

178 FERC ¶ 62,177  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Western Area Power Administration  
(Rocky Mountain Region)

Docket No. EF21-9-000

ORDER CONFIRMING AND APPROVING RATE SCHEDULES  
ON A FINAL BASIS

(March 29, 2022)

Summary:

On August 27, 2021, the Interim Administrator of the Western Area Power Administrator (Western) filed a request for final confirmation and approval for formula rates under Rate Schedules L-NFJDT (joint dispatch transmission), L-AS4 (energy imbalance), L-AS7 (balancing authority real power losses), and L-AS9 (generator imbalance)<sup>1</sup> for Western’s Rocky Mountain Region. In Rate Order No. WAPA-197 (Rate Order), the Interim Administrator placed the rates into effect on an interim basis to be effective October 1, 2021.<sup>2</sup> Western requests final confirmation and approval of the rates for the period October 1, 2021, through September 30, 2024.<sup>3</sup>

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<sup>1</sup> Western Area Power Administration, FERC FPA Rate Schedules, [RMR LAP AS4, RMR LAP AS4 \(0.0.0\)RMR LAP AS7, RMR LAP AS7 \(0.0.0\)RMR LAP AS9, RMR LAP AS9 \(0.0.0\)](#).

<sup>2</sup> The Rate Order was issued on August 24, 2021, under authority delegated by paragraph 1.3 A. of Department of Energy Redelelegation Order No. 00-002.10-05.

<sup>3</sup> These rate schedules will supersede the present rate schedules, which were originally approved by the Commission on a final basis in *U.S. Dept. of Energy – Western Area Power Admin. (Loveland Area Projects)*, 158 FERC ¶ 62,181 (2017). On December 29, 2020, Western’s Administrator approved rates for short-term sales for Western’s Rocky Mountain Region to use under the Western Energy Imbalance Service Market, effective February 1, 2021, through September 30, 2021, which superseded these Commission approved rate schedules. See “Short-Term Rate Memo – RMR WEIS – Approved December 29, 2020” at <https://www.wapa.gov/regions/RM/rates/Pages/2021->

(continued)

In addition, Western requests waiver of the requirements set forth in sections 300.11, 300.12(b), and 300.12(c) of the Commission's regulations<sup>4</sup> 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 service and are not generated through a PRS. Therefore, Western states that Statements A through F and the PRS do not have a direct relationship to these rates. Western states that the requirement to provide a Cost-of-Service Study also does not apply since these are formula rates.

Western maintains that the proposed formula rates are the lowest possible rates, consistent with sound business principles.

Notice of Western's filing was published in the *Federal Register*, 86 Fed. Reg. 50,099 (2021), with comments, protests, or motions to intervene due on or before September 27, 2021. None was received. 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,<sup>5</sup> 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

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Rates-for-Short-Term-Sales.aspx.

<sup>4</sup> 18 C.F.R. §§ 300.11, 300.12(b), 300.12(c) (2021).

<sup>5</sup> Section 3 of the Delegation Orders.

- the assumptions and projections used in developing the rate components that are subject to Commission review.<sup>6</sup>

The Commission is prohibited from reviewing policy judgments and interpretations of laws and regulations made by the power generating agencies.<sup>7</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 remands the rates submitted to it for final review.<sup>8</sup>

#### Discussion:

Western filed a request for final confirmation and approval of Rate Schedules, L-NFJDT, L-AS4, L-AS7 and L-AS9 because the existing rate schedules are set to expire September 30, 2021. As noted above, the previously-approved Rate Schedules became effective February 1, 2021, and expired September 30, 2021. Western proposes to make Rate Schedules L-NFJDT, L-AS4, L-AS7, and L-AS9 effective October 1, 2021, through September 30, 2024. Western maintains that no further changes are being proposed to the existing rates.

Western states that the Interim Administrator certified that the rates are the lowest

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<sup>6</sup> *Id.*

<sup>7</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.

<sup>8</sup> *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).

possible rates, consistent with sound business principles and was developed following administrative policies and applicable laws.

By statute,<sup>9</sup> Western must repay the federal investment within a reasonable period of time, which as a general practice is 50 years.<sup>10</sup> Our review indicates that the revenues to be collected under the proposed formula rate 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-NFJDT (joint dispatch transmission), L-AS4 (energy imbalance), L-AS7 (balancing authority real power losses), and L-AS9 (generator imbalance) for the period October 1, 2021, through September 30, 2024.

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.

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<sup>9</sup> 16 U.S.C. § 825s (2012).

<sup>10</sup> See Department of Energy Order No. RA 6120.2.

Sincerely,

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