

181 FERC ¶ 62,185

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSIONUnited States Department of Energy –  
Western Area Power Administration  
(Washoe Project, Stampede Division)

Docket No. EF22-2-000

ORDER CONFIRMING AND APPROVING RATE SCHEDULE  
ON A FINAL BASIS

(December 20, 2022)

Summary:

On July 27, 2022, the Western Area Power Administration (Western) Administrator (Administrator) filed a request for final confirmation and approval of Western's Rate Schedule WSH-1<sup>1</sup> for a non-firm power formula rate applicable to the Washoe Project, Stampede Division (Washoe Project).<sup>2</sup> The Western Administrator placed the rates into effect on an interim basis effective October 1, 2022,<sup>3</sup> and requests final confirmation and approval of the rates for the period October 1, 2022, through September 30, 2027.<sup>4</sup>

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<sup>1</sup> Western Area Power Administration, Rate Schedules, [WAPA-201 WSH-1, Washoe Project Non-Firm Power Formula Rate \(2.0.0\)](#).

<sup>2</sup> The Washoe Project is a 3.65 megawatt multipurpose hydroelectric project operated for irrigation, flood control, and to provide electricity principally to two federal fish hatcheries.

<sup>3</sup> Rate Order No. WAPA-201, placing the rate schedule into effect on an interim basis, was issued on July 25, 2022, under authority delegated to the Deputy Secretary by Department of Energy Delegation Order No. 00-037.00B (Delegation Order).

<sup>4</sup> Rate Schedule WSH-1 supersedes the present rate schedule, Rate Schedule SNF-7, which was approved on a final basis in *U. S. Dept. of Energy – Western Area Power Admin. (Washoe Project, Stampede Division)*, 159 FERC ¶ 62,047 (2017).

On April 12, 2017, the Commission approved and placed into effect on a final basis Rate Order No. WAPA-176, for a Washoe Project non-firm power formula rate.<sup>5</sup> The rate was approved for the period October 1, 2017, through September 30, 2022. On July 25, 2022, the Western Administrator extended the existing rate under Rate Schedule SNF-7 for the period October 1, 2022, through September 30, 2027. Since the Washoe Project rate will expire on September 30, 2022, it is necessary to extend, without adjustment, the existing formula rate in Rate Schedule WSH-1 for a five-year rate period under Rate Order No. WAPA-201 for the period October 1, 2012, through September 30, 2027.

Notice of the application was published in the *Federal Register*, 87 Fed. Reg. 19,678 (2022), with comments, protests, or motions to intervene due on or before September 9, 2022. No responsive filings were received. Notices of intervention and unopposed timely filed motions to intervene are granted pursuant to the operation of Rule 214 of the Commission's Rules 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>6</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
- the assumptions and projections used in developing the rate components that are

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<sup>5</sup> See *U. S. Dept. of Energy – Western Area Power Admin. (Washoe Project, Stampede Division)*, 127 FERC ¶ 62,043 (2009).

<sup>6</sup> Section 3 of the Delegation Orders.

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subject to Commission review.<sup>7</sup>

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<sup>7</sup> *Id.*

The Commission is prohibited from reviewing policy judgments and interpretations of laws and regulations made by the power generating agencies.<sup>8</sup> The Commission may reject the rate determinations of the Western 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 the Western 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>9</sup>

Discussion:

In the instant filing, Western states that the Washoe Project's non-firm power formula rate in Rate Schedule SNF-7 expires on September 30, 2022; therefore, Western is proposing to extend, without adjustment, the provisional formula rate under Rate Schedule WSH-1. Western states that the Commission approved and confirmed the Sierra Nevada Region Washoe Project, Stampede Division's non-firm power formula rate, Rate Schedule SNF-7, under Rate Order No. WAPA-136, on a final basis through July 31, 2013.<sup>10</sup> Western states that the Commission subsequently approved two consecutive five year rate extensions, extending the rate through September 30, 2022.<sup>11</sup>

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<sup>8</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>9</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).

<sup>10</sup> Order Confirming and Approving Rate Schedule on a Final Basis, FERC Docket No. ER08-5161-000, 127 FERC ¶ 62,043 (2009).

<sup>11</sup> Orders Confirming and Approving Rate Schedule on a Final Basis, FERC Docket No. EF13-5-000, 144 FERC ¶ 62,213 (2013) and FERC Docket No. EF17-1-000, 159 FERC ¶ 62,047 (2017).

Western explains that under section 205(c) of the Fallon Paiute Shoshone Indian Tribes Water Rights Settlement Act of 1990, Congress declared all Washoe Project costs to be non-reimbursable except costs related to the Stampede power plant (Stampede).<sup>12</sup> Western states that the energy generated by Stampede, averaging approximately 11 gigawatt hours annually depending on weather, is used principally to provide energy to the Lahontan National Fish Hatchery and the Marble Bluff Fish Hatchery.

Western states that The Washoe Project was designed to improve the regulation of runoff from the Truckee and Carson River system and to provide supplemental irrigation water and drainage, as well as water for municipal, industrial, fishery use, flood protection, fish and wildlife benefits, and recreation. Western notes that because the Washoe Project has no federal transmission facilities, Western contracted with Truckee Donner Public Utility District and the City of Fallon to accept Stampede generation and serve project use loads. According to Western, energy in excess of project use loads is integrated with the Central Valley Project (CVP) and marketed under the 2004 and 2025 Power Marketing Plans. Western states that, under the provisional Rate Schedule WSH-1, each year any remaining reimbursable expenses in excess of the revenue collected under the contract are incorporated into the CVP power revenue requirement. Western further states that CVP customers who participate in the Renewable Energy Credit (REC) program receive a share of the annual Stampede RECs based on the annual percentage of CVP revenue transferred to the Washoe Project. Western contends that under the existing formula rate it is projected to recover all annual expenses, including interest expense, and repay capital investments within allowable time periods, thus ensuring project repayment within the cost recovery criteria set forth in Department of Energy Order No. RA 6120.2.

Staff's review of Western's filing indicates that the revenues to be collected under the proposed 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, consistent with sound business principles.

Since Western's rate is consistent with the standards of review delegated to the Commission by the Secretary, it merits final confirmation and approval.

The Director:

Confirms and approves on a final basis an extension of Western's Rate Schedule WSH-1, for the period October 1, 2022, through September 30, 2027.

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<sup>12</sup> See Pub. L. No. 101-618, 104 Stat. 3289, 3307 (1990).

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Authorities:

This action is taken pursuant to the authority delegated to the Director, Division of Electric Power Regulation – Central, under 18 C.F.R. § 375.307. 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

Document Content(s)

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