

products have been confirmed, approved, and placed into effect on an interim basis (Provisional Formula Rates). LAP consists of the Fryingpan-Arkansas Project (Fry-Ark) and the Pick-Sloan Missouri Basin Program (P-SMBP)—Western Division, which were integrated for marketing and rate-making purposes in 1989. These new formula rates replace the existing formula rates for these services under Rate Schedules L–F11, Firm Electric Service, and L–M2, Sale of Surplus Products, which expire on December 31, 2022. The LAP firm electric service rate is increasing 16.5 percent. There are no changes to the formula rate for sale of surplus products.

DATES: The Provisional Formula Rates under Rate Schedules L–F12, Firm Electric Service, and L–M3, Sale of Surplus Products, are effective on the first day of the first full billing period beginning on or after January 1, 2023, and will remain in effect through December 31, 2027, pending confirmation and approval by the Federal Energy Regulatory Commission (FERC) on a final basis or until superseded.

FOR FURTHER INFORMATION CONTACT: Barton V. Barnhart, Regional Manager, Rocky Mountain Region, Western Area Power Administration, 5555 East Crossroads Boulevard, Loveland, CO 80538–8986, or email: lapfirmadj@wapa.gov, or Sheila D. Cook, Rates Manager, Rocky Mountain Region, Western Area Power Administration, (970) 685–9562, or email: scook@wapa.gov.

SUPPLEMENTARY INFORMATION: On May 24, 2018, FERC confirmed and approved Formula Rate Schedules L–F11 and L–M2 under Rate Order No. WAPA–179, on a final basis through December 31, 2022.¹ These schedules apply to LAP firm electric service and sale of surplus products. Western Area Power Administration (WAPA) published a **Federal Register** notice (Proposed FRN) on May 25, 2022 (87 FR 31876), proposing increases to both the base component and the drought adder component of the LAP firm electric service rate and to put new 5-year rate schedules in place. The Proposed FRN also initiated a 90-day public consultation and comment period and set forth the dates and locations of the public information and public comment forums.

Legal Authority

By Delegation Order No. S1–DEL–RATES–2016, effective November 19, 2016, the Secretary of Energy delegated: (1) the authority to develop power and transmission rates to the WAPA Administrator; (2) the authority to confirm, approve, and place such rates into effect on an interim basis to the Deputy Secretary of Energy; and (3) the authority to confirm, approve, and place into effect on a final basis, or to remand or disapprove such rates, to FERC. By Delegation Order No. S1–DEL–S3–2022–2, effective June 13, 2022, the Secretary of Energy also delegated the authority to confirm, approve, and place such rates into effect on an interim basis to the Under Secretary for Infrastructure. By Redelegation Order No. S3–DEL–WAPA1–2022, effective June 13, 2022, the Under Secretary for Infrastructure further redelegated the authority to confirm, approve, and place such rates into effect on an interim basis to WAPA’s Administrator. This rate action is issued under Redelegation Order No. S3–DEL–WAPA1–2022 and Department of Energy procedures for public participation in rate adjustments set forth at 10 CFR part 903.²

Following review of RMR’s proposal, Rate Order No. WAPA–202, which provides the formula rates for LAP firm electric service and sale of surplus products, is hereby confirmed, approved, and placed into effect on an interim basis. WAPA will submit Rate Order No. WAPA–202 to FERC for confirmation and approval on a final basis.

Department of Energy

Administrator, Western Area Power Administration

In the Matter of: Western Area Power Administration, Rocky Mountain Region, Rate Adjustment for the Loveland Area Projects, Firm Electric Service and Sale of Surplus Products, Formula Rates.

Rate Order No. WAPA–202

Order Confirming, Approving, and Placing the Formula Rates for the Loveland Area Projects Into Effect on an Interim Basis

The formula rates in Rate Order No. WAPA–202 are established following section 302 of the Department of Energy (DOE) Organization Act (42 U.S.C. 7152).³

² 50 FR 37835 (Sept. 18, 1985) and 84 FR 5347 (Feb. 21, 2019).

³ This Act transferred to, and vested in, the Secretary of Energy the power marketing functions of the Secretary of the Department of the Interior

DEPARTMENT OF ENERGY

Western Area Power Administration

Loveland Area Projects—Rate Order No. WAPA–202

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of rate order concerning firm electric service and sale of surplus products formula rates.

SUMMARY: The formula rates for the Rocky Mountain Region’s (RMR) Loveland Area Projects (LAP) firm electric service and sale of surplus

¹ Order Confirming and Approving Rate Schedules on a Final Basis, FERC Docket No. EF18–3–000, 163 FERC ¶ 62,115 (2018).

By Delegation Order No. S1–DEL–RATES–2016, effective November 19, 2016, the Secretary of Energy delegated: (1) the authority to develop power and transmission rates to the Western Area Power Administration (WAPA) Administrator; (2) the authority to confirm, approve, and place such rates into effect on an interim basis to the Deputy Secretary of Energy; and (3) the authority to confirm, approve, and place into effect on a final basis, or to remand or disapprove such rates, to the Federal Energy Regulatory Commission (FERC). By Delegation Order No. S1–DEL–S3–2022–2, effective June 13, 2022, the Secretary of Energy also delegated the authority to confirm, approve, and place such rates into effect on an interim basis to the Under Secretary for Infrastructure. By Redelegation Order No. S3–DEL–WAPA1–2022, effective June 13, 2022, the Under Secretary for Infrastructure further redelegated the authority to confirm, approve, and place such rates into effect on an interim basis to WAPA’s Administrator. This rate action is issued under Redelegation Order No. S3–DEL–WAPA1–2022 and DOE procedures for public participation in rate adjustments set forth at 10 CFR part 903.⁴

Acronyms, Terms, and Definitions

As used in this Rate Order, the following acronyms, terms, and definitions apply:

Base: A component of the firm electric service (FES) rate design that is a fixed revenue requirement that includes operation and maintenance expenses (O&M), investments and replacements, interest on investments and replacements, normal timing power purchases, and transmission costs.

