

175 FERC ¶ 61,256  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Richard Glick, Chairman;  
Neil Chatterjee, James P. Danly,  
Allison Clements, and Mark C. Christie.

LS Power Grid California, LLC

Docket Nos. ER21-195-000  
ER21-195-001  
ER21-195-002

ORDER ACCEPTING TRANSMISSION OWNER TARIFF  
AND FORMULA RATE

(Issued June 29, 2021)

1. On October 23, 2020, as amended on December 8, 2020 and April 30, 2021, LS Power Grid California, LLC (LS Power Grid California) filed, pursuant to sections 205 and 219 of the Federal Power Act (FPA),<sup>1</sup> and Part 35 of the Commission's regulations,<sup>2</sup> a transmission owner tariff (TO Tariff), which includes a transmission formula rate template (Template) and associated transmission formula rate implementation protocols (Protocols) (together, the Formula Rate), to calculate LS Power Grid California's annual transmission revenue requirement as part of it becoming a participating transmission owner in the California Independent System Operator Corporation (CAISO) region. The Formula Rate is designed to recover LS Power Grid California's investment in transmission facilities for the Gates 500 kV Dynamic Reactive Support Project (Gates) and Round Mountain 500 kV Area Dynamic Reactive Support Project (Round Mountain) (together the Projects). In this order, we accept LS Power Grid California's proposed TO Tariff and Formula Rate, effective December 23, 2020, as requested.

**I. Background**

2. LS Power Grid California<sup>3</sup> was selected to develop both the Gates and Round Mountain Projects, which were identified and included in the CAISO 2018-2019

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<sup>1</sup> 16 U.S.C. §§ 824d, 824s.

<sup>2</sup> 18 C.F.R. pt. 35 (2020).

<sup>3</sup> LS Power Grid California is indirectly wholly-owned by LS Power Associates, L.P. (LS Power), a Delaware limited partnership. LS Power Development, LLC, is the

Transmission Plan.<sup>4</sup> The Gates Project is a 500 kV dynamic reactive power support installation at the Pacific Gas and Electric Company (PG&E)-owned Gates Substation.<sup>5</sup> The Round Mountain Project is a 500 kV dynamic reactive power support installation connected to PG&E's Round Mountain to Table Mountain 500 kV transmission lines at a new switching station located south of the Round Mountain substation.<sup>6</sup>

3. LS Power Grid California states that through CAISO's competitive solicitation, it was selected as the approved project sponsor to develop both the Gates and Round Mountain Projects. LS Power Grid California explains that its proposals for both Projects included binding cost containment commitments, including a cap on return on equity (ROE) of 9.8%, a restriction on the capital structure to limit equity at 45%, capital cost caps of \$68.3 million for the Gates Project and \$75.5 million for the Round Mountain Project, 15-year revenue requirement caps of \$110.2 million for the Gates Project and \$120.7 million for the Round Mountain Project, and a schedule guarantee that will reduce the ROE if the Projects are not in service by June 1, 2024.<sup>7</sup>

4. On March 4, 2020, in Docket No. EL20-29-000, LS Power Grid California filed a petition for a declaratory order seeking authorization for certain transmission rate incentives for the Projects pursuant to section 219 of the FPA<sup>8</sup> and Order No. 679.<sup>9</sup> On June 18, 2020, the Commission granted the following rate incentives for the Project:

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general partner and manager of LS Power. Through various subsidiaries, LS Power develops, owns and operates electric transmission and independent power projects throughout the United States. LS Power Grid California Transmittal Letter at 2-3.

<sup>4</sup> *Id.* at 46 and nn.12, 21. LS Power Grid California explains that CAISO identified the Projects to address the need for additional reactive support at the Gates and Round Mountain 500 kV substations.

<sup>5</sup> *Id.* at 2. This includes an 850 MVAR dynamic reactive device to be installed in two equally sized blocks independently connected to the 500 kV bus.

