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June 28, 2019

VIA ELECTRONIC FILING

Kimberly D. Bose
Secretary
Federal Energy Regulatory Commission
888 First Street, NE
Washington, DC 20426

Re: ***MidAmerican Central California Transco, LLC***
Docket No. ER19-___-000

Dear Ms. Bose:

Pursuant to section 205 of the Federal Power Act ("FPA")[1] and the Federal Energy Regulatory Commission's ("FERC" or "Commission") June 3, 2014 Order granting MidAmerican Central California Transco, LLC's ("MCCT") request for certain transmission rate incentives,[2] MCCT hereby requests Commission authorization to recover through MCCT's formula rate $7,084,511 of the abandoned plant costs associated with the Central Valley Power Connect Project ("CVPC" or "Project").

In 2013, CVPC was approved through the California Independent System Operator's ("CAISO") transmission planning process, and development responsibility was subsequently assigned to MCCT and Pacific Gas and Electric Company ("PG&E") through the CAISO's Order No. 1000 competitive solicitation process. In March 2017, the CAISO placed the project in a deferred status and then in March 2019 cancelled the Project as a result of changed circumstances. As a result, MCCT is seeking to recover its abandoned plant costs associated with the CVPC Project, and to amortize those costs over a 57 month period ending December 31, 2023. As explained herein and in the attached Exhibits: (1) the Project was cancelled by the CAISO for reasons outside of MCCT's control; (2) all abandoned plant costs were prudently incurred (with all spending and allowance for funds used during construction ("AFUDC") suspended promptly after

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[1] 16 U.S.C. § 824d (2012).

[2] *MidAmerican Cent. Cal. Transco, LLC*, 147 FERC ¶ 61,179 (2014) ("June 2014 Order").

CAISO's initial decision to defer the Project); and (3) MCCT's proposed amortization period is a reasonable mechanism for recovery of these abandoned plant costs. As a result, MCCT seeks to recover 100% of its abandoned plant costs, and respectfully requests that the Commission accept the proposed treatment of the abandoned plant costs, effective April 1, 2019.

I. BACKGROUND

A. CVPC

The Project was identified by the CAISO in its 2012-2013 Transmission Plan as a reliability project necessary to address potential system overload and voltage conditions in the greater Fresno, California area.[3] As a reliability-driven project with additional public policy and economic benefits, the CVPC Project was subject to competitive developer selection under the CAISO Open Access Transmission Tariff ("Tariff").[4] As a result, consistent with section 24.5 of its Tariff, CAISO initiated a competitive solicitation process for the Project beginning on April 1, 2013.[5]

The CAISO received project sponsor applications from five entities, including the joint proposal from MCCT and PG&E. On November 6, 2013, MCCT, as a joint developer with PG&E, [6] was selected by the CAISO as a Project Sponsor for the CVPC Project.[7] MCCT and PG&E, as joint Project Sponsors, entered into an Approved Project Sponsor Agreement ("APSA") with the CAISO on May 14, 2014, pursuant to section 24.5.3 of the CAISO Tariff,[8] setting forth the terms under which MCCT and PG&E would construct the Project. Notably, as this Project was one of the first projects selected through the CAISO's Order No. 1000 competitive solicitation process, a *pro forma* APSA had not yet been developed, necessitating a longer negotiation period between the CAISO and relevant project sponsors.

B. MCCT Incentive Request

On April 4, 2014, while the APSA was still being negotiated, MCCT filed with the Commission a request for certain transmission rate incentives under Order No. 679,

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[3] 2012-2013 Transmission Plan at 12 (Mar. 20, 2013), *available at* http://www.caiso.com/Documents/BoardApproved2012-2013TransmissionPlan.pdf ("2012-2013 Transmission Plan"). The Project is also referred to by the CAISO as the "Gates-Gregg Project."

[4] *Id*. at 377.

[5] *See* Gates-Gregg – Project Sponsor Selection Report at 2 (Nov. 6, 2013), *available at* http://www.caiso.com/Documents/Gates-GreggProject-ProjectSponsorSelectionReport.pdf ("Project Sponsor Selection Report").