Capacity: The electric capability of a generator, transformer, transmission circuit, or other equipment. It is expressed in kilowatts (kW) or megawatts (MW).

Capacity Rate: The rate which sets forth the charges for capacity. It is expressed in dollars per kilowatt-month (kWmonth) and applied to each kW of the Contract Rate of Delivery or CROD.

Composite Rate: The Power Repayment Study (PRS) rate for commercial firm power, which is the total annual revenue requirement for capacity and energy divided by the total

annual energy sales. It is expressed in mills per kilowatt-hour (mills/kWh) and used only for comparison purposes.

Corp of Engineers Annual Operating Plan (AOP): The Corp of Engineers (Corps) water management guidelines designed to meet the reservoir regulation objectives.

Customer: An entity with a contract that is receiving Loveland Area Projects (LAP) firm electric service from WAPA.

Customer Rate Brochure: A document prepared for public distribution explaining the rationale and background for the information contained in the Proposed FRN and in this rate order.

Deficit(s): Deferred or unrecovered annual and/or interest expenses.

Drought Adder: A component of the FES rate design that is a formula-based revenue requirement that includes future power purchases above normal timing power purchases, previous purchase power drought-related Deficits, and interest on the purchase power drought-related Deficits.

Energy: Measured in terms of the work it is capable of doing over a period of time. Electric energy is expressed in kilowatt-hours (kWh).

Energy Charge: The charge under the rate schedule for energy. It is expressed in mills/kWh and applied to each kWh delivered to each Customer.

FRN: Federal Register Notice—a document published in the **Federal Register** in order for WAPA to provide information of public interest.

Firm: Power intended to be available at all times during the period covered by a guaranteed commitment to deliver, even under adverse conditions.

FY: WAPA’s fiscal year; October 1 to September 30.

kW: Kilowatt—the electrical unit of capacity that equals 1,000 watts.

kWh: Kilowatt-hour—the electrical unit of energy that equals 1,000 watts in 1 hour.

kWmonth: Kilowatt-month—the electrical unit of the monthly amount of capacity.

LAP Marketing Plan: The Post-1989 General Power Marketing and Allocation Criteria for the Pick-Sloan Missouri Basin Program—Western Division (P–SMBP–WD) and the Fryingpan-Arkansas Project (Fry-Ark) (collectively known as Loveland Area Projects or LAP) (published in January 1986 and extended and amended per the LAP 2025 Power Marketing Initiative published on December 10, 2013 (78 FR 79444)) that provides the principles used to market LAP firm hydropower resources.

mills/kWh: Mills per kilowatt-hour—the unit of charge for energy (equal to

one tenth of a cent or one thousandth of a dollar).

NEPA: National Environmental Policy Act of 1969, as amended.

Non-timing Power Purchases: Power purchases related to drought conditions, not related to operational constraints.

Normal Timing Power Purchases: Power purchases related to operational constraints (e.g., management of endangered species habitat, water quality, navigation, balancing authority purposes, market events, etc.), not associated with drought conditions.

O&M: Operation and maintenance expenses.

OM&R: Operation, maintenance, and replacement expenses.

Order RA 6120.2: DOE Order outlining Power Marketing Administration financial reporting and rate-making procedures.

Power: Capacity and energy.

Power Factor: The ratio of real to apparent power at any given point and time in an electrical circuit. Generally, it is expressed as a percentage.

Power Repayment Study (PRS): Defined in Order RA 6120.2 as a study portraying the annual repayment of power production and transmission costs of a power system through the application of revenues over the repayment period of the power system. The study shows, among other items, estimated revenues and expenses, year by year, over the remainder of the power system’s repayment period (based upon conditions prevailing over the cost evaluation period), the estimated amount of Federal investment amortized during each year, and the total estimated amount of Federal investment remaining to be amortized.

Preference: The provisions of Reclamation Law that require WAPA to first make Federal Power available to certain entities. For example, section 9(c) of the Reclamation Project Act of 1939 (43 U.S.C. 485h(c)) states that preference in the sale of Federal Power shall be given to municipalities and other public corporations or agencies and also to cooperatives and other nonprofit organizations financed in whole or in part by loans made under the Rural Electrification Act of 1936.

Provisional Formula Rates: Formula rates confirmed, approved, and placed into effect on an interim basis by the Secretary of Energy or his/her designee.

Rate-setting PRS: The PRS used for the rate adjustment proposal.

Reclamation’s Most Probable Inflow Operating Plan: The combination of the forecasted generation plans for the Bureau of Reclamation’s (Reclamation) North Platte River, Buffalo Bill Reservoir, Boysen Reservoir, Colorado

and the Bureau of Reclamation (Reclamation) under the Reclamation Act of 1902 (ch. 1093, 32 Stat. 388), as amended and supplemented by subsequent laws, particularly section 9(c) of the Reclamation Project Act of 1939 (43 U.S.C. 485h(c)) and section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s); and other acts that specifically apply to the projects involved.

⁴ 50 FR 37835 (Sept. 18, 1985) and 84 FR 5347 (Feb. 21, 2019).

Big-Thompson Project, and Yellowtail Dam, assuming median generation.

Regional Transmission Organization (RTO): Organizations that operate bulk electric power systems across parts of North America. RTOs are independent, membership-based, non-profit organizations that ensure reliability and optimize supply and demand bids for wholesale electric power.

RTO West: A group of electricity service providers focusing on collaboratively developing long-term solutions that will improve market efficiencies in the West.

Regions: WAPA’s Rocky Mountain Region (RMR) and Upper Great Plains Region (UGP).

Revenue Requirement: The revenue required by the PRS to recover annual expenses (such as O&M, purchase power, transmission service, interest, and deferred expenses) and repay Federal investments and other assigned costs.

