

UNITED STATES OF AMERICA 110 FERC ¶62,084  
FEDERAL ENERGY REGULATORY COMMISSION

United States Department of Energy  
Western Area Power Administration  
Loveland Area Projects

Docket No. EF04-5182-000

ORDER CONFIRMING AND APPROVING RATE SCHEDULES  
ON A FINAL BASIS

(Issued January 31, 2005)

Summary:

On January 2, 2004, the Deputy Secretary of Energy (Deputy Secretary) requested final confirmation and approval of the Western Area Power Administration's (Western) formula rates<sup>1</sup> for firm and non-firm transmission on the Loveland Area Projects (LAP) transmission system<sup>2</sup> and for ancillary services for the Western Area Colorado Missouri control area (WACM).<sup>3</sup> The Deputy

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<sup>1</sup> Consisting of formula rates under Rate Schedules L-NT1, and L-FPT1 for firm transmission over the LAP transmission system; L-NFPT1 for non-firm transmission over the LAP transmission system; and L-AS1, L-AS2, L-AS3, L-AS4, L-AS5, L-AS6, and L-AS7 for ancillary services for the WACM control area.

<sup>2</sup>LAP is comprised of two power projects: Pick-Sloan Missouri Basin Program-Western Division (P-SMBP-WD) and the Fryingpan-Arkansas Project (Fryingpan-Arkansas). The two projects were integrated for operational and marketing purposes in 1989. LAP serves federal and transmission customers in a four-state area, over a transmission system of approximately 3,473 miles (5,589 circuit kilometers) and 79 substations.

<sup>3</sup> This control area represents a combination of some Colorado River Storage Project generation resources and all of the LAP generation resources.

Secretary placed the rates into effect on an interim basis effective March 1, 2004,<sup>4</sup> and requests final confirmation and approval of the rates for the period March 1, 2004, and ending February 28, 2009.<sup>5</sup>

Western contends that the proposed formula rates are based on a revenue requirement that will provide sufficient revenue to pay all annual costs, including interest expense, and repayment of the required investment within the allowable repayment period. This order will benefit customers because it ensures that the formula rates are consistent with applicable law and they are the lowest possible rates to customers consistent with sound business principles.

Notice of the application was published in the *Federal Register*, 69 Fed. Reg. 2,709 (2004), with comments, protests, or motions to intervene due on or before January 23, 2004. None were received. Notices of intervention and unopposed timely filed motions to intervene are granted pursuant to operation of Rule 214 of the Commission's Rule of Practice and Procedure (18 C.F.R. § 385.214). Any opposed or untimely filed 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,<sup>6</sup> 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 principles;

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<sup>4</sup> Rate Order No. WAPA-106, placing the rate schedules into effect on an interim basis, was issued on December 30, 2003, under authority delegated to the Deputy Secretary by Department of Energy Delegation Order No. 00-037.00 (Delegation Order).

<sup>5</sup> Rate Schedules L-NT1, L-FPT1, L-NFPT1, L-AS1, L-AS2, L-AS3, L-AS4, L-AS5, L-AS6, and L-AS7 supersede the present rate schedules, which were approved on a final basis in *United States Department of Energy – Western Area Power Administration (Loveland Area Projects)*, 84 FERC ¶ 61,066 (1998).

<sup>6</sup>Department of Energy Delegation Order No. 00-037.00, I FERC Stats. & Regs. ¶ 9,919 (2001).

- 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.<sup>7</sup>

The Commission is prohibited from reviewing policy judgments and interpretations of laws and regulations made by the power generating agencies.<sup>8</sup> The 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 Department of Energy regulations (e.g., Department of Energy Order No. RA 6120.2, which prescribes financial reporting policies, procedures, and methodologies), or if they violate agreements between Western's 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 does not develop a record on its own. Consequently, the Commission only affirms or remands the rates submitted to it for final review.<sup>9</sup>

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

<sup>8</sup>The power generating agencies include the Bureau of Reclamation, the Army Corps of Engineers, and the International Boundary and Water Commission. These agencies build and operate various projects. The Power Marketing Administrations, such as Western, market the output of the projects.

<sup>9</sup>*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, et al. v. Watkins, et al.*, 829 F. Supp. 1523 (D. Nevada 1993), *vacated and remanded with directions to dismiss, Overton Power District No. 5, et al. v. O'Leary, et al.*, 73 F. 3d 253 (1996); *U.S. Department of Energy - Western Area Power Administration (Salt Lake City Area Integrated Projects)*, 59 FERC ¶ 61,058 at 61,240-41 & nn17 and 20, *reh'g denied*, 60 FERC ¶ 61,002 (1992).

Discussion:

In this filing, Western requests continuation of the current LAP transmission rates and approval of changes for the formula-based rates for ancillary services. The rates for these services will be recalculated each year to incorporate the most recent financial and load information and will be applicable to all transmission and ancillary services customers. Western explains that the proposed formula rates for transmission and ancillary services will be applied under existing transmission contracts and Western's Open Access Transmission Service Tariff (OATT). Western notes that they have two existing rate schedules for ancillary services outside its OATT that were approved for short-term service by Western's Administrator.<sup>10</sup>

By statute,<sup>11</sup> Western must repay the federal investment 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 the revenues to be collected under the proposed rates will be sufficient to recover Western's costs, including the recovery of the remaining federal investment, with interest, over the remaining repayment period. 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. Our review also indicates that the PRS was prepared in a manner consistent with Department of Energy Order No. RA 6120.2, which requires that Western's 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.

The Commission's review indicates the proposed formula rates will ensure Western will be able to meet its financial obligations. Therefore, the proposed

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<sup>10</sup> The subject rate schedules are: L-L01, Transmission Losses Service, effective October 8, 2000, and L-US1, Unauthorized use of Transmission and Control Area Services, effective June 15, 2001. These rates, as well as those under the OATT and listed above, were extended through March 31, 2004. Western intends to replace existing L-L01 with rate schedule L-AS7 in this rate case. Western notes that existing rate schedule L-US1 has been incorporated into revised rate schedules L-FPT1, L-NFPT1, and L-AS2. Rate Schedule L-US1 will terminate upon the effective date of this order.

<sup>11</sup> 46 U.S.C. § 825s (2000).

Docket No. EF04-5182-000

5

rates are confirmed and approved as requested.

The Director:

Confirms and approves on a final basis Western's proposed Rate Schedules L-NT1, and L-FPT1 for firm transmission over the LAP transmission system; L-NFPT1 for non-firm transmission over the LAP transmission system; and L-AS1, L-AS2, L-AS3, L-AS4, L-AS5, L-AS6, and L-AS7 for ancillary services for the WACM control area for the period March 1, 2004 through February 28, 2009.

Authorities:

This action is taken pursuant to authority delegated to the Director, Division of Tariffs and Market Development – West, 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.

Jamie L. Simler  
Director  
Division of Tariffs and Market Development – West