

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Western Area Power Administration
(Loveland Area Projects)

Docket No. EF23-1-000

ORDER CONFIRMING AND APPROVING RATE SCHEDULES
ON A FINAL BASIS

(September 12, 2023)

Summary:

On November 10, 2022, the Western Area Power Administration's (Western) Administrator (Administrator) filed a request for final confirmation and approval of formula-based rates¹ for firm electric service (L-F12) and sale of surplus products (L-M3) at Western's Loveland Area Projects.² The Administrator placed the rates into effect on an interim basis effective January 1, 2023,³ and requests final confirmation and approval for the period January 1, 2023, through December 31, 2027.⁴ Western states that the power repayment studies (PRS) prepared with regard to the proposed formula rates

¹ Formula-based Rate Schedules L-F12 and L-M3 supersede Rate Schedules L-F11 and L-M2, which were approved on a final basis in *U.S. Dept. of Energy – Western Area Power Admin. (Loveland Area Projects)*, 163 FERC ¶ 62,115 (2018).

² The Loveland Area Projects consist of the Fryingpan-Arkansas Project and the Pick-Sloan Missouri Basin Program – Western Division. (The Pick-Sloan Missouri Basin Program – Eastern Division is marketed separately.)

³ Rate Order No. WAPA-202, placing formula-based Rate Schedules L-F12 and L-M3 into effect on an interim basis, was issued on November 9, 2022, under the authority granted to Western's Administrator under Redelegation Order No. S3-DEL-WAPA1-2022.

⁴ Western Area Power Administration, Rate Schedules, [WAPA-202 L-F12, LAP Firm Electric Service \(1.0.0\)](#), [WAPA-202 L-M3, LAP Sale of Surplus Products \(1.0.0\)](#).

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showed that revenues produced will be adequate to repay costs within the repayment criteria. Under the proposed formula rates, the total revenue requirement will increase from approximately \$64.1 million per year to approximately \$74.7 million per year.

Western maintains that the proposed formula rates are the lowest possible rates consistent with sound business principles, and that the proposed formula rates will produce revenues sufficient to recover all annual costs, including interest expenses, and to repay investments and irrigation aid within the allowable periods.

Notice of the application was published in the *Federal Register*⁵ with comments, protests, or motions to intervene due on or before January 12, 2022. No responsive filings were 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 Commission⁶ 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.⁷

⁵ 87 Fed. Reg. 71,607 (2022).

⁶ See Section 1.3 of Delegation Order No. 00-037.00B.

⁷ *Id.*

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The Commission is prohibited from reviewing policy judgments and interpretations of laws and regulations made by the power generating agencies.⁸ The Commission may reject the rate determinations of Western's 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 Administrator. In other words, the Commission only affirms or remands the rates submitted to it for final review.⁹

Discussion:

Western states that under the current rate methodology, rates for firm electric service at the Loveland Area Projects are designed to recover an annual revenue requirement that includes power investment repayment, aid to irrigation repayment, interest expense, purchased power, operation and maintenance, and other expenses within the allowable period. Under the proposed rates, the total annual revenue requirement is \$74.7 million for firm electric service.¹⁰

⁸ 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.

⁹ *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).

¹⁰ The Fryingpan-Arkansas Project and the Pick-Sloan Missouri Basin Program – Western Division, which comprise the Loveland Area Projects, retain separate financial status and therefore each have a separate PRS. Each PRS determines each project's revenue requirement, and the two revenue requirements are combined to develop one rate for Loveland Area Project firm electric service. The proposed revenue requirement for the Fryingpan-Arkansas Project is \$16.1 million, and the proposed revenue requirement for the Pick-Sloan Missouri Basin Program – Western Division is \$58.6 million.

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Western states that the existing formula rates under Rate Schedules L-F11 and L-M2, expire on December 31, 2022; therefore, it proposes revised formula rates for the Loveland Area Projects firm electric service and sales of surplus products. According to Western, under proposed Rate Schedule L-F12, the composite rate for firm electric service will be 36.61 mills/kilowatt-hour (mills/kWh), the firm energy rate will be 18.31 mills/kWh, and the firm capacity rate will be \$4.80 per kilowatt-month. Western states that there are no changes to the formula rate for the sale of surplus products under proposed Rate Schedule L-M3, which will continue to charge for each product (energy, frequency response, regulation, and reserves) based on market rates plus administrative costs, and that the customer will be responsible for acquiring transmission service necessary to deliver the products, for which a separate charge may be incurred.

By statute,¹¹ 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 each of Western's PRS indicates that the revenues to be collected under the proposed formula rates 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 rates 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 each PRS was prepared in a manner consistent with Order No. RA 6120.2, which requires Western's system financial statements to be prepared in accordance with generally accepted accounting principles, as appropriate, and that each PRS be prepared using sound forecasting techniques designed to approximate as closely as possible actual results.

The Commission's review indicates that the proposed formula rates for firm electric service and sale of surplus products will ensure that 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 formula-based Rate Schedules L-F12 and L-M3 for the period January 1, 2023, through December 31, 2027.

Authorities:

¹¹ 16 U.S.C. § 825s.

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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,

Natalie Y. Tingle-Stewart, Acting Director
Division of Electric Power
Regulation – Central

Document Content(s)

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