

UNITED STATES OF AMERICA 137 FERC ¶ 62,200
FEDERAL ENERGY REGULATORY COMMISSION

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

Docket No. EF11-10-000

ORDER CONFIRMING AND APPROVING RATE SCHEDULES
ON A FINAL BASIS

(December 2, 2011)

Summary:

On September 7, 2011, the Deputy Secretary of Energy (Deputy Secretary) filed a request for final confirmation and approval of Western Area Power Administration's (Western) formula rates¹ for firm and non-firm transmission on the LAP transmission system² and for ancillary services for the Western Area Colorado Missouri Control Area (WACM).³ The Deputy Secretary placed the rates into effect on an interim basis to be effective October 1, 2011,⁴ and requests final confirmation and approval of the rates for

¹ Consisting of formula rates under Rate Schedules L-NT1 and L-FPT1 for firm transmission over the Loveland Area Project (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, L-AS7, L-AS9, and L-UU1 for ancillary services for the Western Area Colorado Missouri Control Area.

² The 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 3,452 miles and 74 substations.

³ The WACM represents a combination of some Colorado River Storage Project generation resources and all of the LAP generation resources.

⁴ Rate Order No. WAPA-155, placing the rate schedules into effect on an interim
(continued)

the period October 1, 2011, through September 30, 2016.⁵

In addition, Western requests waiver of the Commission's requirements set forth in 18 C.F.R. §§ 300.11, 300.12(b), and 300.12(c) to file Statements A through F, a Power Repayment Study (PRS), and a Cost of Service Study, respectively. Western states that the rates addressed in Rate Order No. WAPA-155 (Rate Order) are formula rates for transmission and ancillary services, are not generated through a PRS, and are designed to recover annual costs to provide specific services. Therefore, Western states that Statements A-F and the PRS do not have a direct relationship to these rates. Also, Western states that the Rate Order discusses in detail the methodologies used to generate the revenue requirements to recover costs for these formula rates. Therefore, Western states that the requirement to provide a Cost of Service Study does not apply since these are formula rates.

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

Notice of the application was published in the *Federal Register*, 76 Fed. Reg. 58,805 (2011), with comments, protests, or motions to intervene due on or before October 7, 2011. 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,⁶ and established the scope of

basis, was issued on September 2, 2011, under authority delegated to the Deputy Secretary by Department of Energy Delegation Order Nos. 00-037.00 and 00-001.00C (Delegation Orders).

⁵ Rate Schedules L-NT1, L-FPT1, L-NFPT1, L-AS1, L-AS2, L-AS3, L-AS4, L-AS5, L-AS6, L-AS7, L-AS9, and L-UU1 supersedes the present rate schedules, which were approved on a final basis in *United States Department of Energy – Western Area Power Administration (Loveland Area Projects)*, 110 FERC ¶ 62,084 (2005).

⁶ Section 3 of the Delegation Orders.

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.⁷

The Commission is prohibited from reviewing policy judgments and interpretations of laws and regulations made by the power generating agencies.⁸ 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.⁹

⁷ *Id.*

⁸ 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.

⁹ *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).

Discussion:

According to Western, Rate Schedules L-NT1, L-FPT1, and L-NFPT1 for LAP transmission services are based on a revenue requirement that covers the LAP transmission costs for facilities associated with providing all transmission services as well as the non-transmission facility costs allocated to transmission services. Western explains that these firm and non-firm LAP transmission service rates include the costs for scheduling, system control, and dispatch service needed to provide the transmission service. Rate Schedule L-UU1, Unreserved Use Penalties, is a new rate schedule established in accordance with Western's Open Access Transmission Tariff (OATT). This rate will cover costs for transmission service that has not been reserved or has been used in excess of the amount reserved. Western further explains that Rate Schedule L-UU1 also provides for a penalty in addition to the base charge for the transmission service used. Previously, a penalty for unauthorized use of transmission was included in the Point-to-Point Transmission Service, Rate Schedules L-FPT1 and L-NFPT1. Rate Schedule L-AS7, Transmission Losses Service, is designed to recover losses on all real-time and prescheduled transactions on transmission facilities inside WACM. In addition, Western proposes to provide seven ancillary services pursuant to its OATT. Among those services, Generator Imbalance Service is a new rate schedule established under the OATT. Currently, Generator Imbalance Service is provided under Rate Schedule L-AS4, Energy Imbalance Service. Western states that the rates for LAP transmission and ancillary services will be recalculated each year to incorporate the most recent financial, load and schedule information and will be applicable to all transmission and ancillary services customers.

By statute,¹⁰ Western must repay the federal investment within a reasonable period of time, which as a general practice is 50 years. Our review indicates that the revenues to be collected under the proposed formula 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 rate recover no more than Western's annual costs and the remaining federal investment, the rate is the lowest possible to customers. Our review also indicates that the submittal 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 repayment analyses be prepared using sound forecasting techniques designed to approximate as closely as possible actual results.

¹⁰ 16 U.S.C. § 825s (2006).

Docket No. EF11-10-000

- 5 -

The Commission's review indicates the proposed rates will ensure Western will be able to meet its financial obligations. Western's request for waiver to file Statements A through F, PRS, and a Cost of Service Study, respectively is granted. The Commission finds that Western has shown good cause for granting waiver. Therefore, the proposed rates are confirmed and approved as requested.

The Director:

Confirms and approves on a final basis Western's proposed Rate Schedules L-NT1, L-FPT1, L-NFPT1, L-AS1, L-AS2, L-AS3, L-AS4, L-AS5, L-AS6, L-AS7, L-AS9, and L-UU1 for transmission service for the LAP and for ancillary services for the WACM for the period October 1, 2011, through September 30, 2016.

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 S. Murrell, Director
Division of Electric Power
Regulation -- Central

Document Content(s)

EF11-10-000.DOC.....1-5