Scheduling, Accounting, and Billing Procedures (SABPs): The SABP establish the parameters for scheduling, accounting, and billing procedures as they relate to LAP power deliveries. They are intended to implement the terms of a contract, not to modify or amend the contract.

Webex: Webex is an online secure invite-only meeting platform used by WAPA. The general website is <https://doe.webex.com>.

Western Energy Imbalance Service Market (WEIS Market): The market for imbalance energy administered by the Southwest Power Pool in the Western Interconnection. The market footprint encompasses the loads and resources that are located within a participating Balancing Authority Area. The Western Area Colorado Missouri Balancing Authority or WACM (operated by RMR) and the Western Area Upper Great Plains West Balancing Authority or WAUW (operated by UGP) are both participating Balancing Authority Areas.

Winter Storm Uri: A severe winter storm in February 2021 that had widespread impacts across the RMR and UGP regions.

Effective Date

The Provisional Formula Rate Schedules L–F12, Firm Electric Service, and L–M3, Sale of Surplus Products, will take effect on the first day of the first full billing period beginning on or after January 1, 2023, and will remain in effect through December 31, 2027, pending approval by FERC on a final basis or until superseded.

Public Notice and Comment

RMR followed the Procedures for Public Participation in Power and Transmission Rate Adjustments and Extensions, 10 CFR part 903, in developing these formula rates. The steps RMR took to involve interested parties in the rate process include:

1. On May 25, 2022, a **Federal Register** notice (87 FR 31876) (Proposed FRN) announced the proposed formula rates and launched the 90-day public consultation and comment period.

2. On May 25, 2022, RMR notified Preference Customers and interested parties of the proposed rates and provided a copy of the published Proposed FRN.

3. On June 15, 2022, RMR held a public information forum via Webex. RMR’s representatives explained the proposed formula rates, answered questions, and gave notice that more information was available in the Customer Rate Brochure.

4. On June 29, 2022, RMR held a public comment forum via Webex to provide an opportunity for customers and other interested parties to comment for the record.

5. RMR provided a website that contains important dates, letters, presentations, FRNs, Customer Rate Brochure, and other information about this rate process. The website is located at www.wapa.gov/regions/RM/rates/

Pages/2023-Rate-Adjustment-Firm-Power.aspx.

6. During the 90-day consultation and comment period, which ended on August 23, 2022, RMR received one oral comment submission and four comment letters, encompassing a total of 22 individual comments. The individual comments and RMR’s responses are addressed in the “Comments” section. All comments have been considered in the preparation of this Rate Order.

Oral comments were received from the following organization:

Mid-West Electric Consumers Association, Colorado

Written comments were received from the following organizations:

Loveland Area Customer Association, Colorado
 Platte River Power Authority, Colorado
 Mid-West Electric Consumers Association, Colorado
 East River Electric Power Cooperative, Inc., South Dakota

Power Repayment Study—Firm Electric Service Rate Discussion

PRSs are prepared each FY to determine if revenues will be sufficient to repay, within the required time, all costs assigned to the Pick-Sloan Missouri Basin Program (P–SMBP) and the Fry-Ark. Repayment criteria are based on applicable laws and legislation, as well as policies including Order RA 6120.2. To meet the Cost Recovery Criteria outlined in Order RA 6120.2, RMR developed a rate adjustment to demonstrate sufficient revenues will be collected under the Provisional Formula Rates to meet future obligations. The revenue requirement of the Fry-Ark PRS is combined with the P–SMBP—WD revenue requirement, derived from the P–SMBP PRS, to develop one rate for LAP firm electric service. The revenue requirement and composite rate for LAP firm electric service are being increased, as indicated in Table 1:

TABLE 1—COMPARISON OF EXISTING AND PROVISIONAL REVENUE REQUIREMENTS AND COMPOSITE RATES

Firm electric service	Existing requirements under L–F11 as of January 1, 2018	Provisional requirements under L–F12 as of January 1, 2023	Percent change
LAP Revenue Requirement (million \$)	\$64.1	\$74.7	16.5
Pick-Sloan—WD ¹	50.8	58.6	15.4
Fry-Ark	13.3	16.1	21.1
Composite Rate (mills/kWh)	31.44	36.61	16.4

¹ Additional information on the overall P–SMBP PRS and charge components can be found under Rate Order No. WAPA–203 and on UGP’s website at www.wapa.gov/regions/UGP/Rates/Pages/2023-firm-rate-adjustment.aspx.

Firm Electric Service—Existing and Provisional Formula Rates

Under the current rate methodology, rates for LAP firm electric service are designed to recover an annual revenue requirement that includes investment repayment (including aid to irrigation), interest, purchase power, OM&R, and other expenses within the allowable period. The annual revenue requirement continues to be allocated equally between capacity and energy.

The Base component costs for the P-SMBP PRS have increased primarily due to: (1) increased OM&R from WAPA and the generating agencies; (2) increased purchase power, including

during the Winter Storm Uri; (3) pricing volatility; (4) reduced surplus energy sales; and (5) the loss of certain balancing authority revenues for services that are no longer provided after RMR joined the WEIS Market. Winter Storm Uri was not a water or generation issue; therefore, its costs only impact the Base component.

The Base component costs for the Fry-Ark PRS have increased due to: (1) increased O&M from both WAPA and Reclamation; (2) increased purchase power, transmission, and ancillary services costs; (3) changes in costs related to Reclamation’s Mt. Elbert Rehabilitation project; and (4) price volatility.

The driver behind the P-SMBP PRS Drought Adder component increase is the AOP projecting less than average generation for the next several years in the P-SMBP mainstem dams. Uncertainties with water inflows, hydro generation, and replacement energy prices continue to pose potential risks for meeting firm power contractual commitments.