[6] *Id*. MCCT understands that PG&E will be submitting a separate application for recovery of its costs associated with the cancelled CVPC Project.

[7] *Id*. at 55.

[8] *See California Independent System Operator Corp.*, Filing of Service Agreement No. 3061, Att. A – Approved Project Sponsor Agreement, Docket No. ER14-2347 (July 1, 2014) ("APSA"). The Commission accepted the APSA for filing on August 12, 2014.

including the abandonment incentive.[9] On June 3, 2014, the Commission issued its 2014 Order granting MCCT's requested Abandonment Incentive, effective the date of the Commission's order.[10] Specifically, the Commission held:

> We will grant MidAmerican Transco's request to recover prudently incurred costs in the event that the Project is abandoned for reasons beyond MidAmerican Transco's control, subject to MidAmerican Transco filing under section 205 of the FPA for recovery of abandonment costs.
>
> . . .
>
> We note, however, that if the Project is cancelled before it is completed, MidAmerican Transco would be required to make a filing under section 205 of the FPA to demonstrate that the costs were prudently incurred before it can recover any abandoned plant costs. MidAmerican Transco must also propose in its section 205 filing a just and reasonable rate to recover such costs. Order No. 679 specifically requires that any utility granted this incentive that then seeks to recover abandoned plant costs must submit such a section 205 filing.[11]

C. MCCT Development Activities

MCCT and PG&E commenced development activities as promptly as possible following their selection by the CAISO as project sponsors for the CVPC Project. This prompt initiation of Project development was necessitated by the Project's March 2020 in-service deadline.[12]

In addition to the APSA, MCCT and PG&E entered into a Development, Construction and Ownership Agreement ("Development Agreement"), attached hereto as Exhibit No. MCCT-400, which sets forth the specific project development activities to be undertaken by MCCT and PG&E. Pursuant to the Development Agreement, MCCT was primarily responsible for Project design, engineering, and construction activities, including the development of detailed engineering and construction plans supporting the Project's application for a Certificate of Public Convenience and Necessity from the California Public Utilities Commission.[13] In addition, MCCT was responsible for the procurement of materials and equipment related to Project construction and for

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[9] Specifically, MCCT requested "the ability to recover prudently incurred costs in the event the Project must be abandoned for reasons outside the reasonable control of MCCT." MidAmerican Central California Transco, LLC, Application for Incentive Rates and TO Tariff at 15, Docket No. ER14-1661-000 (filed Apr. 4, 2014) ("MCCT Incentive Filing").

[10] June 2014 Order at PP 41-42.

[11] *Id.* (citations omitted).

[12] APSA, App. B at 37.

[13] *See* Development Agreement at 13 (Section 3.3.c); *see also* Exhibit No. MCCT-102, Direct Testimony of Brandon D. Smith at 2-3 ("Smith Testimony").

overseeing the construction of the Project.[14] Project costs were equally shared between MCCT and PG&E through a monthly cost reimbursement process.[15]

D. Project Deferral and Cancellation

In the 2016-2017 Transmission Planning Process, the CAISO reevaluated the need for the Project given updated planning assumptions. The CAISO determined that changed energy and demand forecasts indicated that the reliability concern driving the need for the CVPC Project may be deferred for upward of 10 years.[16] The CAISO also cited uncertainties regarding renewable integration needs that needed to be assessed further in the 2017-2018 Transmission Planning cycle.[17] As a result, following approval of the 2016-2017 Transmission Plan in March 2017, the CAISO placed the Project on "hold." However, the CAISO did not "recommend[] cancelling the project at this time despite recommending that no further development action be taken until the review is complete."[18]

As explained in the Testimony of Mr. Brandon D. Smith, following the approval of the 2016-2017 Transmission Plan and the CAISO's determination to place a hold on the Project, MCCT stopped development activities.[19] The minimal costs that were incurred after March 16, 2017 were limited to costs necessary to suspend development activities in an efficient and prudent manner, such as archiving certain Project data and managing MCCT's agreements with key contractors to preserve the contract scope and pricing should work on the Project need to be resumed.[20]

In its 2017-2018 Transmission Plan, the CAISO completed a reassessment of the reliability need for the Project. The CAISO determined that the load forecast, profile, and load modifier assumptions in the 2017-2018 Transmission Plan were consistent with those of the 2016-2017 Transmission Plan assessment.[21] As a result, the CAISO continued to keep the Project on hold, pending further review in the 2018-2019 Transmission Planning Process.[22]

The CAISO completed a comprehensive reassessment of the reliability need for the Project in its 2018-2019 Transmission Plan. The reassessment continued to show that

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[14] Development Agreement at 15 (Section 3.5).