<sup>6</sup> *Id.* This installation includes an approximately 530 MVAR dynamic reactive device to be installed in two equally-sized blocks independently connected to PG&E's transmission lines.

<sup>7</sup> *Id.* at 5, 7-8.

<sup>8</sup> 16 U.S.C. § 824s.

<sup>9</sup> *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).

(1) deferred recovery of prudently incurred pre-commercial costs through creation of a regulatory asset (regulatory asset incentive); (2) full recovery of prudently incurred costs if the Projects are abandoned for reasons beyond LS Power Grid California's control (abandoned plant incentive); (3) use of a hypothetical capital structure consisting of 55% debt and 45% equity until the Projects achieve commercial operation (hypothetical capital structure incentive); and (4) a 50 basis point adder to LS Power Grid California's ROE for participating in CAISO, subject to the overall ROE not exceeding the ROE cap commitment in LS Power Grid California's Project proposals.<sup>10</sup>

## II. LS Power Grid California's Filing

5. LS Power Grid California's filing in this proceeding consists of: (1) the proposed TO Tariff to determine charges for the use of LS Power Grid California's facilities in providing transmission service within CAISO; (2) the Template to calculate LS Power Grid California's annual transmission revenue requirement; and (3) the associated Protocols. LS Power Grid California requests that its Formula Rate become effective on December 23, 2020.

6. LS Power Grid California states that its TO Tariff is consistent with existing transmission owner tariffs approved for use in CAISO.<sup>11</sup> LS Power Grid California states that its Template is designed to calculate an annual transmission revenue requirement to be recovered by LS Power Grid California under the CAISO Tariff. LS Power explains that its Formula Rate is forward-looking, whereby costs are projected a year ahead and then trued-up to actual costs, once actual costs are known.

7. LS Power Grid California explains that it made certain cost containment commitments to CAISO as part of the competitive solicitation process, including limiting its proposed ROE to 9.8% for the life of the Projects. LS Power Grid California states that its Template and Protocols were patterned after the Commission approved formula rate of its affiliate, DesertLink, LLC (DesertLink), who is also a participating transmission owner in CAISO.<sup>12</sup>

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<sup>10</sup> *LS Power Grid Cal., LLC*, 171 FERC ¶ 61,222 (2020) (*LS Power Grid California Incentives Order*). In its bid submission in CAISO's competitive solicitation process, LS Power Grid California committed to cap its ROE at 9.8%, inclusive of any Commission-granted ROE adders.

<sup>11</sup> LS Power Grid California Transmittal Letter at 11 and n.38 (citing *DesertLink, LLC*, 161 FERC ¶ 61,126 (2017); *TransCanyon DCR*, 152 FERC ¶ 61,017 (2015)).

<sup>12</sup> LS Power Grid California Filing, Ex. LSPGC-400 (Testimony of Adam Gassaway) at 3. *See also DesertLink, LLC*, 161 FERC ¶ 61,126 (2017) (order setting

8. LS Power Grid California states that the Template calculates its annual transmission revenue requirement which is then recovered through Schedule 3 to Appendix F of the CAISO Tariff (Regional Access Charge and Wheeling Access Charge). LS Power Grid California explains that it will calculate its annual transmission revenue requirement for each rate year by forecasting the values that will populate the formula rate template using 13-month average plant balances to determine the rate base on which the ROE and income tax components of the annual net revenue requirement are calculated.

9. LS Power Grid California states that if its actual balances result in variances from its projected net revenue requirement collected during the previous rate year, the true-up mechanism will adjust the rate produced by the Template for subsequent periods.<sup>13</sup> LS Power Grid California states that the true-up mechanism ensures that both LS Power Grid California and CAISO ratepayers are protected from any variances between the forecast values and the actual cost of service. LS Power Grid California states that by June 1 of the year following the rate year, the actual annual expenses are computed with any difference between the forecast and actual annual transmission revenue requirement and the amount calculated is used to adjust the projected rate for the subsequent rate year, with interest.

