for the allocation of all costs of a proposed transmission expansion or enhancement that addresses state public policy requirements identified or accepted by the state(s).⁸ Pursuant to the State Agreement Approach, a proposed transmission expansion or enhancement that addresses state public policy requirements identified or accepted by the state(s) in the PJM Region may be included in the regional transmission expansion plan (RTEP) for informational purposes.⁹ However, such transmission expansions or enhancements may not be selected

⁵ See, e.g., *infra* at PP 3-8, 10-11, 25-27.

⁶ See, e.g., *PJM Interconnection, L.L.C.*, 179 FERC ¶ 61,024, at P 41, *reh'g denied*, 179 FERC ¶ 62,131 (2022) (SAA Agreement Order); *PPL Elec. Utils. Corp.*, 181 FERC ¶ 61,178 (2022). See also *infra* PP 3-8.

⁷ PJM, Intra-PJM Tariffs, OA Schedule 6 § 1.5, OA Schedule 6 § 1.5 Procedure for Development of the Regional Transmission Expansion Plan (28.0.0), § 1.5.9(a) (State Agreement Approach).

⁸ *PJM Interconnection, L.L.C.*, 142 FERC ¶ 61,214, at P 142 (2013) (Compliance Order), *order on reh'g and compliance*, 147 FERC ¶ 61,128 (2014) (Second Compliance Order), *order on reh'g and compliance*, 150 FERC ¶ 61,038, *order on reh'g and compliance*, 151 FERC ¶ 61,250 (2015) ("PJM's State Agreement Approach supplements, but does not conflict with or otherwise replace, PJM's process to consider transmission needs driven by public policy requirements as required by Order No. 1000.").

⁹ Second Compliance Order, 147 FERC ¶ 61,128 at P 92.

in the RTEP for purposes of regional cost allocation,¹⁰ and instead their costs must be recovered from customers in a state or group of states that agrees to be responsible for the project(s).¹¹ The Commission has explained that the State Agreement Approach “is not needed for Order No. 1000”¹² compliance and therefore that it “need not find that the State Agreement Approach and corresponding cost allocation method comply with Order No. 1000.”¹³

4. In January 2020, the State of New Jersey formally set forth its state public policy to expand the transmission system to accommodate a buildout of 7,500 MW of offshore wind generation by 2035.¹⁴ On November 18, 2020, NJ BPU issued an order requesting that PJM, pursuant to the State Agreement Approach, open a competitive proposal window to solicit transmission proposals to interconnect and ensure deliverability of 7,500 MW of offshore wind generation by 2035.¹⁵

5. On February 16, 2021, the Commission accepted a State Agreement Approach Study Agreement (Study Agreement) between PJM and NJ BPU to effectuate NJ BPU’s formal request that PJM solicit transmission project proposals pursuant to the State Agreement Approach to integrate New Jersey’s planned offshore wind resources.¹⁶ The Study Agreement specifies that: (1) PJM will perform planning studies to identify system improvements to interconnect and provide for the deliverability of New Jersey’s planned offshore wind generation at specific points of interconnection to the transmission

¹⁰ *Id.*

¹¹ *See id.*; State Agreement Approach, § 1.5.9(a).

¹² *Transmission Plan. & Cost Allocation by Transmission Owning & Operating Pub. Utils.*, Order No. 1000, 136 FERC ¶ 61,051 (2011), *order on reh’g*, Order No. 1000-A, 139 FERC ¶ 61,132, *order on reh’g and clarification*, Order No. 1000-B, 141 FERC ¶ 61,044 (2012), *aff’d sub nom. S.C. Pub. Serv. Auth. v. FERC*, 762 F.3d 41 (D.C. Cir. 2014).

¹³ Compliance Order, 142 FERC ¶ 61,214 at P 142; *see also id.* P 143.

¹⁴ State of New Jersey, 2019 Energy Master Plan, Pathway to 2050 (2019), https://nj.gov/emp/docs/pdf/2020_NJBPU_EMP.pdf.

¹⁵ *See PPL Elec. Utils. Corp.*, 181 FERC ¶ 61,178 at P 4 (citing *In the Matter of Offshore Wind Transmission*, Order, NJ BPU Docket No. QO20100630, at 7-8 (Nov. 18, 2020)).

