

137 FERC ¶ 62,201  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

United States Department of Energy --  
Western Area Power Administration  
(Central Valley Project, California-Oregon Transmission  
Project, and Pacific Alternating Current Intertie)

Docket No. EF11-9-000

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) Rate Schedules CV-F13, CPP-2, CV-T3, CV-NWT5, COTP-T3, PACI-T3, CV-TPT7, CV-UUP1, CV-RFS4, CV-SPR4, CV-SUR4, CV-EID4, and CV-GID1<sup>1</sup> applicable to the sale of power, transmission, and ancillary services for the Central Valley Project (CVP),<sup>2</sup> the California-Oregon Transmission Project (COTP),<sup>3</sup> the Pacific

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<sup>1</sup> Rate Schedule CV-F13 (base resource and first preference power); Rate Schedule CPP-2 (custom product power); Rate Schedule CV-T3 (firm and non-firm point-to-point transmission service); Rate Schedule CV-NWT5 (network integration transmission service); Rate Schedule COTP-T3 (firm and non-firm point-to-point transmission service); Rate Schedule PACI-T3 (firm and non-firm point-to-point transmission service); Rate Schedule CV-TPT7 (third party transmission service); Rate Schedule CV-UUP1 (unreserved use penalties); Rate Schedule CV-RFS4 (regulation and frequency response); Rate Schedule CV-SPR4 (spinning reserves); Rate Schedule CV-SUR4 (supplemental reserves); Rate Schedule CV-EID4 (energy imbalance service); and Rate Schedule CV-GID1(generator imbalance).

<sup>2</sup> The CVP consists of twelve multipurpose hydroelectric projects whose power output is sold to preference customers in the Central Valley of California.

<sup>3</sup> The COTP is a 342-mile, 500-kV transmission project that interconnects the Pacific Northwest to California by way of an alternating current intertie.

Alternating Current Intertie (PACI),<sup>4</sup> and third-party transmission. The Deputy Secretary placed the rates into effect on an interim basis effective October 1, 2011<sup>5</sup> and requests final confirmation and approval of the rates for the period October 1, 2011 through September 30, 2016.<sup>6</sup>

Western explains that current rates are not adequate to meet repayment criteria. Western further explains that the proposed formula rates are designed to yield approximately \$1.96 billion from October 2011 through September 2016. According to Western, the proposed formula rates<sup>7</sup> will provide sufficient revenue to pay its annual costs, including interest expense, and repay the Federal investment and provide irrigation aid, within the allowable period.

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. Calpine Corporation, the Cities of Redding, and Santa Clara, California, and the M-S-R Public Power Agency, Northern California Power Agency, and the Modesto Irrigation District filed timely Motions to Intervene, raising no substantive issues. 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

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<sup>4</sup> The PACI is a 500-kV transmission project of which Western owns a portion of the facilities.

<sup>5</sup> Rate Order No. WAPA-156, placing the rate schedules into effect on an interim basis, was issued on September 2, 2011, under authority delegated to the Deputy Secretary by Department of Energy Delegation Order No. 00-037.00 and 00-001.00C (Delegation Orders).

<sup>6</sup> These rate schedules will supersede the present rate schedules, which were confirmed and approved on a final basis in *United States Department of Energy – Western Area Power Administration, (Central Valley Project and California-Oregon Transmission Project, and Pacific Alternating Current Intertie)*, 113 FERC ¶ 61,026 (2005).

<sup>7</sup> The base resource and first preference power proposed formula rates (in Rate Schedule CV-F13) recover the power revenue requirement through percentages for each first preference and base resource customer. The power revenue requirement for first preference and base resource power is designed to return an annual amount of revenue to meet the repayment of operation and maintenance expenses, purchased power costs, replacements, interest expense, miscellaneous expenses, capital investment principal payments, and aid to irrigation.

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>8</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>9</sup>

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

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<sup>8</sup> Section 3 of the Delegation Orders.

<sup>9</sup> *Id.*

<sup>10</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.

remands the rates submitted to it for final review.<sup>11</sup>

Discussion:

Western states that prior to the start of each fiscal year, Western calculates and publishes an annual Power Revenue Requirement to determine the total cost of power to be allocated to Preference Customers. As part of the rate development, Western prepares a Power Repayment Study (PRS) each fiscal year to determine if the expected revenue will be sufficient to repay, within the required time periods, all costs assigned to power function.

In the instant filing, Western proposes to continue the previously approved existing formula rate methodologies for CVP, COTP, and PACI transmission; transmission of Western power by others; Custom Product Power (CPP); and ancillary services with the following summarized exceptions: (1) two new rate schedules: CV-UUP1 for unreserved use penalties and CV-GID1 for generator imbalance; (2) an annual true-up for first preference percentages; (3) in addition to the existing 150 percent penalty on the California Independent System Operator's (CAISO) market price, Western will adopt a 150 percent penalty on Western's actual cost when charging for ancillary services and will charge the greater of the two; (4) costs incurred under Energy Imbalance/Generator Imbalance when disposing of surplus energy, including negative pricing of such energy, will be charged to the responsible party; (5) for intermittent resources interconnected to Western's system, Western will not charge the 150 percent penalty and will charge the greater of CAISO market price or Western's actual cost; (6) the addition of components (2) and (3), standards rate recovery language, to the CPP formula rate; and (7) miscellaneous language changes and billing clarifications. Western maintains that the proposed rate methodologies will yield sufficient revenue to satisfy the cost-recovery criteria through the study period.

By statute,<sup>12</sup> Western must repay the federal investment from power revenues within a reasonable period of time, which as a general practice is 50 years. Our review of

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<sup>11</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).

<sup>12</sup> 16 U.S.C. § 825s (2006).

Western's PRS indicates that the revenues to be collected under the proposed rate will be sufficient to recover Western's costs, including 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 PRS was prepared in a manner consistent with Order No. RA 6120.2 which requires that Western's system financial statements must be prepared in accordance with generally accepted accounting principals, 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 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 Schedules CV-F13, CPP-2, CV-T3, CV-NWT5, COPT-T3, PACI-T3, CV-TPT7, CV-UUP1, CV-RFS4, CV-SPR4, CV-SUR4, CV-EID4, and CV-GID1 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