[15] *See id.* at 25-31 (Article VI).

[16] *See* 2016-2017 Transmission Plan at 104 (Mar. 17, 2017), *available at* http://www.caiso.com/Documents/Board-Approved_2016-2017TransmissionPlan.pdf.

[17] *Id*.

[18] *Id*.

[19] Smith Testimony at 4.

[20] *Id.* at 4-5.

[21] *See* 2017-2018 Transmission Plan at 142-43 (Mar. 22, 2018), *available at* http://www.caiso.com/Documents/BoardApproved-2017-2018_Transmission_Plan.pdf.

[22] *Id*. at 143.

the reliability need driving the Project had been deferred for a period of 10 years. Additionally, the CAISO analysis showed that the economic benefits of the avoided curtailment were not enough to justify the estimated Project cost of $200 to $250 million.[23] As a result, the CAISO formally cancelled the project in March 2019.[24]

II. CONTENTS OF THE FILING

In addition to this transmittal letter, this filing contains the following components:

Exhibit No. MCCT-100:	Direct Testimony of Steven C. Rowley;
Exhibit No. MCCT-200:	Direct Testimony of Brandon D. Smith;
Exhibit No. MCCT-300:	Direct Testimony of Heather L. Cushman;
Exhibit No. MCCT-301:	Summary of Project Costs by Cost Category and Year;
Exhibit No. MCCT-302:	Pre- and Post-June 3, 2014 Costs;
Exhibit No. MCCT-400:	Development, Construction and Ownership Agreement between MCCT and PG&E (being filed as CONFIDENTIAL); and
Appendix A:	Protective Agreement

III. THE COMMISSION SHOULD GRANT MCCT AUTHORIZATION TO RECOVER 100% OF ITS PRUDENTLY-INCURRED ABANDONED PLANT COSTS

MCCT requests that the Commission authorize MCCT to recover 100% of its costs incurred for the Project under the June 2014 Order and the Commission's policies under Opinion No. 295 and *Southern California Edison Co.*[25] As demonstrated herein, MCCT is entitled to recover 100% of its abandoned plant costs pursuant to the Commission's June 3, 2014 Order granting MCCT the Abandonment Incentive under Order No. 679. Moreover, consistent with the Commission's precedent and policies applying Opinion No. 295, MCCT is also entitled to recover 100% of its cost incurred before the June 2014 Order.

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[23] 2018-2019 Transmission Plan at 127-30 (Mar. 29, 2019), *available at* http://www.caiso.com/Documents/ISO_BoardApproved-2018-2019_Transmission_Plan.pdf.

[24] *Id*. at 131.

[25] 112 FERC ¶ 61,014, *reh'g denied*, 113 FERC ¶ 61,143 (2005).

As required for recovery under the June 2014 Order, the CVPC Project was cancelled for reasons outside of MCCT's control, and all abandoned plant costs were prudently incurred. Moreover, as relevant for applying the *Southern California Edison* precedent, the decisions to undertake the Project, and later to cancel the Project, were made by the CAISO according to its regional transmission planning process, and not by MCCT management; MCCT was awarded the development of the Project through the CAISO's Order No. 1000 competitive solicitation process; MCCT promptly filed its request for Order No. 679 incentives, including the abandonment incentive, after being selected as a developer; and MCCT did not incur any Project costs prior to it being selected as the Project developer.