¹⁶ *PJM Interconnection, L.L.C.*, 174 FERC ¶ 61,090 (2021) (Study Agreement Order).

system, and (2) PJM will open a competitive proposal window to solicit transmission project proposals that provide for the deliverability of New Jersey's planned offshore wind generation.¹⁷ In its order, the Commission found that the Study Agreement provided transparency to stakeholders regarding the process milestones and inclusion of NJ BPU's requested transmission in the 2020-2021 RTEP cycle.¹⁸ The Commission also affirmed PJM's statement that the Study Agreement does not consent to the selection of any projects or designated entities, establish any cost allocations, or grant any transmission rights. The Commission explained that it understood that these issues may be the topic of subsequent filings. PJM opened the competitive proposal window on April 15, 2021, and received transmission project proposals until the window closed on September 17, 2021.

6. On April 14, 2022, the Commission accepted Rate Schedule No. 49, which is the State Agreement Approach Agreement between PJM and NJ BPU (PJM-NJ BPU SAA Agreement).¹⁹ The PJM-NJ BPU SAA Agreement establishes processes for the review and selection of specific transmission projects, which may be onshore and/or offshore facilities, to effectuate New Jersey's public policy goals. The Commission determined in the SAA Agreement Order that the PJM-NJ BPU SAA Agreement "[made] clear that NJ BPU would be committing New Jersey customers for the cost of any SAA Projects that NJ BPU elects to sponsor."²⁰

7. On October 26, 2022, NJ BPU issued an order on the State Agreement Approach proposals and selected 52 transmission projects.²¹

8. On December 2, 2022, the Commission accepted a new Schedule 12-Appendix C to the PJM Tariff that includes the cost allocation method for the New Jersey State Agreement Approach projects that NJ BPU selects and agrees to sponsor in order to support New Jersey state law. This cost allocation method allocates the costs of such

¹⁷ *Id.* P 12.

¹⁸ *Id.* P 13.

¹⁹ SAA Agreement Order, 179 FERC ¶ 61,024.

²⁰ *See id.* P 41.

²¹ *See* NJ BPU, *In The Matter Of Declaring Transmission To Support Offshore Wind A Public Policy Of The State Of New Jersey*, Docket No. QO20100630 (Oct. 26, 2022) (NJ BPU Order).

transmission projects on a load-ratio share basis to Network Customers in New Jersey and to Point-to-Point Customers with a Point of Delivery within New Jersey.²²

B. PSE&G

9. PSE&G states that it is a wholly-owned subsidiary of Public Service Enterprise Group Incorporated and it currently has approximately 1,600 circuit miles of electric transmission lines and approximately 22,323 miles of electric distribution facilities.²³ PSE&G states that it is a transmission-owning member of PJM and that PJM coordinates the transmission of wholesale electricity within its footprint.

C. The Project

10. PSE&G states that the transmission upgrades that PSE&G will construct (the Project) are part of a package of transmission upgrades selected by the NJ BPU pursuant to a competitive solicitation process triggered by the NJ BPU under the State Agreement Approach.²⁴ PSE&G states that the Project consists of transmission upgrades that have a total estimated cost of approximately \$53.6 million and encompasses the following project components: (1) install a new 345/230 kV transformer at the Linden 345 kV Switching station, install a new 230 kV strain bus connecting Linden 230 kV yard to Linden 345 kV yard through the new transformer, and relocate the Linden-Tosco 230 kV line from the Linden 230 kV to the existing 345/230 kV transformer at Linden 345 kV; (2) upgrade the Bergen 138 kV ring bus by installing a 80 kA breaker along with the foundation, piles, and relays to the existing ring bus, install breaker isolation switches on existing foundations and modify and extend bus work; (3) upgrade inside plant equipment at Lake Nelson I 230 kV; (4) upgrade Kilmer W-Lake Nelson W 230 kV line drop and strain bus connections at Lake Nelson 230 kV; and (5) upgrade Lake Nelson-