10. To ensure that CAISO ratepayers receive the benefits of the cost commitments it made in CAISO's competitive solicitation process, LS Power Grid California states that any reduction to the annual transmission revenue requirement as a result of such commitments will be taken into account as part of the annual transmission revenue requirement forecast and also in the true-up process.<sup>14</sup> Specifically LS Power Grid California agreed to annual revenue requirement limits for each of the first 15 years of operation of each of the Projects, with the total for all 15 years not to exceed \$110.2 million for the Gates Project and \$120.7 million for the Round Mountain Project.<sup>15</sup> LS Power Grid California explains that to the extent the annual revenue requirement for each Project is lower than the specified limit in any given year, such difference will be added to the revenue requirement for the following year, but that in any event, the Projects' total revenue requirements for all 15 years will not exceed the total

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DesertLink's formula rate for hearing and settlement judge procedures); *DesertLink, LLC*, 165 FERC ¶ 61,075 (2018) (order approving settlement).

<sup>13</sup> LS Power Grid California Transmittal at 11.

<sup>14</sup> *Id.* and nn. 43 and 44 (citing Ex. LSPGC -100 (Testimony of Mark D. Millburn) at 10-11; Ex. LSPGC -400 (Testimony of Adam Gassaway) at 6).

<sup>15</sup> A table showing the annual revenue requirement limits for each of the 15 years for both Projects is included in Ex. LSPGC-100 (Testimony of Mark D. Millburn) at 16.

limit for each Project. LS Power Grid California states that in the event in any given year the revenue requirement for each Project is greater than the specified annual limit, LS Power Grid California will not be able to recover those revenues in its rates.<sup>16</sup>

11. LS Power Grid California states that it has calculated a proposed ROE considering the Commission's most recent guidance and policy objectives, including the guidance provided in Opinion Nos. 569 and 569-A,<sup>17</sup> and concludes that a proposed base ROE of 10.82% is just and reasonable.<sup>18</sup> LS Power Grid California also states that the Commission granted a 50 basis point adder for its CAISO membership, which would result in a total ROE of 11.32%.<sup>19</sup> However, as a result of its competitive concessions, LS Power Grid California explains that it is seeking a maximum ROE of 9.8%, inclusive of incentives, for the life of the Projects. LS Power Grid California asserts that this is well below the ROE that Commission precedent would support, and thus the Commission should find LS Power Grid California's maximum ROE just and reasonable without setting it for hearing.<sup>20</sup>

12. LS Power Grid California's proposed Template includes stated depreciation rates developed based on an analysis of the equipment to be installed for the Projects.<sup>21</sup> LS Power Grid California states that as a transmission-only company in the process of developing and constructing its first transmission asset, it lacks an operating history upon which to base a depreciation study. To calculate the depreciation rates, LS Power Grid California's used projected investment for the new transmission assets, computed a composite weighted average service life for each account, and applied average net salvage percentages used by other utilities across the industry to compute annual

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<sup>16</sup> Ex. LSPGC-100 (Testimony of Mark D. Millburn) at 16-17. See also Protocols at Section 1.c.

<sup>17</sup> LS Power Grid California Transmittal Letter at nn. 51 and 53 (citing *Ass'n of Bus. Advocating Tariff Equity v. Midcontinent Indep. Sys. Operator, Inc.*, Opinion No. 569, 169 FERC ¶ 61,129 (2019), *order on reh'g*, Opinion No. 569-A, 171 FERC ¶ 61,154 (2020)).

<sup>18</sup> *Id.* at 12-13 and n.52 (citing Ex. LSPGC -600 (Testimony of Dylan W. D'Ascendis) at 3).

<sup>19</sup> LS Power Grid California Filing, Ex. LSPGC -200 (Testimony of Cameron Tajvar) at 6-7.

<sup>20</sup> LS Power Grid California Transmittal Letter at 13-14.