A. The Project Was Cancelled for Reasons Outside of MCCT's Control.

As described above and in the Testimony of Mr. Steven C. Rowley, the Project was abandoned for reasons beyond the control of MCCT. Specifically, the Project was originally approved by the CAISO as a reliability project through the CAISO's 2012-2013 Transmission Planning Process.[26] Subsequently, the CAISO put the Project on hold after it determined through its 2016-2017 Transmission Planning Process that updated load forecast assumptions may indicate that the reliability need driving the Project may be deferred for up to 10 years.[27] Following comprehensive reassessments of the reliability need for the Project in its 2017-2018 and 2018-2019 Transmission Planning Processes, the CAISO ultimately cancelled the Project in March of 2019.[28] Thus, both the determination that the Project was needed to address certain reliability concerns at the outset, and the subsequent decision to cancel the Project, were made by the CAISO and were outside of MCCT's control.

B. Project Costs Were Prudently Incurred.

As seen in Exhibit No. MCCT-301, MCCT seeks to recover $7,084,511 of Project costs incurred from November 6, 2013 through March 2017, shortly after the date the project was deferred. These costs fall into four general categories: (1) labor-related costs, (2) contract costs for services performed by unaffiliated third parties, including engineering, permitting and project management costs, (3) PG&E cost reimbursement pursuant to the Development Agreement, and (4) AFUDC.[29] None of these costs have been recovered by MCCT through its Commission-approved formula rate.

As discussed in the Testimony of Mr. Smith, all of MCCT's Project costs were prudently incurred. Strict controls were in place, both through the Project Development Agreement and through MCCT's internal project governance controls, to regulate and

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[26] Exhibit No. MCCT-100, Direct Testimony of Steven C. Rowley at 2 ("Rowley Testimony").

[27] *Id.* at 4.

[28] *Id.* at 6.

[29] Following March 16, 2017, promptly after the Project was placed on hold by the CAISO, MCCT ceased to accrue AFUDC. *See* Exhibit No. MCCT-300, Direct Testimony of Healther L. Cushman at 5-6 ("Cushman Testimony").

monitor Projects costs. MCCT and PG&E reviewed the need for, and estimated cost of, planned Project work in advance.[30] Once a contractor was retained, there was regular contact with contractors to monitor the status of the work they were performing and to check that the work being performed was consistent with Project needs and the Participants' expectations.[31] When a contractor submitted an invoice for work performed, the invoice was carefully reviewed to ensure that it was consistent with the contract.[32]

As explained by Mr. Smith, following the Project being placed on hold by the CAISO, only limited costs related to managing agreements with key contractors and preserving Project data were incurred.[33]

C. Under the 2014 Order, MCCT Is Entitled to Recover 100% of Its Abandonment Costs Incurred after June 3, 2014.

Given that the Project was cancelled for reasons outside of MCCT's control and the costs were prudently incurred, MCCT is entitled to recover 100% of its abandoned plant costs incurred on or after June 3, 2014, the date of the Commission's Order granting MCCT the abandonment incentive. As shown in Exhibit No. MCCT-302, such costs include $5,859,596.44, plus $741,955.56 in AFUDC for costs recorded only during this period, for a total of $6,601,552.00.

D. Recovery of 100% of the Project Costs Incurred before June 3, 2014 Is Just and Reasonable.

In addition to the recovery of all costs incurred on or after June 3, 2014 pursuant to the June 2014 Order, as described above, MCCT requests recovery of 100% of prudently-incurred Project costs it incurred before that date. These pre-June 3, 2014 costs total $482,959.20. All of these costs were incurred after November 6, 2013, the date MCCT was assigned to be one of the developers of the project through the CAISO's Order No. 1000 competitive solicitation process. Such recovery is just and reasonable, given the particular circumstances, under both the Commission's June 3, 2014 Order and its policies under Opinion No. 295 and *Southern California Edison*.

1. Facts Relevant to the Recovery of Pre-Order Costs

As described above, the CAISO made the decision to undertake the Project, pursuant to its regional planning process. The CVPC Project was identified by the CAISO in its 2012-2013 Transmission Plan as a reliability project necessary to address

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[30] Smith Testimony at 3-4.

[31] *Id.*

[32] *Id.* at 4.