²² *PPL Elec. Utils. Corp.*, 181 FERC ¶ 61,178. The Commission subsequently accepted an amended PJM-NJ BPU SAA Agreement to reflect inclusion of the Commission-accepted State Agreement Approach Project cost allocation method. *PJM Interconnection, L.L.C.*, Docket No. ER23-775-000 (Mar. 6, 2023) (delegated order). On April 4, 2023, in Docket No. ER23-779-000, the Commission accepted revisions to Schedule 12-Appendix C of the PJM Tariff to incorporate the cost responsibility assignments for the transmission projects that NJ BPU selected pursuant to its implementation of the State Agreement Approach. *PJM Interconnection, L.L.C.*, 183 FERC ¶ 61,005 (2023). None of these amendments or revisions changed the fact that it is New Jersey load alone that will be allocated the full cost of the State Agreement Approach Projects.

²³ Transmittal at 5.

²⁴ *Id.* at 2.

Middlesex-Greenbrook W 230 kV line drop and strain bus connections at Lake Nelson 230 kV.²⁵

D. PSE&G's Request for Incentives

11. PSE&G requests that the Commission authorize the Abandoned Plant Incentive to recover 100% of prudently incurred costs to develop, design, engineer, and construct the Project in the event that it is abandoned or cancelled, in whole or in part, for reasons outside of PSE&G's control.²⁶

12. PSE&G states that its formula rate template set forth at Attachment H-10A of the PJM OATT already includes placeholders for the Abandoned Plant Incentive.²⁷ PSE&G further states that in this filing, it is submitting an unchanged tariff record to PSE&G's transmission formula rate template to satisfy the 60-day statutory filing requirement.²⁸

II. Notice of Filing and Responsive Pleadings

13. Notice of PSE&G's filing was published in the *Federal Register*, 88 Fed. Reg. 66,832 (Sept. 28, 2023), with interventions and comments due on or before October 13, 2023. New Jersey Division of Rate Counsel (New Jersey Rate Counsel) filed a timely motion to intervene.

III. Discussion

A. Procedural Matters

14. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2022), the timely, unopposed motion to intervene serves to make the New Jersey Rate Counsel a party to this proceeding.

B. Substantive Matters

1. Section 219 Statutory Requirement

15. In the Energy Policy Act of 2005, Congress added section 219 to the FPA, directing the Commission to establish, by rule, incentive-based rate treatments to

²⁵ *Id.* at 9-10.

²⁶ *Id.* at 2-3.

²⁷ *Id.* at 2 n.4.

²⁸ *Id.* at 18 & n.47.

promote capital investment in certain transmission infrastructure.²⁹ The Commission subsequently issued Order No. 679, establishing the processes by which a public utility may seek transmission rate incentives pursuant to section 219. Additionally, in November 2012, the Commission issued a Policy Statement providing guidance regarding its evaluation of applications for transmission rate incentives under section 219 and Order No. 679.³⁰

16. Pursuant to Order No. 679, an applicant may seek to obtain incentive rate treatment for a transmission infrastructure investment that satisfies the requirements of section 219, i.e., the applicant must show that “the facilities for which it seeks incentives either ensure reliability or reduce the cost of delivered power by reducing transmission congestion.”³¹ Order No. 679 established a process for an applicant to demonstrate that it meets this standard, including a rebuttable presumption that the standard is met if: (1) “the transmission project results from a fair and open regional planning process that considers and evaluates the project for reliability and/or congestion and is found to be acceptable to the Commission;” or (2) “a project has received construction approval from an appropriate state commission or state siting authority.”³² The Commission also stated that “other applicants not meeting these criteria may nonetheless demonstrate that their project is needed to maintain reliability or reduce congestion by presenting [to the Commission] a factual record that would support such a finding.”³³

a. PSE&G’s Request

17. PSE&G asserts that the Project meets the rebuttable presumption under Order No. 679 because the Project resulted from a fair and open competitive process conducted by both PJM and the NJ BPU pursuant to the Commission-approved State Agreement Approach and was selected by the NJ BPU as the cost-effective solution to meet the identified reliability needs.³⁴ PSE&G states that the regional planning process by which the Project was evaluated was conducted in a fair and open manner using key aspects of PJM’s RTEP process. Specifically, PSE&G asserts that the studies that PJM performed

²⁹ Energy Policy Act of 2005, Pub. L. No. 109-58, § 1241, 119 Stat. 594 (2005).

