

158 FERC ¶ 62,181
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Docket Nos. EF16-5-000 and
EF16-5-001

ORDER CONFIRMING AND APPROVING RATE SCHEDULES
ON A FINAL BASIS

(March 9, 2017)

Summary:

On August 17, 2016 (in Docket No. EF16-5-000), as amended on December 5, 2016 (in Docket No. EF16-5-001), the Deputy Secretary of Energy (Deputy Secretary) filed a request for final confirmation and approval of 13 rate schedules from the Western Area Power Administration (Western).¹ Western's filing is comprised of formula rates²

¹ Western Area Power Administration, FERC FPA Electric Tariff, Rate Schedules, [WACM Scheduling Rate, WACM Scheduling Rate, 1.0.0](#); [WACM Reactive Supply Rate, WACM Reactive Supply Rate, 1.0.0](#); [WACM Regulation Rate, WACM Regulation Rate, 1.0.0](#); [WACM Energy Imbalance Rate, WACM Energy Imbalance Rate, 1.0.0](#); [WACM Reserves-Spinning, WACM Reserves-Spinning, 1.0.0](#); [WACM Reserves-Supplemental, WACM Reserves-Supplemental, 1.0.0](#); [WACM Transmission Losses, WACM Transmission Losses, 1.0.0](#); [LAP Firm Transmission, LAP Firm Transmission, 1.0.0](#); [LAP Non-Firm Transmission, LAP Non-Firm Transmission, 1.0.0](#); [LAP Network Transmission, LAP Network Transmission, 1.0.0](#); [WACM Generator Imbalance, WACM Generator Imbalance, 1.0.0](#); [LAP Unreserved Use, LAP Unreserved Use, 1.0.0](#); [WACM LAP CRSP Rates 2016, WACM LAP CRSP Rates 2016, 1.0.0](#); [Sales of Surplus Products, Sales of Surplus Products, 0.0.0](#); [Reactive Sup and Voltage, Reactive Sup and Voltage, 2.0.0](#); [Sys Control and Dispatch, Sys Control and Dispatch, 2.0.0](#); [Reg and Freq Response, Reg and Freq Response, 2.0.0](#).

² Consisting of formula rates under Rate Schedules L-NT1 and L-FPT1 for firm transmission over the Loveland Area Project (LAP) transmission system; Rate Schedule
(continued)

for the LAP³ transmission system; Colorado River Storage Project (CRSP), LAP, and Western Area Colorado Missouri Balancing Authority (WACM)⁴ ancillary services; WACM transmission losses, and LAP sales of surplus products for Western's Rocky Mountain Region (Western-RMR). In Rate Order No. WAPA-174 (Rate Order), the Deputy Secretary placed the rates into effect on an interim basis to be effective October 1, 2016.⁵ The Deputy Secretary requests final confirmation and approval of the rates for the period October 1, 2016, through September 30, 2021.⁶

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 the 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 through 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

L-NFPT1 for non-firm transmission over the LAP transmission system; Rate Schedule L-UU1 for unreserved use penalties; Rate Schedule L-M1 for sales of surplus products; and Rate Schedules L-AS1, L-AS2, L-AS3, L-AS4, L-AS5, L-AS6, L-AS7, and L-AS9 for ancillary services for the Western Area Colorado Missouri Control Area.

³ 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.

⁴ The WACM represents a combination of some Colorado River Storage Project generation resources and all of the LAP generation resources.

⁵ Rate Order No. WAPA-174 was issued on August 12, 2016, under authority delegated to the Deputy Secretary by Department of Energy Delegation Order Nos. 00-037.00A and 00-001.00F (Delegation Orders).

⁶ Rate Schedules L-NT1, L-FPT1, L-NFPT1, L-UU1, L-AS1, L-AS2, L-AS3, L-AS4, L-AS5, L-AS6, L-AS7, L-AS9, and L-M1 supersede the present rate schedules, which were approved on a final basis in *U.S. Dept. of Energy – Western Area Power Admin. (Loveland Area Projects)*, 137 FERC ¶ 62,200 (2011).

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 applicable power investment within the allowable repayment periods.

Notice of Western's August 26, 2016, filing was published in the *Federal Register*, 81 Fed. Reg. 60,693 (2016), with comments, protests, or motions to intervene due on or before September 16, 2016. No responsive filings were received. Notice of Western's December 5, 2016, filing was published in the *Federal Register*, 81 Fed. Reg. 89,456 (2016), with comments, protests, or motions to intervene due on or before January 4, 2017. 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,⁷ and established the scope of Commission review. According to Section 3 of the Delegation Orders, 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.⁸

⁷ Section 3 of the Delegation Orders.

⁸ *Id.*

The Commission is prohibited from reviewing policy judgments and interpretations of laws and regulations made by the power generating agencies.⁹ 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.¹⁰

Discussion:

According to Western, under the existing formula rate schedules, approved under Rate Order No. WAPA-155,¹¹ charges are recalculated annually using updated financial and load information, as applicable. The proposed formula rates continue this same approach.

Western states that in the instant filing it: (1) modified the forward-looking transmission rate methodology; (2) modified the rate designs under Rate Schedules L-FPT1, L-AS2, and L-AS3; (3) clarified language in all existing rate schedule; and (4) implemented a new formula rate schedule for sales of surplus products, Rate Schedule L-

⁹ 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.

¹⁰ *U.S. Dept. of Energy – Western Area Power Admin. (Boulder Canyon Project)*, 61 FERC ¶ 61,229 at 61,844 (1992), *aff'd in relevant respects sub nom. Overton Power District No. 5 v. Watkins*, 829 F. Supp. 1523 (D. Nevada 1993), *vacated and remanded with directions to dismiss sub nom. Overton Power District No. 5 v. O'Leary*, 73 F.3d 253 (1996); *U.S. Dept. of Energy – Western Area Power Admin. (Salt Lake City Area Integrated Projects)*, 59 FERC ¶ 61,058 at 61,240 41 & nn.17 & 20 (1992), *reh'g denied*, 60 FERC ¶ 61,002 (1992).

¹¹ *See* 137 FERC ¶ 62,200 (2011).

M1. Western notes that the charges under the applicable formula rates are calculated annually in early summer; therefore, Western-RMR was unable to provide the specific charges for FY 2017 during the rate process and in this Rate Order No. WAPA-174. Western-RMR commits that once calculated, FY 2017 charges will be posted to its websites.

By statute,¹² Western must repay the federal investment within a reasonable period of time, which as a general practice is 50 years.¹³ 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.

The Commission's review indicates the proposed rates will ensure Western will be able to meet its financial obligations. Western's request for waiver of the requirements to file Statements A through F, a PRS, and a Cost of Service Study 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-UU1, L-AS1, L-AS2, L-AS3, L-AS4, L-AS5, L-AS6, L-AS7, L-AS9, and L-M1 for transmission service for the LAP transmission system and for ancillary services for the WACM for the period October 1, 2016, through September 30, 2021. Docket No. EF16-5-000 is rejected as moot.

¹² 16 U.S.C. § 825s (2012).

¹³ See Department of Energy Order No. RA 6120.2.

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