[33] *Id.* at 4-5.

potential system overload and voltage conditions in the greater Fresno, California area.[34] MCCT management did not play any role in this decision.

As a reliability-driven project with additional public policy and economic benefits, the CVPC Project was designated for competitive solicitation under the CAISO Tariff.[35] Consistent with section 24.5 of its Tariff, CAISO initiated a competitive solicitation process for the Project beginning on April 1, 2013.[36] The CAISO specified an expected in-service date of March 2020.[37]

The CAISO received five project sponsor applications, including the joint proposal from MCCT and PG&E.[38] After performing a comparative analysis on the proposals consistent with the requirements set forth in the CAISO Tariff, the CAISO Board approved the selection of the joint MCCT/PG&E proposal on November 6, 2013.[39] MCCT and PG&E, as joint Project Sponsors, entered into an APSA with the CAISO on May 14, 2014 setting forth the terms under which MCCT and PG&E would construct the CVPC Project.[40]

MCCT filed its Order No. 679 incentive request promptly following the CAISO's competitive solicitation process. On April 4, 2014, even before the APSA was signed, MCCT filed with the Commission a transmission owner's tariff including a formula rate, as well as a request for certain transmission rate incentives under Order No. 679, including the abandonment incentive. Specifically, MCCT requested the ability to recover prudently incurred costs in the event the Project must be abandoned for reasons outside the reasonable control of MCCT.[41]

On June 3, 2014, the Commission issued its order, authorizing MCCT to recover all of its prudently incurred costs in the event the Project is canceled or abandoned.

As described above and in the Testimony of Mr. Rowley, the CAISO formally cancelled the CVPC Project in March 2019.[42]

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[34] 2012-2013 Transmission Plan at 12.

[35] *Id*. at 377.

[36] *See* Project Sponsor Selection Report at 2.

[37] APSA, App. B at 37.

[38] Project Sponsor Selection Report at 2.

[39] *Id*. at 55.

[40] APSA at 8-9 (sections 5.3, 5.2).

[41] MCCT Incentive Filing at 15. Notably, the Commission has limited a public utility transmission provider's ability to request certain transmission rate incentives, including the Abandonment Incentive, under Order No. 679 before the public utility transmission provide can identify the specific project, because the applicant cannot meet the requirements of the project-specific nexus test. *See, e.g., Transource Wis., LLC*, 149 FERC ¶ 61,180 at PP 23-35 (2014) ("*Transource Wisconsin*").

[42] Rowley Testimony at 6.

2. Recovery of 100% of MCCT's Project costs incurred before June 3, 2014 Is Appropriate under the June 2014 Order.

In its June 2014 Order, the Commission granted MCCT's request for authority to recover any abandoned plant costs, subject to the condition that MCCT make a section 205 filing demonstrating that the project cancellation was beyond MCCT's control and that such costs were prudently incurred.[43] Nothing in the June 2014 Order's discussion of granting the abandonment incentive expressly limits the incentive to only those prudent costs incurred after the date of the Commission's Order.[44] By contrast, the June 2014 Order, in granting MCCT its requested regulatory asset incentive, specifically authorized MCCT to establish the regulatory asset and begin accruing carrying costs on the regulatory asset effective as of the date of the Order.[45] The June 2014 Order contains one general statement on effective date in the context of discussing the nexus test: "As discussed below, we grant the request for proposed rate incentives, effective on the date of issuance of this order."[46]

In recent years, the Commission has developed a body of precedent finding that an abandonment incentive granted under Order No. 679 should be presumed to apply only to post-order costs based in part on such effective date language.[47] MCCT does not believe that the June 2014 Order must be read to limit the coverage of the granted abandonment incentive to post-order costs, and asks that the Commission authorize recovery of 100% of the pre-June 3, 2014 costs pursuant to the incentive granted in the June 2014 Order.

3. Recovery of 100% of MCCT's Project Costs Incurred before June 3, 2014 Is Just and Reasonable under Factors Established in the Commission's Opinion No. 295 Precedent.

