

**Parker-Davis Project Firm Electric Service Contract Draft Amendment  
Responses to Comments  
Received After October 27, 2003**

**Comment:** Two Western customers indicated a concern over amendment language of subsection 2.4 of the FES Amendment, specifically the request to use the word “prepayment” rather than “advance funding” or “payment in advance”.

**Response:** Western recognizes the sensitivity of some customers to the use of “prepayment” wording in the FES Amendment. As presented in the November 4, 2003 customer meeting, Western will adopt the “payment in advance” language for the FES Amendment.

**Comment:** Two Western customers have made mention of a “one-month” or “one-time” advance of transmission payment for OM&R.

**Response:** As presented in the November 4, 2003 customer meeting, Western proposes a two-month transition period at the beginning of the fiscal year to implement advance payment of Firm Electric Service, which includes both the generation and transmission charges associated with that service. Payments in advance for FES service would be made on a monthly basis thereafter.

**Comment:** Two entities interested in acquiring a P-DP allocation have commented that they have no objections to advance funding of OM&R expenses.

**Response:** Western appreciates and concurs with the comments.

**Comment:** The language in subsection 5.2 should be modified to reflect the current process Western utilizes in allowing P-DP contractors to exchange energy from month to month so long as Western can accommodate such requests.

**Response:** The contract language that provides the basis for the P-DP Resource Integration Exchange program is contained in subsection 5.2 when it says that “The Monthly Energy obligations may be increased from time to time at Western’s discretion, if short-term conditions allow.” The Monthly Energy obligations to the contractor are set forth in Exhibit A, which is attached to the FES contract. All energy exchanges made through the P-DP Resource Integration Exchange program result in a revised exhibit A. The FES Amendment No. 1 does not change or modify the Resource Integration Exchange program. Therefore, Western does not believe it is necessary to modify subsection 5.2.

**Comment:** What is the purpose of the sentences regarding “additional facilities”, as stated in the “Point(s) of Delivery, Voltage(s), and Loss Adjustments” subsection of the FES amendment?

**Response:** If a P-DP contractor utilizes the transmission facilities located in the substation of another Western project in order to take delivery of their P-DP Firm Electric Service, and does not pay for transmission service on that project, then the contractor shall be subject to a monthly charge for use of the additional transmission facilities of that project necessary for P-DP FES delivery. For example, the City of Needles pays a monthly charge to the Intertie project for the use of the Mead substation bus, over which Needles takes delivery of their P-DP Firm Electric Service. The Town of Fredonia, which pays for CRSP transmission service, would not be required to pay this “additional facilities” charge. This charge for the use of “additional facilities” is not intended as an alternative to paying for transmission service.

**Comment:** The section of the FES amendment regarding Excess Energy should be modified to read as follows:

“Western shall submit bills and the Contractor shall pay for Excess Energy in accordance with Section 6 of this Amendment and the currently effective Energy Charge as set forth on Western’s Wholesale Firm Electric Service Rate Schedule, as may be revised from time to time.”

**Response:** The purpose of including the section regarding Excess Energy in the FES amendment was to alleviate the administrative burden of developing and maintaining separate Excess Energy agreements with each FES customer. As a result of other comments received regarding the language of this section, Western has decided to delete this section from the FES amendment and will continue to operate the Excess Energy program as we do currently.

**Comment:** Will CRSP electric service customers who utilize the P-DP transmission system for delivery of their CRSP FES, be required to advance fund that P-DP transmission service?

**Response:** The only requirement for advance funding of transmission under the P-DP FES amendment is for transmission service associated with delivery of a customer’s P-DP FES allocation.

**Comment:** Western is currently evaluating the merging of the P-DP and Intertie Transmission systems, as well as several others, for rate-making purposes. What effect will this have on the FES contracts, the AOF contracts, and this amendment?

**Response:** The Multi-System Transmission Rate (MSTR) combines the individual project revenue requirements for rate setting. However, the individual projects are not “merged” and will continue to be accounted for separately. The results of a rate setting process are published in a Rate Schedule, which then serves as the basis for billing for services provided under a contract. The process used for setting rates would not result in a modification to the contract language in the FES contracts, the FES amendment, or the AOF contracts.

**Comment:** How will the rate-making process dovetail with advance funding under the AOF Contract, given the guideline for allocation of advance funding requirements and the rate making process, i.e. “advance funds will not be greater than what would have otherwise been paid in rates.” The processes needed to make all this work have not been completely ironed out.

**Response:** The results of the AOF Contract Funding Board deliberations are considered in the rates setting process. The Governing Principle set forth in section 11.18 of the AOF Contract that “...a Funding Party will have advanced no more under this [AOF] Contract than it would otherwise have paid in rates for that Funding Year” was established to recognize that the Funding Parties advance-fund based on the gross revenue requirement and that distributions from the Generation Escrow Account were to be used to ensure that, within two years, the cash out of pocket for a Funding Party would be the same as if they had been paying a power bill without advance funding. The AOF Contract Governing Principle does not pertain to the design or implementation of rates.

Western agrees that there are many interrelated planning and funding processes that must work together. Western is committed to working with the customers, as we have in the past, to ensure that the desired outcome is achieved and that the results are understandable by all parties.

**Comment:** The Town of Fredonia has a 20-year firm transmission service contract that expires on September 30, 2008. Will Western be amenable to extending this contract and will it be by amendment or issuance of a new contract? If done by amendment, can that be done in conjunction with the Amendment to the P-DP contract?