³⁰ *Promoting Transmission Inv. through Pricing Reform*, 141 FERC ¶ 61,129 (2012) (2012 Incentives Policy Statement).

³¹ Order No. 679, 116 FERC ¶ 61,057 at P 76.

³² *Id.* P 58.

³³ *Id.* P 57; *see also* Order No. 679-A, 117 FERC ¶ 61,345 at P 41.

³⁴ Transmittal at 12.

are similar to the studies that PJM performs for other baseline projects that are included in the RTEP and that the reliability evaluation is similar to those used to identify the need for network upgrades as part of PJM's interconnection queue study process.³⁵

18. PSE&G argues that the Commission has found that a transmission project is entitled to the rebuttable presumption if it results from the PJM RTEP process because the PJM RTEP process constitutes a fair and open regional planning process for purposes of satisfying this rebuttable presumption. Further PSE&G states that in three recent orders, the Commission granted the rebuttable presumption to transmission projects that were selected by the NJ BPU in order to accommodate New Jersey's offshore wind goals.³⁶ PSE&G states that in those orders, the Commission found that, while PJM's State Agreement Approach "differs from PJM's regional transmission planning process that the Commission previously found qualified for the rebuttable presumption," the implementation of PJM's State Agreement Approach process pursuant to the Study Agreement and PJM-NJ BPU SAA Agreement also qualifies for the rebuttable presumption because "that process is 'a fair and open regional planning process that considers and evaluates projects for reliability and/or congestion.'"³⁷ PSE&G argues the Commission should similarly find here that the Project qualifies for the Order No. 679 rebuttable presumption.³⁸

b. Commission Determination

19. The Commission has previously found that transmission projects approved through PJM's RTEP are entitled to the rebuttable presumption established under Order No. 679 because that regional transmission planning process evaluates whether the identified transmission projects will enhance reliability and/or reduce congestion.³⁹ However, as the Commission found in *Jersey Central*, *Transource*, and *Silver Run*, we find here that PJM's State Agreement Approach process differs from PJM's regional transmission planning process that the Commission previously found qualified for the

³⁵ *Id.* at 12-13; Direct Testimony of Michael A. Schmid at 7-10 (Exh. No. PSEG-1).

³⁶ *Id.* at 13 (citing *Jersey Cent. Power & Light Co.*, 184 FERC ¶ 61,108, at P 29 (2023) (*Jersey Central*); *Transource Pa., LLC*, 184 FERC ¶ 61,091, at P 29 (2023) (*Transource*); *Silver Run Elec., LLC*, 184 FERC ¶ 61,092, at P 22 (*Silver Run*)).

³⁷ *Id.* at 13-14 (quoting *Jersey Central*, 184 FERC ¶ 61,108 at PP 28-29).

³⁸ *Id.* at 14.

³⁹ See, e.g., *The Dayton Power & Light Co.*, 182 FERC ¶ 61,147, at P 20 (2023).

rebuttable presumption.⁴⁰ Specifically, the State Agreement Approach process is a supplement to PJM's regional transmission planning process to consider transmission needs driven by state public policy requirements, and transmission projects selected through a State Agreement Approach process may be included in the RTEP for informational purposes only.⁴¹ Moreover, the implementation of the State Agreement Approach process pursuant to the Study Agreement and PJM-NJ BPU SAA Agreement evaluates and selects transmission projects to effectuate New Jersey's public policy goals through a process involving both PJM and NJ BPU. Notably, although PJM completes studies and evaluates transmission projects, including considering which projects would be needed to maintain reliability, under this implementation of the PJM State Agreement Approach process, NJ BPU selected the projects under its own criteria separate from the PJM regional transmission planning process.

