

application, and may be environmentally benign). Such technologies include: (1) Improved materials that allow significant increases in transfer capacity using existing rights-of-way and structures; (2) equipment that allows greater control of energy flows, enabling greater use of existing facilities; (3) sophisticated monitoring and communication equipment that allows real-time rating of transmission facilities, facilitating greater use of existing transmission facilities; and (4) other measures. Such technologies appear to offer significant promise to expand grid capacity, reduce congestion, improve reliability, and enhance wholesale competition without great cost or delay. We seek comment on what we can do to encourage investment in such technologies, what criteria we should use to determine that a technology investment merits an incentive, and how to structure such incentives. For example, these technology options may not always be considered in RTO expansion plans, so a requirement that new investment be made pursuant to the RTO planning process could foreclose the use of many promising technologies.

32. We realize that the most timely and cost-effective ways to meet demand for additional grid capacity will not always be additional transmission facilities; rather, they may be innovative operating practices, such as operation of facilities beyond traditionally accepted limits, distributed generation, demand response or demand-side management. We invite comments on what actions other than investment in new facilities should receive incentives, what form those incentives should take, and how we can encourage them.

33. We also would like suggestions on how to measure improved performance of the grid. What additional guidance or assurances are needed from us in order to encourage actions that result in improved grid performance?

34. We want to ensure that market solutions prevail where appropriate. Are additional measures needed to facilitate and encourage merchant transmission to relieve the nation's transmission bottlenecks?

35. We seek comments on whether the proposals set forth in this policy statement strike an appropriate balance. Are there additional incentives or incentive levels consistent with pricing for a monopoly service? Should we consider alternatives to ROE-based incentives such as accelerated depreciation for investment in critical transmission facilities? Finally, we seek comments on whether the duration of the proposed incentives is appropriate.

### 3. Implementation

36. Once the final policy statement has been issued, eligible public utilities would need to make a filing pursuant to section 205 of the Federal Power Act and receive Commission authorization to receive the proposed incentives. Unlike the innovative rate proposals in Order No. 2000, we would not require that public utilities file a cost-benefit analysis to qualify for the incentives associated with RTO participation and divestiture of transmission assets.<sup>31</sup>

37. The ROE-based incentives would be subject to a cap on the overall ROE, including incentive adders, equal to the top of the range of reasonable ROEs for a proxy group consisting of the investor-owned transmission owners participating in the relevant RTO whose shares are publicly traded. We note that the sum of these incentives, totaling 300 basis points,<sup>32</sup> would have resulted in an overall ROE within the zone of reasonableness established for the Midwest ISO Transmission Owners in Docket No. ER02-485-000. We believe that these incentives will encourage RTO participation and independent ownership in a timely fashion and that customers will benefit from an independent and regional approach to the provision of electric transmission service. The additional incentives proposed for new investment in transmission facilities, in combination with RTO system expansion planning, should encourage long-overdue investment in new transmission, increase the number of generators who can compete in the market place, improve efficiency and reliability, and ultimately lower the costs paid by customers for electricity.

38. The incentives proposed here are not the only ones we will consider. Public utilities may continue to submit other innovative rate proposals in accordance with 18 CFR 35.34(e)(1). We will determine the reasonableness of such proposals on a case-by-case basis. However, we clarify that the proposed ROE incentives are intended to encourage RTO and ITC participation and new investment and not to serve in lieu of innovative rate mechanisms that

hold utilities harmless from adverse rate effects from the transfer of their facilities to an RTO or ITC within an RTO (e.g., innovative rates based on bundled retail rates or an allowance for amounts necessary to hold a seller of transmission assets harmless from the income tax consequences of the divestiture).

### V. Comment Procedures

39. We invite interested persons to submit written comments on the proposals in this notice, including any related matters or alternative proposals. Comments are due 45 days from the date of publication in the **Federal Register**. Comments must refer to Docket No. PL03-1-000, and may be filed either in electronic or paper format. Those filing electronically do not need to make a paper filing.

40. Documents filed electronically via the Internet can be prepared in a variety of formats, including WordPerfect, MS Word, Portable Document Format, Rich Text Format, or ASCII format, as listed on our Web site at <http://www.ferc.gov>, under the e-Filing link. The e-Filing link provides instructions for how to Login and complete an electronic filing. First time users will have to establish a user name and password. We will send an automatic acknowledgment to the sender's E-Mail address upon receipt of comments. User assistance for electronic filing is available at 202-502-8258 or by E-Mail to [efiling@ferc.gov](mailto:efiling@ferc.gov). Comments should not be submitted to the E-Mail address.

41. For paper filings, the original and 14 copies of such comments should be submitted to the Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

42. All comments will be placed in our public files and will be available for inspection in our Public Reference Room at 888 First Street, NE., Washington, DC 20426, during regular business hours. Additionally, all comments may be viewed, printed, or downloaded remotely via the Internet through the Commission's Homepage using the FERRIS link, as explained below.

### VI. Document Availability

43. In addition to publishing the full text of this document in the **Federal Register**, we provide all interested persons an opportunity to view and/or print the contents of this document via the Internet through the Commission's Home Page (<http://www.ferc.gov>) and in FERC's Public Reference Room during normal business hours (8:30 a.m. to 5

<sup>31</sup> We expect that transmission expansions undertaken via the RTO planning process would not need an additional cost-benefit analysis. However, we seek comments on what analysis, if any, should be required to qualify for the incentives for other measures to promote efficient operation and expansion of the transmission grid.

<sup>32</sup> For new transmission investment constructed pursuant to an RTO planning process and then subject to divestiture to an ITC, the total incentive premium provided by this proposal would be the sum of 50 basis points for RTO participation plus 150 basis points for ITC formation plus 100 basis points for transmission enhancements.