The net effect of these changes to the PRS Base and Drought Adder components results in an overall increase to the LAP rate. A comparison of the existing and Provisional Formula Rates for firm electric service is shown in Table 2:

TABLE 2—COMPARISON OF EXISTING AND PROVISIONAL FORMULA RATES

Firm electric service	Existing charges under rate schedule L-F11 as of January 1, 2018	Provisional charges under rate schedule L-F12 as of January 1, 2023	Percent change
Firm Capacity Rate (\$/kWmonth)	\$4.12	\$4.80	16.5
Firm Energy Rate (mills/kWh)	15.72	18.31	16.5

As a part of the existing and provisional rate schedule, RMR provides for a formula-based adjustment of the Drought Adder component, with an annual increase of up to 2 mills/kWh each year. The 2 mills/kWh cap places a limit on the amount the Drought Adder component can be adjusted upward relative to associated drought costs included in the Drought Adder formula rate for any 1-year cycle. The Drought Adder component may be adjusted downward by any amount. Continuing to identify the firm electric service revenue requirement using Base and Drought Adder components will assist the Regions in presenting the future impacts of droughts, demonstrate repayment of drought-related costs in the PRSs, and allow the Regions to be more responsive to changes caused by drought-related expenses. RMR will continue to charge and bill its customers firm electric service rates for energy and capacity, which are the sum of the Base and Drought Adder components.

Under Rate Schedule L-F12, RMR will continue to identify its LAP firm electric service revenue requirement using Base and Drought Adder components. The Base component is a fixed revenue requirement from each PRS that includes annual O&M, investment repayment and associated interest, Normal Timing Power Purchases, and transmission costs. RMR cannot adjust the Base component without a public process. The Drought Adder component is a formula-based revenue requirement from each PRS that includes costs attributable to drought conditions in the Regions. The Drought Adder component includes costs associated with future Non-timing Power Purchases to meet firm electric service contractual obligations not covered with available system generation due to a drought, previously incurred Deficits due to purchased power debt that resulted from Non-timing Power Purchases made during a drought, and the interest associated

with drought-related Deficits. The Drought Adder component is designed to repay drought-related Deficits within 10 years from the time the Deficit was incurred, using balloon-payment methodology. For example, a drought-related Deficit incurred in FY 2022 will be repaid by FY 2032.

The annual revenue requirement calculation will continue to be summarized by the following formula: Annual Revenue Requirement = Base Revenue Requirement + Drought Adder Revenue Requirement.

The Provisional charge components update the Base component with present costs from a revenue requirement of \$64.1 million to \$67.8 million and increases the Drought Adder component revenue requirement. For rate year 2023, the Drought Adder revenue requirement increases from zero to \$6.8 million.⁵ A comparison of the existing and provisional components is shown in Table 3:

⁵ The exact values are \$64,143,960, \$67,839,200, and \$6,838,720 respectively.

TABLE 3—SUMMARY OF LAP EXISTING AND PROVISIONAL CHARGE COMPONENTS

Firm electric service	Existing charges under rate schedule L–F11 as of January 1, 2018			Provisional charges under rate schedule L–F12 as of January 1, 2023			Percent change
	Base component	Drought adder component	Total charge	Base component	Drought adder component	Total charge	
Firm Capacity (\$/kWmonth)	\$4.12	\$0	\$4.12	\$4.36	\$0.44	\$4.80	16.5
Firm Energy (mills/kWh)	15.72	0	15.72	16.63	1.68	18.31	16.5

RMR reviews the inputs for the P–SMBP and Fry–Ark PRS Base and Drought Adder components after the annual PRSs are complete, generally in the first quarter of the calendar year. If an adjustment to the LAP Base component is necessary, or if an incremental upward adjustment to the LAP Drought Adder component greater than the equivalent of 2 mills/kWh to the LAP Rate is necessary, RMR will initiate a public process pursuant to 10 CFR part 903 prior to making an adjustment.

In accordance with the approved annual Drought Adder adjustment process, the PRS Drought Adder

components are reviewed annually in early summer to determine if drought costs differ from those projected in the PRSs. In October, RMR will determine if a change to the LAP Drought Adder component is necessary, either incremental or decremental. Any incremental adjustment to the Drought Adder component, up to 2 mills/kWh, or decremental adjustment will be implemented in the following January billing cycle. Although decremental adjustments to the Drought Adder component will occur as drought costs are repaid, the adjustments cannot result in a negative Drought Adder component. Implementing the Drought

Adder component adjustment on January 1 of each year will help keep the drought-related Deficits from escalating as quickly, will lower the interest expense due to drought-related Deficits, will demonstrate responsible Deficit management, and will provide prompt drought-related Deficit repayments.

Statement of Revenue and Related Expenses

The following Table 4 provides a summary of the projected revenue and expense data for the Fry–Ark revenue requirement during the 5-year rate-setting periods:

TABLE 4—FRY-ARK COMPARISON OF 5-YEAR RATE PERIODS
TOTAL REVENUES AND EXPENSES

	Existing rate FY2018– FY2022 (\$000)	Provisional rate FY2023– FY2027 (\$000)	Difference (\$000)
Total Revenues	\$91,392	\$114,466	\$23,074
<i>Revenue Distribution:</i>			
<i>Expenses:</i>			
O&M	31,334	38,760	7,426
Purchase Power	724	1,378	654
Transmission	18,302	20,182	1,880
Ancillary Services	979	6,513	5,534
Interest	14,779	12,446	–2,333
Total Expenses	66,118	79,279	13,161
<i>Principal Payments:</i>			
Capitalized Expenses (Deficits)	0	0	0
Original Project and Additions	14,893	12,873	–2,020
Replacements	10,381	22,314	11,933
Total Principal Payments	25,274	35,187	9,913
Total Revenue Distribution	91,392	114,466	23,074

The summary of the P–SMBP projected revenues and expenses for the 5-year rate-setting periods is included in the P–SMBP Statement of Revenue and Related Expenses that is part of Rate Order No. WAPA–203.