In this case, however, the Commission need not address the issue of whether the 2014 Order's grant of the abandonment incentive under Order No. 679 was, in context, limited to costs incurred after the date of the order, because recovery of 100% of the Project costs incurred before June 3, 2014 is just and reasonable under the policies articulated in Opinion No. 295 and *Southern California Edison*.

The Commission has explained that it will consider requests for recovery of abandoned plant costs incurred before an order granting the abandonment incentive under Order No. 679 using the framework set forth in Opinion No. 295 and orders applying that

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[43] June 2014 Order at PP 41-42.

[44] *Id*.

[45] *Id*. at PP 32-35.

[46] *Id.* at P 29.

[47] *See, e.g., San Diego Gas & Elec. Co.*, 157 FERC ¶ 61,056 at PP 11-12 (2016), *pet. for rev. denied, San Diego Gas & Elec. Co. v. FERC*, 913 F.3d 127 (2019), *reh'g en banc denied* (Apr. 19, 2019).

policy.[48] As explained below, under that framework, MCCT qualifies for full recovery of its pre-June 3, 2014 Project costs.

Under Opinion No. 295, the Commission generally requires that "prudently incurred costs for cancelled plants be shared equally among shareholders and ratepayers to balance the interest of shareholders and ratepayers."[49] The Commission has explained:

> [U]tility management, acting on behalf of its investors and its ratepayers, is the entity which actually makes the original investment decision as well as the subsequent decision to cancel. Consequently, imposing some risk of abandonment on the utility, provides an incentive for the utility decisionmakers to more carefully weigh the potential risk of cancellation before embarking on a construction project.[50]

Although allowing rate recovery of 50% of abandoned plant costs is the default approach where the utility management has made the decision to undertake, and later to cancel, a project, the Commission has clarified that it will allow, in certain cases, recovery of 100% of the costs associated with an abandoned project.[51] For example, the Commission has recognized that "Opinion No. 295 did not anticipate" a "post-open access marketplace, where the transmission provider no longer controls the development of new generation," and that in such cases, full recovery of the costs associated with an abandoned transmission project may be appropriate.[52] Further, in the 2005 *Southern California Edison* case, the Commission departed from the default 50/50 approach under Opinion No. 295 because Southern California Edison Company ("SCE") did not control the decisions to develop or abandon the project, and thus exposing the utility to abandonment risk did not serve the goal of incentivizing management to avoid unnecessarily risky transmission development decisions. As explained by FERC, the development of the facilities at issue was "entirely beyond SCE's control."[53] Moreover, "management [did] not control the decision to develop or abandon the wind generation project" to be served by the transmission project, and the project was not being developed for the benefit of SCE's system.[54] As a result, the Commission determined that "SCE should not shoulder the risk of the project," and authorized the recovery of 100% of the prudent costs of the facilities in the event they were abandoned or cancelled.[55]

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[48] *PJM Interconnection, L.L.C.*, 142 FERC ¶ 61,156 at P 53 (2013); *see also San Diego Gas & Elec. Co.*, 157 FERC ¶ 61,056 at PP 11-12.

[49] *Southern California Edison*, 112 FERC ¶ 61,014 at P 59 (citation omitted).

[50] *Id.* at P 60 (citation omitted).

[51] *Id*.

[52] *San Diego Gas & Electric Co.*, 98 FERC ¶ 61,332 at 61,408 ("*SDG&E*"), *reh'g denied*, 100 FERC ¶ 61,073 (2002).

[53] *Southern California Edison*, 112 FERC ¶ 61,014 at P 48.

[54] *Id*.

[55] *Id*. at P 61.

The Project meets the criteria for recovery of 100% of abandoned plant costs indicated by *Southern California Edison*, and is consistent with the Commission's policies supporting competitive transmission development:

The Project emerged from the CAISO regional planning process. As explained above, the Project was identified through the CAISO's robust regional transmission planning process as a necessary reliability and public policy project. The Project was undertaken at the initiative of the CAISO, not MCCT management. Moreover, MCCT is not an incumbent utility or a generation owner; as in *Southern California Edison*, the Project does not advantage MCCT's existing transmission system or generation investments. The Commission's rationale behind its Opinion No. 295 policies do not apply in this instance, and MCCT should not be required to "shoulder the risk of the project."

