

131 FERC ¶ 62,247  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

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

Docket No. EF10-1-000

ORDER CONFIRMING AND APPROVING RATE SCHEDULE  
ON A FINAL BASIS

(Issued June 18, 2010)

Summary

On December 16, 2009, the Deputy Secretary of Energy (Deputy Secretary) filed a request for final confirmation and approval of Western Area Power Administration's (Western) Rate Schedule L-F9 for the sale of firm electric power from Western's Loveland Area Projects (LAP).<sup>1</sup> The Deputy Secretary placed the rates into effect on an interim basis effective January 1, 2010,<sup>2</sup> and requests final confirmation and approval of the rates for the period January 1, 2010 through December 31, 2014.<sup>3</sup> According to the application, Western will establish its firm electric and firm peaking service revenue requirements using a Base component (Base) and a Drought Adder component (Drought Adder). Western proposes to increase revenues from approximately \$75.9 million per year to \$84.5 million per year.

Western maintains that the proposed rates will provide sufficient revenue to pay

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<sup>1</sup> The LAP consists of the Pick-Sloan Missouri Basin Program, Western Division and the Fryingpan-Arkansas Project (Fry-Ark), which have been integrated under Western's Post-1989 marketing plan. The Fry-Ark is a multipurpose, trans-Continental Divide water diversion development in central and southeastern Colorado.

<sup>2</sup> Rate Order No. WAPA-146, placing the rate schedule into effect on an interim basis, was issued on December 14, 2009 under authority delegated to the Deputy Secretary by Department of Energy Delegation Order Nos. 00-037.00 and 00-001.00C (Delegation Orders).

<sup>3</sup> Rate Schedule L-F9 supersedes the present rate schedule, Rate Schedule L-F8, which was approved on a final basis in *United States Department of Energy – Western Area Power Administration (Loveland Area Projects)*, 127 FERC ¶ 62,245 (2009).

all annual costs, including interest expenses, and repay power investment and irrigation aid within the allowable periods.

Notice of the application was published in the *Federal Register*, 75 Fed. Reg. 1,050 (2010), with comments, protests, or motions to intervene due on or before January 15, 2010. 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>4</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;
- 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>5</sup>

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

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<sup>4</sup> Section 3 of the Delegation Orders.

<sup>5</sup> *Id.*

<sup>6</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.

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>7</sup>

#### Discussion:

The current Power Repayment Studies (PRSs) indicate that the existing rates do not yield sufficient revenue to satisfy the cost-recovery criteria through the study period. The existing firm electric service Rate Schedule L-F8 is being superseded by Rate Schedule L-F9. Under the current Rate Schedule L-F8, the rates for LAP firm electric services result in a combined composite rate of 37.24 mills/kWh. The firm energy rate component is 18.62 mills/kWh (a Base of 12.23 mills/kWh and a Drought Adder of 6.39 mills/kWh) and the capacity rate is \$4.88/kWmonth (a Base component of \$3.21/kWmonth and a Drought Adder of \$1.67/kWmonth). Under proposed Rate Schedule L-F9, the rates for LAP firm electric services will result in a combined composite rate of 41.42 mills/kWh. The firm energy rate will be 20.71 mills/kWh (a Base of 12.54 mills/kWh and a Drought Adder of 8.17 mills/kWh) and the capacity rate will be \$5.43/kWmonth (a Base component of \$3.29/kWmonth and a Drought Adder of \$2.14/kWmonth). This will result in an increase of 11.2 percent when compared with the existing LAP firm power rate under Rate Schedule L-F8. Under the proposed rates, revenues will increase from approximately \$75.9 million per year to \$84.5 million per year. According to Western, the need for an increase in firm electric service revenues is primarily a result of increases in annual expenses due to extended drought conditions.

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<sup>7</sup> *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 (1996); *U.S. 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).

By statute,<sup>8</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 PRSs indicate 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 PRSs were 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 PRSs are prepared using sound forecasting techniques designed to approximate as closely as possible actual results.

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

The Director:

Confirms and approves on a final basis Western's proposed Rate Schedule L-F9 for the period January 1, 2010 through December 31, 2014.

Authorities:

This action is taken pursuant to authority delegated to the Director, Division of Electric Power Regulation -- 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.

Sincerely,

Penny Murrell, Director  
Division of Electric Power  
Regulation -- Central

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<sup>8</sup> 16 U.S.C. § 825s (2006).

Document Content(s)

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