Sale of Surplus Products Rate Discussion

The sale of surplus products rate schedule is formula-based, providing for

LAP Marketing Office to sell LAP surplus energy and capacity products. If LAP surplus products are available, as specified in the rate schedule, the charge will be based on market rates plus administrative costs. The customer will be responsible for acquiring transmission service necessary to deliver the product(s) for which a separate charge may be incurred. Rate Schedule L–M2 is being superseded by

the Provisional Rate Schedule L–M3 and continues to allow for the sale of energy, frequency response, regulation, and reserves.

Comments

RMR received a total of 22 individual oral and written comments during the public consultation and comment period. The comments expressed have been paraphrased and/or combined,

where appropriate, without compromising the meaning of the comments:

A. Comment: A customer association and a Customer commented that WAPA contends that its participation in the WEIS Market is increasing the cost to the LAP Customers in the form of administrative fees and lost ancillary service revenue. With the recent addition of Colorado Springs Utilities, and, in April 2023, the utilities that comprise the Public Service Company of Colorado balancing authority area members, the WEIS Market Footprint will increase in size and resource diversity. Thus, there is a reasonable expectation that benefits could accrue to LAP in the form of a reduced administrative fee and co-optimized real-time energy dispatch. WAPA and the Customers should regularly monitor the WEIS Market for net benefits accrued to LAP and should refrain from assuming the Drought Adder will be required until WAPA has experience in the WEIS Market. They request a commitment to evaluate a downward rate adjustment should these anticipated benefits accrue.

Response: Participation in the WEIS Market required RMR to change some of the Base component projections in the Fry-Ark and Pick-Sloan PRSs, for both revenue and expense. These changes are a very small contributor to the Base component increases in comparison to other contributors, such as O&M and Normal Timing Power Purchases and has no impact on the need for, or the size of, the P-SMBP Drought Adder. RMR has and will continue to monitor the WEIS Market for potential benefits, but due to the nature of the LAP Marketing Plan, LAP has very little surplus generation that can be bid into the WEIS Market. Also, RMR has been actively working to ensure the costs, and any benefits, we accrue through our participation are recovered in the appropriate rate design(s) as soon as practical. RMR, in coordination with UGP, is committed to developing rates that are the lowest possible, consistent with sound business principles, which includes an annual evaluation of the Base components and a biannual evaluation of the Drought Adder components. The Drought Adder components can be annually reduced without a cap, or increased subject to a 2 mills/kWh cap, without a public process, based on this evaluation.

B. Comment: A customer association and a Customer noted the P-SMBP PRS assumed a below average generation profile on a median runoff scenario from the Corps, factoring in unit and transmission outages. Their

understanding is that this outcome was used to calculate the Drought Adder component for the P-SMBP—WD, resulting from a projected deficit of generation that will be replaced by purchased power over the study period. They stated they would like the Regions to rerun the PRS to assess the impact to the proposed Drought Adder using an average generation profile in the P-SMBP—WD to satisfy the cost recovery criteria under Order RA 6120.2. Alternatively, the Regions could follow its normal formula rate process to account for actual generation, rather than working from assumptions that presume a deficit of generation.

Response: As standard practice, the P-SMBP PRS includes separate generation projections for the P-SMBP—ED and the P-SMBP—WD and the resulting power purchases and surplus energy sales are assigned to the overall P-SMBP revenue requirement. The overall P-SMBP revenue requirement is then allocated between P-SMBP—ED and P-SMBP—WD based on the ratio of each division's fixed amount of annual marketable energy to the total P-SMBP marketable energy, regardless of which component the revenue requirement is identified.

UGP has historically relied upon the AOP as the source document for projecting the P-SMBP—ED's future purchase power needs and surplus energy sales in the PRS for a 5-year projection period. After this 5-year period, the PRS assumes average P-SMBP—ED generation and no generation-related P-SMBP—ED power purchases or surplus energy sales are projected. RMR has historically relied upon Reclamation's most recent update to their Most Probable Inflow Operating Plan for projecting the P-SMBP—WD's future purchase power needs and surplus energy sales in the PRS for a 2-year projection period. After this 2-year period, the PRS assumes average P-SMBP—WD generation and no generation-related P-SMBP—WD power purchases or surplus energy sales are projected. The 2023 Rate-setting PRS continues these historical practices.

The 2023 Rate-setting PRS utilized the Corp's Final 2021–2022 AOP dated December 17, 2021, that projected nearly 20 percent lower generation for FYs 2022 and 2023 and just under or at normal generation for FYs 2024–2027 (to our knowledge, the AOP does not factor in transmission outages as stated in the comment) and Reclamation's 2022–2024 plans, received in December 2021, that projected 24 percent lower generation for FY 2022 and just under average generation for FYs 2023–2024. Reclamation's plans took into

consideration reservoir inflows that were 67 percent of average and reservoir storage that was at 99 percent of average as of October 2021 and unit and transmission maintenance schedules.

Utilizing these generation plans, the 2023 Rate-setting PRS includes higher levels of power purchases to meet UGP firm contractual commitments, a reduced amount of surplus energy sales for P-SMBP—ED, and Normal Timing Power Purchases and surplus energy sales for P-SMBP—WD (since P-SMBP—WD was not formally considered to be in a drought condition). Since the P-SMBP—ED was considered to be in a drought condition, in accordance with our established methodology, a second or "base" study was completed. This "base" study removed the P-SMBP—ED's future drought-related power purchase costs and added back in the P-SMBP—ED's Normal Timing Power Purchases and normal surplus energy sales (essentially simulating what the PRS would look like under a non-drought, or normal, condition for both P-SMBP—ED and P-SMBP—WD). The revenue requirement difference between these two PRSs is the revenue requirement for the proposed Drought Adder. There is no need to rerun these PRSs to assess the impact to the proposed Drought Adder using an average generation profile in the P-SMBP—WD since the PRSs already utilize Normal Timing Power Purchases and normal surplus energy sales for P-SMBP—WD.

