

168 FERC ¶ 62,150

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. EF19-4-000

ORDER CONFIRMING AND APPROVING RATE SCHEDULES
ON A FINAL BASIS

(September 12, 2019)

Summary:

On June 24, 2019, the Assistant Secretary for Electricity (Assistant Secretary) for the U.S. Department of Energy filed a request for final confirmation and approval an extension, without adjustment, Western Area Power Administration's (Western) Rate Schedules¹ applicable to the sale of power, transmission, and ancillary services for the

¹ 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 CVUUP1 (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). These rate schedules were previously approved on a final basis in *U.S. Dept. of Energy – Western Area Power Admin. (Central Valley Project, California-Oregon Transmission Project, and Pacific Alternating Current Intertie)*, 156 FERC ¶ 62,039 (2016).

Central Valley Project (CVP),² the California-Oregon Transmission Project (COTP),³ the Pacific Alternating Current Intertie (PACI),⁴ and third-party transmission. The Assistant Secretary placed the rate schedules into effect on an interim basis effective October 1, 2019,⁵ and requests final confirmation and approval through September 30, 2024.⁶

Notice of the submittal was published in the *Federal Register*.⁷ Comments, protests, or motions to intervene were due on or before July 16, 2019. The City of Redding, California; the City of Santa Clara, California; 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

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

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

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

⁵ Rate Order No. WAPA-185 placing the rate schedules into effect on an interim basis was issued on June 21, 2019, under the authority granted to the Assistant Secretary by Department of Energy Delegation Order Nos. 00-037.00B and 00-002.10D.

⁶ Western Area Power Administration, FERC FPA Electric Tariff, Rate Schedules, [CVP Power Rate, CVP Power Rate, 2.0.0](#), [Custom Product Rate, Custom Product Rate, 2.0.0](#), [CVP PTP Transmission Rate, CVP PTP Transmission Rate, 2.0.0](#), [CVP NITS Rate, CVP NITS Rate, 2.0.0](#), [COTP Transmission Rate, COTP Transmission Rate, 2.0.0](#), [PACI Transmission Rate, PACI Transmission Rate, 2.0.0](#), [3rd Party Trans. Rate, 3rd Party Trans. Rate, 2.0.0](#), [Unreserved Use Penalties, Unreserved Use Penalties, 2.0.0](#), [Spinning Reserve Rate, Spinning Reserve Rate, 2.0.0](#), [Supplemental Reserve Rate, Supplemental Reserve Rate, 2.0.0](#), [Reg & Freq Response Rate, Reg & Freq Response Rate, 2.0.0](#), [Energy Imbalance Rate, Energy Imbalance Rate, 2.0.0](#), [Generator Imbalance Rate, Generator Imbalance Rate, 2.0.0](#).

⁷ 84 Fed. Reg. 33,931 (2019).

Practice and Procedure.⁸ 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 Commission⁹ 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.¹⁰

The Commission is prohibited from reviewing policy judgments and interpretations of laws and regulations made by the power generating agencies.¹¹ The Commission may reject the rate determinations of the Administrator only if it finds them to be arbitrary, capricious, in violation of the law, in violation of Department of Energy regulations (e.g., Order No. RA 6120.2 which prescribes Western's financial reporting policies, procedures, and methodologies), or in violation of agreements between the Administrator and the applicable power generating agency. The Commission considers its role as that of an appellate body that reviews the record developed by the

⁸ 18 C.F.R. § 385.214 (2018).

⁹ See Section 1.3 of Department of Energy Delegation Order No. 00-037.00B.

¹⁰ *Id.*

¹¹ 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.

Administrator. In other words, the Commission only affirms or remands the rates submitted to it for final review.¹²

Discussion:

Western states that on December 12, 2018, it published a notice in the *Federal Register*¹³ in which it proposed to extend, without adjustment, the formula rates applied to existing CVP power, transmission, and ancillary services; COTP transmission service; PACI transmission service; and third-party transmission service.

Western states that the existing formula rates expire on September 30, 2019; therefore, it proposes to extend, without adjustment, previously approved Rate Schedules CV-F13, CPP2, CV-T3, CV-NWT5, COTP-T3, PACI-T3, CV-TPT7, CV-UUPI, CV-SPR4, CV-SUR4, CV-RFS4, CV-EID4, and CV-GIDI for the period October 1, 2019 through September 30, 2024. Western states that the rate extension makes no change to the existing formula rates. Western states that the rates and revenue requirements resulting from the approved formula rate methodologies are recalculated at least annually. Western contends that the existing formula rates provide sufficient revenue to repay all annual expenses, including interest expense, and to repay capital investments within allowable time, thus ensuring repayment within the cost recovery criteria set forth in Department of Energy Order No. RA 6120.2.

By statute,¹⁴ 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 indicates that the revenues collected under the existing rates will continue to 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 rate recover no more than Western's annual costs and the remaining federal investment, the rate is the lowest possible to customers.

¹² *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).

¹³ 83 Fed. Reg. 63,857 (2018)

¹⁴ 16 U.S.C. § 825s.

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The Commission's review indicates that Western's proposed rates are consistent with the standards by which they must be judged per standards of review delegated to the Commission by the Secretary of Energy. Therefore, they merit final confirmation and approval.

The Director:

Confirms and approves on a final basis an extension of Western's Rate Schedules CV-F13, CPP2, CV-T3, CV-NWT5, COTP-T3, PACI-T3, CV-TPT7, CV-UUPI, CV-SPR4, CV-SUR4, CV-RFS4, CV-EID4, and CV-GID1 for the period October 1, 2019 through September 30, 2024.

Authorities:

This action is taken pursuant to the authority delegated to the Director, Division of Electric Power Regulation – Central, under section 375.307 of the Commission's regulations.¹⁵ 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 section 385.713 of the Commission's regulations.¹⁶

Sincerely,

Penny S. Murrell, Director
Division of Electric Power
Regulation – Central

¹⁵ 18 C.F.R. § 375.307.

¹⁶ 18 C.F.R. § 385.713.

Document Content(s)

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