<sup>21</sup> *Id.* at 14 and n.59 (citing to Ex. LSPGC -500, Testimony of Dane A. Watson at 5-6). The depreciation rates are shown in Attachment 7 of the Template.

depreciation rates and amounts on a straight-line basis.<sup>22</sup> LS Power Grid California explains that since the traditional historical statistical analysis was not possible to determine net salvage percentages for these assets, LS Power Grid California employed representative net salvage parameters used by other utilities across the industry until such time as its LS Power Grid California's own historical data is sufficient to analyze net salvage costs.<sup>23</sup> LS Power Grid California states that under its Protocols, its depreciation rates cannot be changed absent a filing pursuant to FPA sections 205 or 206, and that LS Power Grid California will update its depreciation rates within five years of each Project being placed in service via an FPA section 205 filing.

13. Next, LS Power Grid California states that its proposed Protocols establish the procedures for populating and updating its Template. LS Power Grid California states that its proposed Protocols are consistent with other formula rate protocols filed with and accepted by the Commission, including its affiliate DesertLink, and are consistent with the Commission's requirements for protocols.<sup>24</sup>

14. Specifically, LS Power Grid California states that its Protocols address: (1) the scope of LS Power Grid California's the information exchange process; (2) the transparency of the information exchange; and (3) the ability of interested parties to challenge LS Power Grid California's implementation of the Formula Rate.<sup>25</sup> LS Power Grid California states that its Protocols provide that stated value inputs such as depreciation rates or amortization periods can only be changed pursuant to an FPA section 205 or 206 proceeding. LS Power Grid California states that the Protocols demonstrate that the project-specific revenue requirements determined through the Template are maximum rates that permit LS Power Grid California to reduce its recoverable revenue requirement to appropriately reflect specific cost containment commitments LS Power Grid California made during CAISO's competitive solicitation process in connection with the Project, or commitments made in bidding for future

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<sup>22</sup> LS Power Grid California Filing, Ex. LSPGC -500 (Testimony of at Dane A. Watson) at 5-8. The calculations of average net salvage percentages using data from utilities across the industry are shown in Ex. LSPGC-501.

<sup>23</sup> *Id.* at 7.

<sup>24</sup> LS Power Grid California Transmittal Letter at 12 and n.48 (citing *Midwest Indep. Transmission Sys. Operator, Inc.*, 143 FERC ¶ 61,149 (2013), *reh'g denied*, 146 FERC ¶ 61,209 (2014) and *Midwest Indep. Transmission Sys Operator, Inc.*, 146 FERC ¶ 61,212 (2014), *reh'g denied*, 150 FERC ¶ 61,024 (2015)).

<sup>25</sup> *Id.* at 12; TO Tariff, app. IV, Formula Rate Protocols.

transmission projects.<sup>26</sup> Specifically, section 1.c. of the Protocols provides that with each annual projection, LS Power Grid California will provide a separate worksheet in its Template identifying the cost containment commitments set forth in the Approved Project Sponsor Agreement by and between LS Power Grid California and CAISO to confirm compliance and to identify the appropriate entries in the Template detailing such compliance.

15. LS Power Grid California also states that, as a part of the LS Power organization, LS Power Grid California is able to secure various services, including accounting, financial reporting, information technology, legal, regulatory, and engineering services, from its affiliates, resulting in lower costs than if such services would be established on a stand-alone basis.<sup>27</sup> LS Power Grid California explains that services and transactions between LS Power Grid California and its affiliates will be provided at cost, and that LS Power Grid California's Protocols include the requirement for LS Power Grid California to provide: (1) a detailed description of the methodologies used to allocate and directly assign costs between LS Power Grid California and its affiliates, broken down by service category or function for the applicable rate year; (2) a description of any changes to such cost allocation methodologies from the prior year, and the reasons and justification for those changes; and (3) the magnitude of such costs that have been allocated or directly assigned between LS Power Grid California and each affiliate by service category or function for the applicable period.<sup>28</sup>