C. Comment: A customer association suggests that concurrent with this rate adjustment, the Regions perform a comparison of the unpaid federal investment balances versus the depreciated balances of the P-SMBP investments to determine if the unpaid investments balances are greater than the depreciated balances at the present point in the asset service lives. They would appreciate the opportunity to review this analysis to gauge the reasonableness of the Drought Adder approach. They note the Regions have performed analyses such as these in the past, and they believe that it would be beneficial again when analyzing both Deficits and rate adders. Given the pressures to consumers, they believe that this information could be useful to avoid excessive Drought Adders and keep rates stable, and to allow the system to function as intended. They contend that based on conversations and points raised during informal discussions, they believe that there is a sensitivity to taking drought-related Deficits in the PRSs, and that Deficits may be considered bad financial practice to those reviewing rate

activities. Taking reasonable Deficits for purchased power is a longstanding practice that is based on the fact that historic shortages and surpluses occur over time, and that over the long run, these Deficits have always been paid, even during extreme droughts over the past 30–40 years. They are part of the financial flexibility necessary because WAPA is unable to accumulate rate stabilization funds during good water years and can only use surpluses to pay existing investments ahead of time. Without accumulated funds, taking Deficits provides a counterbalance that keeps rates stable and are part of good financial practice for short periods of time. Key to these Deficits is knowing when they continue to be reasonable and when they can no longer be sustained.

Response: As noted, Deficits are an integral and longstanding component of WAPA's repayment methodology and the Regions do utilize them in the PRSs when appropriate (in accordance with Order RA 6120.2). The P–SMBP PRS incurred a \$92.7 million Base-related Deficit in FY 2021 as the result of various issues related to Winter Storm Uri. Also in FY 2021, P–SMBP—ED had lower than normal generation, though no adjustment to the Drought Adder component was implemented. The P–SMBP—ED projected generation for FY 2022 utilized in the 2023 Rate-setting PRS is estimating a \$76.6 million drought-related Deficit in FY 2022. Payments toward these two Deficits are projected to be made over a 7-year time frame with final repayment projected in FY 2028. During this 7-year repayment plan, the 2023 Rate-setting PRS is projecting annual interest payments associated with these Deficits. The Regions agree it would be beneficial to prepare an analysis of the unpaid balances compared to the depreciated balances of the P–SMBP investments and will provide Customers/customer groups with an opportunity to review once the analysis is completed.

D. Comment: A customer association commented that they believe the current proposal may be an overly sensitive reaction to water conditions and may lead to rate instability as Drought Adders continue to be taken on and off, sometimes with significant rate increases like this one. At present, they note that there is no drought-related Deficits to which these added revenues could really be applied (pending final purchases and the application of revenues for FY 2022). They urge the Regions to use caution in implementing a practice that may eventually preclude the taking of Deficits, with a replacement policy of covering any

drought-related purchases during the year of occurrence, regardless of the effects of good water over time. Paid-ahead investments may become a standard with no offsetting consideration.

Response: The commentor is correct that at present, there are no actual drought-related Deficits in the P–SMBP 2023 Rate-setting PRS, only the projected \$76.6 million drought-related Deficit in FY 2022. The proposed rates will not be effective until January 2023, and the AOP is projecting lower-than-average generation in FY 2023, with FY 2023 being the third consecutive year of lower-than-average generation on the P–SMBP mainstem. A review of the Regions' actual purchase power costs at a point more than halfway through FY 2022 indicates the projected costs for FY 2022 may be conservative, which will likely result in a larger than estimated Deficit for FY 2022.

During the rate formulation timeframe (end of 2021/beginning of 2022), the Regions ran multiple PRS scenarios using various purchase power and surplus energy sales assumptions (based on hydrology, generation outlook, and price volatility information available at that time), while also considering the fact there are required investment payments coming due within the cost evaluation period. The Regions ultimately settled on a profile that resulted in a projected drought-related Deficit being incurred in FY 2022, before the proposed Drought Adders could take effect in January 2023. The Regions appreciate the commentor's concerns over rate stability and rate-making decisions. The Region's decision to implement the proposed Drought Adder did consider risks and impacts and was in no way an attempt to preclude the taking of Deficits, which are an integral part of WAPA's repayment methodology, and which is evident in the FY 2021 Base-related Deficit as well as the projected FY 2022 drought-related Deficit. In fact, the Regions chose to implement the full amount of the P–SMBP Drought Adder through the rate process, rather than implement 2 mills/kWh of it through the Drought Adder adjustment process, so there would be transparency and opportunity for public input.

E. Comment: A customer association and a Customer commented that they support the comments of their member utilities, fellow customer associations, and other customer groups.

Response: The Regions appreciate the commentors' feedback. The Regions conducted a combined public process for the rate adjustments under Rate Order Nos. WAPA–202 and WAPA–203

and have coordinated all responses. Comments received specifically by UGP for the P–SMBP—ED rate process are recognized as being addressed in UGP's Rate Order No. WAPA–203.

F. Comment: A customer association and a Customer provided various comments related to the Mt. Elbert Powerplant such as: (1) they are aware that Mt. Elbert is experiencing increased maintenance costs and will very likely require future major maintenance that will put an upward pressure on rates, (2) the form in which customers can use Mt. Elbert through the SABPs may be out of alignment with the West's changing energy market paradigms; for example, Mt. Elbert may be better used to meet resource adequacy requirements, and (3) they support having ongoing discussions and want to ensure that future costs to rehabilitate Mt. Elbert come with commensurate benefits to the whole, which may require a change in how Mt. Elbert's value is captured in an organized energy market and appropriately credited to customers.

Response: The SABPs, Customers' use of Mt. Elbert, and potential future organized energy markets are outside the scope of this rate process; however, RMR appreciates the comments and is committed to ongoing discussions related to the use of Mt. Elbert and how to address future rehabilitation costs and potential benefits.