The responsibility to develop the Project was assigned to MCCT through the CAISO's competitive process. This further reinforces the conclusion that the decision to undertake the Project was made by the CAISO, not MCCT management. Moreover, in this circumstance, application of the default 50/50 split approach in Opinion No. 295 would work a cross purposes to the Commission's sustained policy interest in supporting competition in transmission development.

The decision to cancel the Project, like the decision to undertake the Project, was made by the CAISO. Unlike the circumstance of concern in Opinion No. 295, where the Commission was concerned about full cost recovery in situations where the utility made both the decision to proceed with, and to cancel, a project, MCCT in this case made neither the decision that the Project was needed nor the decision to cancel it. The CAISO made those decisions.

MCCT's Order No. 679 incentive application was filed as promptly as practicable. MCCT filed its request for Order No. 679 incentives, including the abandonment incentive, before the APSA was executed. Thus, these circumstances are different from those in the *SDG&E* case, in which the request for the Order No. 679 abandoned plant incentive came four years after spending on the project began.[56] Because the nexus test requires that an incentive applicant make a showing of how the requested incentives will address risks associated with developing a particular project, an Order No. 679 incentive application for a competitive project cannot reasonably be made until after the competitive process is underway.[57] Moreover, it is not economically practicable to invest additional costs in applying to the Commission for incentive rate treatments prior to being awarded a competitive project.

The timeline for Project development was established by the CAISO, and required MCCT to begin development activities soon after the Project was awarded. In order to

[56] *San Diego Gas & Elec. Co.*, 157 FERC ¶ 61,056 at P 14 (explaining that SGD&E incurred approximately $31 million to develop the project over the course of four years prior to submitting an application with the Commission for the abandonment incentive under Order No. 679.).

[57] *See, e.g.*, *Transource Wisconsin*, 149 FERC ¶ 61,180 at PP 23-35.

meet the March 2020 in-service deadline established by the CAISO for the CVPC Project, MCCT was required to begin incurring project development costs immediately after it was selected as a project sponsor. The CAISO has advocated for pre-approval of the abandoned plant cost recovery incentive for competitively assigned CAISO projects, based on concerns that uncertainty about cost recovery could slow time-sensitive development work on reliability projects:

> The CAISO believes that the preapproval of abandoned plant recovery is appropriate when a facility has been initially proposed and approved through a process involving stakeholder input, such as the CAISO's collaborative transmission planning process, and the subsequent decision to abandon the project is not under the control of [the] project developer. The CAISO tariff obligates approved project sponsors to make a good faith effort to obtain all approvals and property rights for and to construct needed transmission projects reflected in the annual transmission plan for which they are responsible. Within 120 days after the CAISO selects an approved project sponsor, the approved project sponsor must submit a construction plan to the CAISO. Approved project sponsors should diligently and expeditiously proceed with reliability projects so such projects can be completed in a timely manner, and the CAISO does not face potential reliability criteria violations. Because approved project sponsors must immediately commence project development after being selected, the CAISO believes that they should be pre-approved for abandoned plan cost recovery to mitigate against any risk of cost non-recovery.[58]

The CAISO went on to state that such pre-approval of the ability to recover 100% of abandoned plant costs may be necessary to support robust participation in Order No. 1000 competitive processes.[59]

The costs MCCT seeks to recover were all incurred after MCCT had been selected to develop the Project. MCCT did not begin incurring project development costs until November 6, 2013, after it was selected by the CAISO as a project sponsor through the competitive process.[60]

Granting recovery of 100% of the costs incurred before the June 2014 Order in this particular case is consistent with the policy rationale articulated in *Southern California Edison*, supports the Commission's competition policies. The circumstances here are quite narrow, because this case involves: a regional transmission organization ("RTO") planned project; a competitively selected developer; a tight RTO-specified

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[58] Post-Technical Conference Comments of the California Independent System Operator Corporation at 65, Docket No. AD16-18-000 (filed Oct. 3, 2016) (citation omitted).

[59] *Id*. at 65-66.