20. Nevertheless, we find that, based on the information provided in PSE&G's filing, including expert testimony and exhibits with various PJM reports,⁴² the implementation of PJM's State Agreement Approach process pursuant to the Study Agreement and PJM-NJ BPU SAA Agreement also qualifies for the rebuttable presumption as established under Order No. 679 because that process is "a fair and open regional planning process that considers and evaluates projects for reliability and/or congestion."⁴³ We find that this implementation of the PJM State Agreement Approach process pursuant to the Study Agreement and PJM-NJ BPU SAA Agreement evaluated whether the transmission projects, including the Project, ensure reliability and/or reduce congestion. The implementation of PJM's State Agreement Approach process pursuant to the Study Agreement and PJM-NJ BPU SAA Agreement is open and transparent, as PJM opened a competitive proposal window to solicit transmission project proposals to address reliability and economic concerns, presented its analyses to NJ BPU and made them publicly available, provided them to the Transmission Expansion Advisory Committee,

⁴⁰ *Jersey Central*, 184 FERC ¶ 61,108 at P 29; *Transource*, 184 FERC ¶ 61,091 at P 29; *Silver Run*, 184 FERC ¶ 61,092 at P 20.

⁴¹ *See* Second Compliance Order, 147 FERC ¶ 61,128 at P 92; Study Agreement Order, 174 FERC ¶ 61,090 at PP 12-13.

⁴² *See* Ex. 1 (Prepared Direct Testimony of Michael A. Schmid); Ex. 5 (PJM Reliability Analysis Report on the 2021 SAA Proposal Window to Support NJ OSW (Sept. 19, 2022 rev. Nov. 4, 2022)); Ex. 6 (PJM Economic Analysis Report on the 2021 SAA Proposal Window to Support NJ OSW (Sept. 19, 2022 rev. Nov. 4, 2022)); Ex. 7 (PJM Summary Report on the NJ BPU SAA Selected Projects (Nov. 15, 2022)).

⁴³ Order No. 679, 116 FERC ¶ 61,057 at P 58.

and provided opportunity for stakeholder feedback on all findings.⁴⁴ Thus, we find that the Project, which was selected through this implementation of the PJM State Agreement Approach process pursuant to the Study Agreement and PJM-NJ BPU SAA Agreement, qualifies for the Order No. 679 rebuttable presumption.

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

21. In addition to satisfying the section 219 requirement of ensuring reliability or reducing the cost of delivered power by reducing congestion, Order No. 679 requires an applicant to demonstrate that there is a nexus between the incentive sought and the investment being made.⁴⁵ 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.”⁴⁶ Applicants must provide sufficient support to allow the Commission to evaluate each element of the package and the interrelationship of all elements of the package.⁴⁷ The Commission noted that this nexus test is fact-specific and requires the Commission to review each application on a case-by-case basis.⁴⁸

a. **Abandoned Plant Incentive**

i. **PSE&G’s Request**

22. PSE&G requests recovery of 100% of prudently incurred costs of the Project that are abandoned for reasons beyond the control of PSE&G, i.e., the Abandoned Plant Incentive. PSE&G argues there is a nexus between PSE&G’s requested Abandoned Plant Incentive and the risks and challenges that PSE&G faces in developing and building the Project.⁴⁹ PSE&G argues there are significant regulatory risks associated with the Project and PSE&G must obtain a number of regulatory, siting, and permitting

⁴⁴ See Transmittal at 8; NJ BPU Order at 25, 59-61, 70.

⁴⁵ Order No. 679, 116 FERC ¶ 61,057 at P 48.

⁴⁶ Order No. 679-A, 117 FERC ¶ 61,345 at P 40.

⁴⁷ 2012 Incentives Policy Statement, 141 FERC ¶ 61,129 at P 10 (quoting Order No. 679-A, 117 FERC ¶ 61,345 at P 27).

⁴⁸ Order No. 679, 116 FERC ¶ 61,057 at P 43.