G. Comment: A Customer commented that benefits may be realized, and costs mitigated, in a future RTO like Southwest Power Pool's RTO West. The full picture of both costs and benefits from participation are unknown today, but the customer suggests the Regions wait to assess the need for a Drought Adder until the impacts of the future RTO West are known.

Response: The possibility of participation in an RTO is outside of the scope of this rate process; however, RMR appreciates the comment and recognizes there could be benefits from participation in an RTO and is actively engaged in exploring various market opportunities. Since WAPA has not made a decision on joining a RTO West market, RMR has not included estimated operations costs, estimated benefits, or estimated implementation costs. In the meantime, implementation of a Drought Adder under the formula rate is not dependent on potential future uncertain events and timelines. The design of the Drought Adder formula is flexible enough to be reduced each year should any such benefits reduce the need for the Drought Adder.

H. Comment: A customer association and member utility commented that

they understand a rate increase is warranted due to several factors: (1) persistent low water conditions in the P-SMBP—ED, (2) increasing market power pricing, (3) costs incurred during the Winter Storm Uri, and (4) inflation on O&M and capital investments for the system. They encourage WAPA to continue focus on identifying WAPA and reducing controllable costs within the Regions and at WAPA's Headquarters.

Response: The Regions appreciate the commentors' recognition of the specific costs and repayment obligations of the PRSs and the need for the rate adjustments. The Regions are committed to developing rates that are the lowest possible, consistent with sound business principles.

I. *Comment:* A customer association commented that they recommend the Rates staff and Regional leadership continue to meet regularly with the Mid-West Electric Consumers Association's (Mid-West) Water and Power Committee on a quarterly basis to update and advise the members on the latest information on hydrology outlook, power supply costs, system storage, and potential need for future adjustments as this will allow more advance notice for dealing with future issues.

Response: Customer meeting attendance is outside the scope of this rate process; however, the Regions do intend to continue communication with our Customers and customer groups as appropriate.

J. *Comment:* A customer association and member utility request WAPA staff continue transparent engagements with the Customers and customer groups to better understand WAPA's efforts to control and mitigate costs, rate impacts, impacts of drought conditions, importance of rate stability, and need for risk mitigation through regular meetings with the Mid-West Water and Power Committee and impacted customer groups. The strong collaboration between customers and WAPA benefits everyone and improves the value we all provide to the consumer-owners at the end of the line.

Response: The Regions appreciate the support of our Customers and customer groups and agree that collaboration is vital when faced with uncertain drought conditions and other impacts to the firm power rates. The Regions intend to continue communication with our Customers and customer groups as appropriate.

K. *Comment:* The customer association and member utility commented that they appreciated the efforts of the UGP and RMR Rates staff for understanding Customer concerns regarding the rate.

Response: The Regions thank the commentors for recognizing the UGP and RMR Rates staff and their efforts to ensure Customer concerns are addressed.

L. *Comment:* A customer association and a member utility commented their customers are already feeling the impacts of the current drought in the P-SMBP—ED and understand the need for the Drought Adder and the process for the Drought Adder evaluation. They requested debt strategy and rate design options be discussed with customers before any final decisions are made as a part of the annual Drought Adder review process.

Response: The Regions agree with the need for continued transparency regarding debt strategy and rate options related to the annual Drought Adder adjustment process. The proposed rates did not reflect any change to the Regions' existing rate designs or annual Drought Adder adjustment process. Changes to the rate designs or adjustment process would require a separate rate process where Customers and interested parties would have the opportunity to participate in the process. The 2007 rate orders implementing the Drought Adder component provided the framework for the annual Drought Adder adjustment process, which hasn't been modified in subsequent rate orders.

M. *Comment:* The member utility encourages WAPA to focus on its core function of marketing and delivering Preference Power to Preference Customers.

Response: The Regions appreciate the comment and intend to continue to fulfill our mission of marketing to Preference Power Customers consistent with current marketing plans.

N. *Comment:* The customer association and member utility appreciated the opportunity to comment on the rate process, stating that any rate increase has a direct impact on the energy affordability of the members it serves.

Response: The Regions recognize the impact of the rate increases on Customers and strive to find ways to mitigate impacts of the drought and operational costs to keep rates as low as possible.

Certification of Rates

I have certified that the Provisional Formula Rates for LAP firm electric service under Rate Schedule L-F12 and LAP sale of surplus products under Rate Schedule L-M3 are the lowest possible rates, consistent with sound business principles. The Provisional Formula Rates were developed following

administrative policies and applicable laws.

Availability of Information

Information about this rate adjustment, including the Customer Rate Brochure, PRSs, comments, letters, memorandums, and other supporting materials that were used to develop the Provisional Formula Rates, is available for inspection and copying at the Rocky Mountain Regional Office located at 5555 East Crossroads Boulevard, Loveland, Colorado. Many of these documents are also available on RMR's website at www.wapa.gov/regions/RM/rates/Pages/2023-Rate-Adjustment---Firm-Power.aspx.

Ratemaking Procedure Requirements

Environmental Compliance

WAPA has determined that this action fits within the following categorical exclusions listed in appendix B to subpart D of 10 CFR part 1021.410: B4.3 (Electric power marketing rate changes). Categorically excluded projects and activities do not require preparation of either an environmental impact statement or an environmental assessment.⁶ A copy of the categorical exclusion determination is available on WAPA's website at www.wapa.gov/regions/RM/environment/Pages/CX2022.aspx.

Determination Under Executive Order 12866

WAPA has an exemption from centralized regulatory review under Executive Order 12866; accordingly, no clearance of this notice by the Office of Management and Budget is required.

Submission to the Federal Energy Regulatory Commission

The Provisional Formula Rates herein confirmed, approved, and placed into effect on an interim basis, together with supporting documents, will be submitted to FERC for confirmation and final approval.