16. Finally, LS Power Grid California explains that under Internal Revenue Service rules, LSP Holdings elected to be classified as an association taxable as a corporation and consequently is subject to corporation income tax, and that all of the income or losses from LS Power Grid California are includible on LSP Holdings' income tax return and LSP Holdings itself is obligated to pay corporate income tax on such amounts. Thus, LS Power Grid California states, for purposes of the Commission's tax allowance analysis, all income from LS Power Grid California should be considered "taxed at the entity level prior to their distribution." LS Power Grid California therefore states that it is entitled to include a tax allowance in its formula rate.<sup>29</sup>

17. On December 8, 2021, LS Power Grid California amended its filing to request a deferral of Commission action (December 8 Filing). On April 30, 2021, LS Power Grid

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<sup>26</sup> *Id.* at 12.

<sup>27</sup> *Id.* at 15.

<sup>28</sup> *Id.* See also Protocols, section 3.d.(v).

<sup>29</sup> LS Power Grid California Transmittal Letter at 15 and n.69 (citing *Midship Pipeline Co., LLC*, 168 FERC ¶ 61,147, at P 14 (2019)).

California amended its filing to make a number of minor corrections to its Template (April 30 Filing). In addition, in the April 30 Filing, LS Power Grid California notes that its Template includes accumulated deferred income taxes (ADIT) worksheets which were patterned off the ADIT worksheets filed by LS Power Grid California's affiliate DesertLink in its Order No. 864<sup>30</sup> compliance filing in Docket No. ER20-1573-000. LS Power Grid California states its understanding that DesertLink has been working with Commission staff to address updates to DesertLink's Order No. 864 compliance filing and that it may amend its filing. LS Power Grid California states that, to the extent there are further revisions to DesertLink's ADIT worksheets in Docket No. ER20-1573-000, LS Power Grid California commits to updating its ADIT worksheet accordingly.<sup>31</sup>

### **III. Notice of Filing**

18. Notice of LS Power Grid California's original filing was published in the *Federal Register*, 85 Fed. Reg. 68,865 (Oct. 30, 2020), with interventions and protests due on or before November 13, 2020. Timely motions to intervene were filed by the City of Santa Clara, California; Southern California Edison Company; CAISO; the Cities of Anaheim, Azusa, Banning, Colton, Pasadena, and Riverside, California. The California Public Utilities Commission filed a timely notice of intervention. Notice of LS Power Grid California's December 8 Filing was published in the *Federal Register*, 85 Fed. Reg. 80,781 (Dec. 14, 2020), with interventions and protests due on or before December 29, 2020. None were filed. Notice of LS Power Grid California's April 30 Filing was published in the *Federal Register*, 86 Fed. Reg. 24,397 (May 6, 2021), with interventions and protests due on or before May 21, 2021. None were filed.

### **IV. Discussion**

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

19. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2020), the timely, unopposed motions to intervene and notice of intervention serve to make the entities that filed them parties to this proceeding.

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<sup>30</sup> *Pub. Util. Transmission Rate Changes to Address Accumulated Deferred Income Taxes*, Order No. 864, 169 FERC ¶ 61,139 (2019), *order on reh'g and clarification*, Order No. 864-A, 171 FERC ¶ 61,033 (2020).

<sup>31</sup> LS Power Grid California April 30 Filing at 2 (citing *TransCanyon W. Dev., LLC*, 75 FERC ¶ 61,007, at P 16 (2021)).