[60] *See* Development Agreement at § 6.2.c.i. Pursuant to the Development Agreement, MCCT was not liable for pre-award costs incurred by PG&E unless and until the Project was awarded to MCCT and PG&E by the CAISO.

project development timeline; a project cancelled by the RTO; only costs incurred after the applicant was designated as the project developer; the prompt submission of an Order No. 679 application for the abandoned plant incentive; and less than $500,000 in pre-order costs. This circumstance is more narrowly circumscribed than the fact pattern in the *Southern California Edison* case, and thus does not require any deviation from existing precedent. Thus, approving recovery of 100% of the pre-order costs is consistent with the Commission's Opinion No. 295 and *Southern California Edison* policies, and is consistent with the Commission's Order No. 1000 policies supporting competitive transmission development.

IV. EFFECTIVE DATE AND PROPOSED AMORTIZATION PERIOD

MCCT requests authorization to begin amortizing its abandoned plant costs effective April 1, 2019 – the first full month following the CAISO's cancellation of the Project.[61]

MCCT proposes to recover all of its abandoned plant costs for the Project through its Commission-accepted formula rate over an amortization period of 57 months, ending December 31, 2023.[62] No change to the MCCT formula rate or Transmission Owner Tariff is required. The requested amortization period is reasonable in this circumstance given that MCCT does not own any other FERC-jurisdictional assets and the amount of abandoned plant costs to be recovered through MCCT's formula rate is modest. Moreover, a the requested amortization period would permit MCCT to align the recovery of the abandoned plant costs with the recovery of its regulatory asset for pre-commercial expenses, for which the Commission accepted an amortization period running from April 1, 2019 through December 31, 2023. Finally, the Commission has previously authorized amortization periods of five years or less in similar circumstances.[63]

V. REQUEST FOR CONFIDENTIAL TREATMENT

In accordance with section 388.112 of the Commission's regulations,[64] MCCT requests confidential treatment for Exhibit No. MCCT-400, the Development, Construction and Ownership Agreement between MCCT and PG&E. The Development Agreement contains competitively sensitive information, such that disclosure of this information could cause business injury to both MCCT and PG&E.

Pursuant to Order No. 769 and the Commission's regulations regarding privileged materials thereunder, MCCT is providing a public and confidential version of Exhibit No.

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[61] Costs for 2019 will be addressed through MCCT's formula rate annual true-up process.

[62] To the extent the Commission establishes a different effective date than the requested April 1, 2019 date, MCCT requests that the Commission permit an amortization period ending December 31, 2023, to align with MCCT's current amortization period for its regulatory asset for pre-commercial expenses.

[63] *See, e.g.*, *Exelon Corp.*, Delegated Letter Order, Docket No. ER18-404-000 (issued Feb. 5, 2018); *see also S. Cal. Edison Co.*, 148 FERC ¶ 61,126 (2014).

[64] 18 C.F.R. § 388.112 (2018).

MCCT- 400 with this filing. MCCT also includes with this filing a proposed protective agreement, attached hereto as Appendix A.

VI. REQUEST FOR WAIVERS

MCCT respectfully requests that the Commission grant any waivers of the Commission's rules and regulations that may be necessary for acceptance of this filing under the Federal Power Act.

VII. POSTING AND SERVICE

A copy of this filing is being served on all parties to MCCT's formula rate proceeding, Docket No. ER14-1661, including the CAISO. MCCT has also posted this filing electronically on MCCT's website, where it is available to all CAISO members.

VIII. CORRESPONDENCE AND COMMUNICATIONS

Communications with respect to this filing should be addressed to the following individuals:[65]

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[65] To the extent necessary, MCCT respectfully requests waiver of Rule 203(b)(3) to include all the individuals identified above on the Commission's official service list in this proceeding and to be designated for service pursuant to Rule 2010.

IX. CONCLUSION

For the reasons set forth above, MCCT respectfully requests that the Commission permit MCCT to recover $7,084,511in abandoned plant costs associated with the Central Valley Power Connect project, to be amortized over the period from April 1, 2019 through December 31, 2023, as described herein.

Respectfully submitted,

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Attachments