

UNITED STATES OF AMERICA 117 FERC ¶62,172
FEDERAL ENERGY REGULATORY COMMISSION

United States Department of Energy -
Western Area Power Administration
(Desert Southwest Customer Service Region)

Docket No. EF06-5191-000

ORDER CONFIRMING AND APPROVING RATE SCHEDULES
ON A FINAL BASIS

(November 21, 2006)

Summary:

On June 16, 2006, the Deputy Secretary of Energy (Deputy Secretary) requested final confirmation and approval of Western Area Power Administration's (Western) Rate Schedules PD-NTS2 for network integration transmission service on the Parker-Davis Project (Parker-Davis) transmission system, INT-NTS2 for network integration transmission service on the Pacific Northwest-Pacific Southwest Intertie Project (Intertie) transmission system, and DSW-SD2, DSW-RS2, DSW-FR2, DSW- EI2, DSW-SPR2, and DSW-SUR2 for ancillary services from Western's Desert Southwest Customer Service Region¹. The Deputy Secretary placed the revised rate schedules into effect on an interim basis effective July 1, 2006,² and requests final confirmation and approval of the rate for the period July 1, 2006, through June 30, 2011.³

¹ The Desert Southwest Customer Service Region includes the Boulder Canyon Project (Boulder Canyon), Intertie, and the Parker-Davis Projects. The Ancillary Services rate schedules are applicable to Parker-Davis, Boulder Canyon, Central Arizona Project, and part of the Colorado River Storage Project located in the Western Area Lower Colorado Balancing Authority and Transmission Operations Area.

² Rate Order No. WAPA-127, placing the rate schedules into effect on an interim basis, was issued on July 13, 2006, under the authority granted to the Deputy Secretary by the Department of Energy Delegation Order Nos. 00-037.00 (December 6, 2001) and 00-001.00B (July 28, 2005), (Delegation Order).

³ Rate Schedules PD-NTS2, INT-NTS2, DSW-SD2, DSW-RS2, DSW-FR2, DSW- EI2, DSW-SPR2, and DSW-SUR2 supersedes the prior rate schedules, with the

Western maintains that the proposed rates will provide sufficient revenue to pay all annual costs, including interest expense, and repay power investment and irrigation aid, within the allowable periods.

Notice of the application was published in the *Federal Register*, 71 Fed. Reg. 38,633 (2006), with comments, protests, or motions to intervene due on or before July 17, 2006. None were received. Notices of intervention and unopposed timely filed motions to intervene are granted pursuant to the operation of Rule 214 of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.214). Any opposed or untimely motion to intervene is governed by the provisions of Rule 214.

Standard of Review:

The Secretary of Energy has delegated the authority to confirm and approve Western's rates on a final basis to the Commission,⁴ and established the scope of Commission review. The scope of Commission review is limited to:

- whether the rates are the lowest possible to customers consistent with sound business principals;
- whether the revenue levels generated by the rates are sufficient to recover the costs of producing and transmitting the electric energy including the repayment, within the period of cost recovery permitted by law, of the capital investment allocated to power and costs assigned by Acts of Congress to power for repayment; and
- the assumptions and projections used in developing the rate components that are subject to Commission review.⁵

The Commission is prohibited from reviewing policy judgments and interpretations of the laws and regulations made by the power generating agencies.⁶ The

most recent being approved in Rate Order No. WAPA-129 (71 Fed. Reg. 16,572 (2006)).

⁴ Section 3 of the Delegation Order.

⁵ *Id.*

⁶ The power generating agencies include the Bureau of Reclamation, the Army

Commission may reject the rate determinations of Western's Administrator only if it finds them to be arbitrary, capricious, or in violation of the law, if they violate the Department of Energy regulations (e.g., Order No. RA 6120.2 which prescribes Western's financial reporting policies, procedures, and methodologies), or if they violate agreements between the Administrator and the applicable power generating agency. The Commission considers its role as that of an appellate body which reviews the record developed by the Administrator. In other words, the Commission only affirms or remands the rates submitted to it for final review.⁷

Discussion:

According to Western, the proposed formula rate for Rate Schedules PD-NTS2 and INT-NTS2 is unchanged from the previous formula rate. Western explains that various levels of difference exist between the existing and proposed Ancillary Services rates due to changes in the proposed rate methodologies.⁸ The existing rate for Scheduling, System Control, and Dispatch Ancillary Service under Rate Schedule DSW-SD2 differs from the existing methodology in its assessment of charges⁹ by tags instead of by schedules, and the elimination of multiple rates.¹⁰ The existing rate for Reactive Supply and Voltage Control from Generation Sources under Rate Schedule DSW-RS2 will decrease from \$0.05/kWmonth to \$0.043/kW month. The existing rate for

Corps of Engineers, and the International Boundary and Water Commission. These agencies build and operate various projects. The power marketing administrations market the output of the projects.

⁷ See, e.g., *U.S. Department of Energy- Western Area Power Administration (Boulder Canyon Project)*, 61 FERC 61,229 at 61,844 (1992), *aff'd in relevant respects*, *Overton Power District No. 5 v. Watkins*, 829 F. Supp. 1523, (D. Nevada 1993), *vacated and remanded with directions to dismiss*, *Overton Power District No. 5 v. O'Leary*, 73 F. 3d 253 (9th Cir. 1996); *United States Department of Energy- Western Area Power Administration (Salt Lake City Area Integrated Projects)*, 59 FERC 61,058 at 61,240-41 & nn. 17&20, *reh'g denied*, 60 FERC 61,002 (1992).

⁸ The application states that, the proposed rates for Ancillary Services are designed to recover only the costs associated with providing the service(s).

⁹ Proposed rate per tag for DSW-SD2 is \$18.55 for all applicable transactions.

¹⁰ Ranging from \$51.10 to \$75.26.

Regulation and Frequency Response Service under Rate Schedule DSW-FR2 is based on a capacity rate and the proposed rate is similar to the existing rate but instead of using the capacity rate of the project for short term sales, the rate is specified at 0.2049 mills/kWh. Those charges include regulation purchased on the open market plus the cost to obtain and monitor the service. The proposed rate schedule also defines non-conforming loads and charges for these loads. The methodology for Energy Imbalance Service for the proposed rate under Rate Schedule DSW-EI2 differs in several ways: (1) the bandwidth differs for on and off peak, (2) the minimum load differs for over and under deliveries and, (3) the settlement is based on a market index rather than a penalty. Rate Schedules DSW-SPR2¹¹ and DSW-SUR2¹² methodology does not differ from the existing rate methodology, except that the charge associated with procuring and supplying the service is the capacity rate of the project supplying the service under the existing methodology and the cost to procure the service on the open market under the proposed rate methodology.

By statute,¹³ Western must repay the Federal investment from power revenues within a reasonable period of time, which as a general practice is 50 years. Our review of Western's Power Repayment Study (PRS) indicates that revenues to be collected under the proposed rates will be sufficient to recover Western's costs of producing and transmitting the power and energy, including the recovery of the remaining Federal investment, with interest, over the remaining repayment period. Our review also indicates that the PRS was prepared in a manner consistent with Order No. RA 6120.2 which requires that Western's system financial statements must be prepared in accordance with generally accepted accounting principles, as appropriate, and that its PRS be prepared using sound forecasting techniques designed to approximate as closely as possible actual results. Moreover, since the revenues generated by the proposed rates recover no more than Western's annual costs and the remaining Federal investment, the rates are the lowest possible to customers.

The Commission's review indicates that the proposed rates will ensure Western will be able to meet its financial obligations. Therefore, the proposed rates are confirmed and approved as requested.

¹¹ Operating Reserves-Spinning Reserve Service.

¹² Operating Reserves-Supplemental Reserve Service.

¹³ 16 U.S.C. § 825s (2000).

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The Director:

Confirms and approves on a final basis Western's proposed Rate Schedules, as listed in the body of this order, for the period of July 1, 2006, through June 30, 2011.

Authorities:

This action is taken pursuant to the authority delegated to the Director, Division of Tariffs and Market Development- Central, under 18 C.F.R. § 375.307 of the Commission's Regulations. This order constitutes final agency action. Requests for rehearing by the Commission may be filed within 30 days of the date of issuance of this order, pursuant to 18 C.F.R. § 385.713.

Michael C. McLaughlin, Director
Division of Tariffs and Market Development - Central