## B. Substantive Matters

20. We accept LS Power Grid California's proposed TO Tariff and Formula Rate, effective December 23, 2020, as requested. We find that LS Power Grid California's proposed TO Tariff is consistent with other CAISO participating transmission owner tariffs on file, and is reasonable. We also find that LS Power Grid California's proposed Template is consistent with other formula rate templates that have been accepted by the Commission,<sup>32</sup> and that the Template incorporates the cost commitments LS Power Grid California made in CAISO's competitive solicitation process, including an ROE cap of 9.8%. We also accept, as consistent with Commission precedent, LS Power Grid California's proposal to recover an income tax allowance in its Formula Rate for LSP Holdings' ownership share.<sup>33</sup> Additionally, we find that LS Power Grid California's proposed Protocols meet the standards set forth in Commission precedent, including with respect to information exchange, transparency, and challenge procedures.<sup>34</sup>

21. With regard to LS Power Grid California's ADIT worksheets, we accept these worksheets subject to the outcome of DesertLink's Order No. 864 compliance proceeding in Docket No. ER20-1573-000. We note LS Power Grid California's commitment that, to the extent the Commission directs any revisions to DesertLink's ADIT worksheets in Docket No. ER20-1573-000, LS Power Grid California will revise the ADIT worksheets accordingly.

22. We find that LS Power Grid California has shown that its unopposed overall ROE of 9.8% is just and reasonable. In so finding, we note, as discussed above, that LS Power Grid California voluntarily capped the ROE at 9.8% as part of its bid in CAISO's competitive solicitation process. We also find that LS Power Grid California provided record evidence using the Commission's current ROE methodology that helps support our determination that a 9.8% ROE is just and reasonable in this case. Moreover, we note that the capped ROE is inclusive of the CAISO participation adder that the Commission previously granted to LS Power Grid California. Because LS Power Grid California has committed to cap its overall ROE at 9.8%, we need not address and make

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<sup>32</sup> See, e.g. *Republic Transmission, LLC*, 167 FERC ¶ 61,215 (2019) (*Republic*).

<sup>33</sup> *Republic*, 167 FERC ¶ 61,215 at P 17; *Enable Miss. River Transmission, LLC*, 164 FERC ¶ 61,075, at P 36 (2018); *Trailblazer Pipeline Co. LLC*, 166 FERC ¶ 61,141, at P 29 (2019).

<sup>34</sup> See, e.g., *Midwest Indep. Transmission Sys. Operator, Inc.*, 139 FERC ¶ 61,127 (2012), *order on investigation*, 143 FERC ¶ 61,149 (2013), *order on reh'g*, 146 FERC ¶ 61,209, *order on compliance*, 146 FERC ¶ 61,212 (2014), *order on compliance*, 150 FERC ¶ 61,025 (2015); *PJM Interconnection, L.L.C.*, 155 FERC ¶ 61,097, at P 127 (2016).

no finding on LS Power Grid California's assertion, as set forth in its witness's testimony, that a base ROE of 10.82% is just and reasonable.<sup>35</sup>

23. Finally, we note that depreciation rates are usually based, at least in part, on a utility's own historical information. However, this proceeding involves facilities that have not yet been built. Thus, LS Power Grid California developed its initial depreciation rates based on average service lives and net salvage percentages that have been used by other utilities for similar assets, calculated on a straight-line basis.<sup>36</sup> We find this approach acceptable. Further, LS Power Grid California has committed to update its depreciation rates within five years of each Project being placed in service via an FPA section 205 filing. We find this to be a reasonable approach under these circumstances and therefore accept LS Power Grid California's initial depreciation rates.

The Commission orders:

(A) LS Power Grid California's proposed TO Tariff and Formula Rate are hereby accepted for filing, effective December 23, 2020, as requested, as discussed in the body of this order.

(B) LS Power Grid California's proposed ADIT worksheets are hereby accepted for filing, subject to the outcome of the proceeding in Docket No. ER20-1573-000, as discussed in the body of this order.

By the Commission.

( S E A L )

Kimberly D. Bose,  
Secretary.

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<sup>35</sup> LS Power Grid California Filing, Ex. LSPGC-600 (Testimony of Dylan W. D'Ascendis) at 3.

<sup>36</sup> LS Power Grid California Filing, Ex. LSPGC -500 (Testimony of Dane A. Watson) at 5-8.

Document Content (s)

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