Order

In view of the above and under the authority delegated to me, I hereby confirm, approve, and place into effect, on an interim basis, Rate Order No. WAPA-202. The rates will remain in effect on an interim basis until: (1) FERC confirms and approves them on a final basis; (2) subsequent rates are confirmed

⁶ The determination was done in compliance with NEPA (42 U.S.C. 4321-4347); the Council on Environmental Quality Regulations for implementing NEPA (40 CFR parts 1500-1508); and DOE NEPA Implementing Procedures and Guidelines (10 CFR part 1021).

and approved; or (3) such rates are superseded.

Signing Authority

This document of the Department of Energy was signed on November 9, 2022, by Tracey A. LeBeau, Administrator, Western Area Power Administration, pursuant to delegated authority from the Secretary of Energy. That document, with the original signature and date, is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on November 16, 2022.

Treena V. Garrett,
Federal Register Liaison Officer, U.S.
Department of Energy.

Rate Schedule L-F12

(Supersedes Rate Schedule L-F11)

Effective January 1, 2023

United States Department of Energy

Western Area Power Administration

Rocky Mountain Region

Loveland Area Projects

Firm Electric Service

(Approved Under Rate Order No.
WAPA-202)

Effective

The first day of the first full billing period beginning on or after January 1, 2023, and extending through December 31, 2027, or until superseded by another rate schedule, whichever occurs earlier.

Available

Within the marketing area served by the Loveland Area Projects (LAP) (consisting of the Fryingpan-Arkansas Project and the Pick-Sloan Missouri Basin Program—Western Division, which were integrated for marketing and rate-making purposes in 1989); parts of Colorado, Kansas, Nebraska, and Wyoming.

Applicable

To the LAP firm electric service delivered at specific point(s) of delivery, as established by contract.

Character

Alternating current, 60 hertz, three phase, delivered and metered at the voltages and points established by contract.

Formula Rate and Charge Components

LAP Firm Electric Service Rate (Rate) =
Base component + Drought Adder
component

Monthly Charge as of January 1, 2023,
Under the Rate

Capacity Charge: \$4.80 per kilowatt per month (kWmonth) of billing capacity.

Energy Charge: 18.31 mills per kilowatt-hour (kWh) of monthly entitlement.

Billing Capacity: Unless otherwise specified by contract, the billing capacity will be the seasonal contract rate of delivery.

Charge Components

Base Component: A fixed revenue requirement that includes operation and maintenance expense, investments and replacements, interest on investments and replacements, normal timing power purchases (purchases due to operational constraints, not associated with drought), and transmission costs. Any proposed change to the Base component will require a public process. The Base revenue requirement is \$67,839,200 and the charges under the formulas are:

$$\text{Base Capacity} = \frac{50\% \times \text{Base Revenue Requirement}}{\text{Firm Billing Capacity}} = \$4.36/\text{kWmonth}$$

$$\text{Base Energy} = \frac{50\% \times \text{Base Revenue Requirement}}{\text{Annual Energy}} = 16.63 \text{ mills/kWh}$$

Drought Adder Component: A formula-based revenue requirement that includes future power purchases above normal timing power purchases,

previous purchase power drought-related deficits, and interest on the purchase power drought-related deficits. As of January 1, 2023, the Drought

Adder component revenue requirement is \$6,838,720 and the charges under the formulas are:

$$\text{Drought Adder} = \frac{50\% \times \text{Drought Adder Revenue Requirement}}{\text{Capacity}} = \frac{\text{Drought Adder Revenue Requirement}}{\text{Firm Billing Capacity}} = \$0.44/\text{kWmonth}$$

$$\text{Drought Adder} = \frac{50\% \times \text{Drought Adder Revenue Requirement}}{\text{Energy}} = \frac{\text{Drought Adder Revenue Requirement}}{\text{Annual Energy}} = 1.68 \text{ mills/kWh}$$

Annual Drought Adder Adjustment Process

The Drought Adder component may be adjusted annually using the above formulas for any costs attributed to drought of less than or equal to the equivalent of 2 mills/kWh to the Rate. Any planned incremental upward adjustment to the Drought Adder component greater than the equivalent of 2 mills/kWh to the Rate will require a public process.

The annual review process is initiated in early summer when the Rocky Mountain Region (RMR) reviews the Drought Adder component and provides notice of any estimated change to the Drought Adder component charge under the formula. In October, RMR will make a final determination of any change to the Drought Adder component charge, either incremental or decremental. If a Drought Adder component change is required, a modified Drought Adder revenue requirement and the associated charges will become effective the following January 1 and will be identified in a Drought Adder modification update. RMR will inform customers of updates by letter and post updates to RMR's external website.

Adjustments

For Transformer Losses: If delivery is made at transmission voltage but metered on the low-voltage side of the substation, the meter readings will be increased to compensate for transformer losses as provided for in the contract.

For Power Factor: None. Customers will be required to maintain a power factor within the range of 95-percent leading to 95-percent lagging, measured at the point of interconnection.

Rate Schedule L–M3**(Supersedes Rate Schedule L–M2)****Effective January 1, 2023****United States Department of Energy****Western Area Power Administration****Rocky Mountain Region****Loveland Area Projects****Sale of Surplus Products***(Approved Under Rate Order No. WAPA–202)**Effective*

The first day of the first full billing period beginning on or after January 1, 2023, and extending through December 31, 2027, or until superseded by another rate schedule, whichever occurs earlier.

Applicable

This rate schedule applies to Loveland Area Projects (LAP) Marketing

and is applicable to the sale of the following LAP surplus energy and capacity products: energy, frequency response, regulation, and reserves. If any of the above LAP surplus products are available, LAP can make the product(s) available for sale, providing entities enter into separate agreement(s) with LAP Marketing which will specify the terms of sale(s).

Formula Rate

The charge for each product will be determined at the time of the sale based on market rates, plus administrative costs. The customer will be responsible for acquiring transmission service necessary to deliver the product(s), for which a separate charge may be incurred.

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