**Response:** P-DP Firm Electric Service is marketed as a bundled product, which includes transmission to any point of delivery on the P-DP transmission system. This Firm Electric Service Amendment process is not intended to address the extension or issuance of Firm Transmission Service contracts required for delivery beyond the P-DP transmission system. However, outside of the FES amendment process, Western will work with the Town of Fredonia on their transmission needs.

**Comment:** Since the design, construction, and installation of facilities are usually accomplished pursuant to contracts other than a power delivery contract, the Facilities Provisions of the General Power Contract Provisions should be made inapplicable to the P-DP FES contract.

**Response:** The General Power Contract Provisions are intended to be a comprehensive list of provisions which may apply to Western contracts, but the provisions only apply to the contract to the extent that they are applicable. Western will ensure that the “as applicable” concept is worked into the section of the FES Amendment incorporating the GPCPs. In addition, if there is a conflict between the language of a Western contract and the GPCPs, the language in the contract takes priority.

**Comment:** As it is not Western’s intention to amend the Generation AOF contract by implication or otherwise by way of the FES amendment, there is no need for a “no effects” provision in the amendment. Changes to the multi-lateral Generation AOF Contract should only be made directly and expressly in an amendment to that contract signed by all its Parties, and we are willing to join with Western and the other parties of the Generation AOF Contract in conducting a thorough review of its provisions.

**Response:** Western concurs.

**Comment:** The Excess Energy section of the FES amendment should be revised to include the right of first offer to excess capacity or energy for FES contractors from subsection 11.14 of Western’s P-DP AOF Contract.

**Response:** There is no intention to amend the Generation AOF contract by implication or otherwise by way of the FES amendment. Conversely, the FES Contract as amended is independent of and shall not be subordinate to any other contract. The FES Contract currently provides for the Excess Energy Program and Western does not intend to change or modify the way that excess energy is currently offered to the P-DP customers. The purpose of including the section regarding Excess Energy in the FES amendment was to alleviate the administrative burden of maintaining separate Excess Energy agreements with each FES customer. As there is a perceived conflict between the language contained in the AOF Contract and the FES amendment, Western will delete the Excess Energy section from the FES amendment and will continue to operate the Excess Energy program as we do currently.

**Comment:** The FES amendment should cite October 1, 2004 as the effective date of the amendment rather than “the first day of the Federal fiscal year following the effective date of this Amendment”. Western can provide different effective dates for those entities executing after that date.

**Response:** Western believes the current language of this section allows sufficient flexibility to accommodate all customers.

**Comment:** Western should agree to:

- Perform cash-flow analysis on a routine basis;
- Conduct meetings so customers have time to plan in advance for their fiscal requirements;
- Make adjustments to advances not more than annually and give customers time to react.

**Response:** Western agrees that all Parker-Davis Project power recipients should be given an opportunity to be involved each year in the development of Reclamation's and Western's annual funding requirements in a series of working sessions that take place throughout the year. Comments and information received from the customers will be considered in the planning and rates processes.

**Comment:** Western should commit to negotiate with and involve the P-DP FES customers in the creation of an MSI to implement the operation of the P-DP 2008 contract, its provisions on advance funding and other provisions of the P-DP contract. The ambiguous provisions of the P-DP contract concerning advance funding must be reconciled in the MSI by negotiations with the customers. The MSI should be reviewed on a bi-annual basis.

**Response:** The MSI is an implementing instruction that does not amend or modify the terms and conditions of the contract. Preparation of the MSI is not the place to negotiate terms and conditions. Western agrees that the MSI should be reviewed on a periodic basis to ensure that the implementing instructions are still current.

**Comment:** Customers could be asked to make a 1-month advance of transmission OM&R payment to Western one time. The amount and frequency of such advances needs to be discussed and resolved.

**Response:** The P-DP FES amendment provides for advance funding for all components of firm electric service, including both generation and transmission. There will be a two month transition period of double payments in order to shift the payment from after the month of service to payment in advance of receiving service. Once the payment shift has been accomplished, the payment in advance of receiving firm electric service will take place each month thereafter.

**Comment:** Customers can agree to fund present core activities and staffing with this advance, including normal escalation. For other activities that are not core to providing firm electric service, they should be presented annually or more frequently to the customers for consideration. The customers should be given a choice to fund other activities that are not core to firm electric service.

**Response:** Both Western and Reclamation need the assurance that the core base activities and staffing will be paid for in advance, including normal escalation. New activities that are not part of the base funding program or very large increases to O&M can be identified separately to the customers for consideration.

**Comment:** If customers object to advance funding certain activities, Western and Reclamation can either

- Agree and not perform the activity, or
- Disagree and opt to seek appropriations; and follow the normal rate setting process, or
- Disagree and fund the activity with advances; and follow the normal rate setting process.

**Response:** These are the options. If the Federal agencies seek appropriations, the customers can support or oppose the appropriations request. In addition, the customers always have the option to appeal during the rates process if they disagree with the activities that are included in the rates.

**Comment:** Western must not change the process for determining rates and must establish rates in the normal fashion, from which Western decision customers can appeal.

**Response:** Western is not proposing a change to the rate setting process.

**Comment:** Western must agree that by utilizing the 1-month advance as forward funding, it will be reducing future appropriations requests appropriately.

**Response:** Western is implementing advance funding as a direct result of declining appropriations.

**Comment:** A process for planning and funding transmission construction projects was presented.

**Response:** Many of the comments about a process for funding transmission construction projects may be very useful. These comments and recommendations will be addressed if and when a contract is negotiated for advance funding of capitalized construction projects. However, the P-DP FES contract amendment only provides for advance customer funding for annual O&M expenses, not capitalized construction projects.