⁴⁹ Transmittal at 14.

approvals for the Project from various federal, state, and local governmental bodies.⁵⁰ PSE&G argues that the offshore wind generation to be delivered through the NJ State Agreement Approach will not go through the permitting process or be placed in service until after PSE&G has already incurred significant costs to develop the Project.⁵¹ Accordingly, PSE&G argues that there is a risk that the offshore wind generation will not come to fruition, thereby eliminating the need for the Project and potentially causing a cancellation of the Project for reasons that are outside of PSE&G's control. Further, PSE&G argues other NJ State Agreement Approach components are being developed by other entities over which PSE&G has no control, and the failure of one or more of those other entities to obtain the necessary regulatory approvals could affect the viability of all NJ State Agreement Approach components, including the Project.⁵²

23. PSE&G asserts that the Commission should find that the Project faces significant regulatory risks that are beyond the control of PSE&G and that granting the Abandoned Plant Incentive is reasonable because it mitigates the risks and challenges associated with the development and construction of the Project.⁵³ PSE&G asserts that the requested Abandoned Plant Incentive is narrowly targeted to mitigate the risk of unrecovered costs in the event the Project is cancelled for reasons out of PSE&G's control, including for example, if PSE&G is unable to obtain the necessary regulatory approvals for the Project.

24. PSE&G states that it recognizes that under Commission policy and precedent, it will need to submit a future FPA section 205 filing with the Commission before actually recovering any abandoned plant costs through rates if the Project is cancelled or abandoned for reasons beyond PSE&G's control.⁵⁴

ii. Commission Determination

25. We grant PSE&G's request for the Abandoned Plant Incentive for the Project, effective November 22, 2023. In Order No. 679, the Commission found that the Abandoned Plant Incentive is an effective means of encouraging transmission development by reducing the risk of non-recovery of costs in the event that a project is

⁵⁰ *Id.* at 15.

⁵¹ *Id.*

⁵² *Id.* at 15-16.

⁵³ *Id.* at 17.

⁵⁴ *Id.* at 17 n.45.

abandoned for reasons outside the applicant's control.⁵⁵ We find that PSE&G has demonstrated a nexus between the recovery of its prudently incurred costs associated with the abandonment of the Project and its planned investment in the Project. We agree with PSE&G that the Project faces substantial risks that could cause the transmission enhancement to be canceled or not constructed for reasons beyond PSE&G's control. For example, the Project faces the risk of various federal, state, or local permitting requirements that may prevent the siting of the Project. Approval of the Abandoned Plant Incentive will mitigate the risk to PSE&G if the Project is canceled for reasons beyond its control, and it will aid the financing of the Project by providing for recovery of prudently incurred costs in those circumstances. Thus, we also find that the total package of incentives is tailored to the risks of the Project.

26. The Abandoned Plant Incentive for the Project will be available to PSE&G for 100% of prudently incurred costs expended on and after the effective date granted in this order if the Project is abandoned for reasons beyond PSE&G's control. We will not determine the prudence of any costs incurred prior to the abandonment, if any, until PSE&G seeks such recovery in a future FPA section 205 filing that a public utility is required to make if it seeks abandoned plant recovery.⁵⁶

27. As a result of the Commission approving the rate incentive, PSE&G must submit FERC-730 reports annually.⁵⁷ Finally, we accept PSE&G's tariff record submitted with its filing, to become effective November 22, 2023, as requested.

The Commission orders:

(A) PSE&G's request for the Abandoned Plant Incentive is hereby granted for the Project, effective November 22, 2023, as requested, as discussed in this order.

⁵⁵ Order No. 679, 116 FERC ¶ 61,057 at PP 163-166.

⁵⁶ Order No. 679, 116 FERC ¶ 61,057 at PP 165-166. In the event that PSE&G seeks abandoned plant recovery for the time period prior to the effective date of this order, PSE&G would be eligible to seek recovery of 50% of its prudently incurred costs, consistent with prior precedent. *See, e.g., San Diego Gas & Elec. Co.*, 154 FERC ¶ 61,158, *order on reh'g*, 157 FERC ¶ 61,056 (2016), *aff'd sub nom. San Diego Gas & Elec. Co. v. FERC*, 913 F.3d 127 (D.C. Cir. 2019).

⁵⁷ FERC-730 annual reports, which contain actual, projected, and incremental transmission investment information, must be filed by public utilities that have been granted incentive rate treatment for specific transmission projects. 18 C.F.R. § 35.35(h) (2022). These reports contain actual, projected, and incremental transmission investment information.

(B) PSE&G's eTariff record, is accepted, to become effective November 22, 2023, as discussed in this order.

By the Commission.

(S E A L)

Debbie-Anne A. Reese,
Deputy Secretary.