

187 FERC ¶ 61,165
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Willie L. Phillips, Chairman;
Allison Clements and Mark C. Christie.

Western Area Power Administration

Docket No. EF24-1-000

ORDER CONFIRMING AND APPROVING RATE SCHEDULES
ON A FINAL BASIS

(Issued June 12, 2024)

1. In this order, we confirm and approve on a final basis Western Area Power Administration's (WAPA) firm power, transmission, and ancillary service rate schedules, for the period January 1, 2024, through December 31, 2028.¹

I. Filing

2. On November 22, 2023, WAPA's Administrator filed a request for final confirmation and approval of proposed rate schedules for the Salt Lake City Area Integrated Projects (Integrated Projects) and the Colorado River Storage Project (CRSP).² Specifically, the rate schedules propose a rate adjustment for firm power service of the Integrated Projects and propose to renew the existing CRSP transmission service and ancillary service rates to have all CRSP electrical power service rates expire

¹ The proposed rate schedules for which WAPA seeks confirmation and approval are: SLIP-F13, Firm Power Service; SP-NW6, Network Integration Transmission Service; SP-PTP10, Firm Point-to-Point Transmission Service; SP-NFT9, Non-Firm Point-to-Point Transmission Service; SP-UU3, Unreserved Use Penalties; SP-E16, Energy and Generation Imbalance; SP-SSR6, Operating Reserves – Spinning and Supplemental Reserve Services; SP-SS2, Sale of Surplus Products; and SP-NFJDT, Joint Dispatch Transmission Service.

² The Integrated Projects comprise the CRSP, the Rio Grande Project, and the Collbran Project. The Integrated Projects, developed to regulate the flow of water for irrigation and other uses and to generate electric power, are located in Arizona, Colorado, New Mexico, Utah, and Wyoming. One of the major components of the CRSP is the Glen Canyon Dam, which represents about 70% of the combined power output of the Integrated Projects.

coincidentally.³ WAPA explains that the CRSP transmission service and ancillary service rates include the cost for scheduling, system control, and dispatch service. WAPA states that the cost of transmission service for the Integrated Projects' firm electric service will continue to be included in the Integrated Projects' firm power service rate.⁴ In Rate Order No. WAPA-206, the Administrator confirmed and approved the rate schedules at issue here on an interim basis, placing the rates into effect on January 1, 2024. The Administrator requests that the Commission give final confirmation and approval of the rates for the period January 1, 2024, through December 31, 2028.

3. WAPA maintains that the proposed rates will provide sufficient revenue to pay all annual costs, including interest expenses, and repay required investments within the allowable periods.⁵

II. Notice of Filing and Responsive Pleadings

4. Notice of WAPA's filing was published in the *Federal Register*, 88 Fed. Reg. 86,123 (Dec. 12, 2023), with interventions and protests due on or before December 22, 2023. Irrigation & Electrical Districts' Association of Arizona filed a timely motion to intervene. Electrical District No. 4 of Pinal County, Arizona, Electrical District No. 7 of Maricopa County, Arizona, and Maricopa Water District (collectively, the Districts) and Navajo Tribal Utility Authority (NTUA) filed timely motions to intervene and comments. Colorado River Energy Distributors Association (CREDA) filed a motion to intervene out-of-time and comments.

5. The Districts and CREDA support the proposed rates.⁶ The Districts and NTUA express concern with WAPA's plan to expand its participation in Southwest Power Pool, Inc. (SPP) to include the CRSP.⁷ NTUA explains that the WAPA-Upper Great Plains region joined SPP in 2015, and in April 2023, WAPA issued a notice recommending that WAPA's CRSP and Rocky Mountain regions also pursue negotiations with SPP regarding membership.⁸ NTUA states that, once final negotiations are complete, SPP anticipates filing governing document revisions with the Commission in the second

³ WAPA Filing, Ex. 23-WAPA-206 at 6.

⁴ *Id.* at 31.

⁵ *Id.* at 6.

⁶ Districts Comments at 1-2, 4-5; CREDA Comments at 4-5.

⁷ Districts Comments at 1-3; NTUA Comments at 4.

⁸ NTUA Comments at 3-4.

quarter of 2024.⁹ The Districts state that they are concerned that, if WAPA integrates the CRSP into SPP, WAPA may be unable to continue to offer CRSP rates that bundle transmission costs and offer operating practices that use point-to-point transmission arrangements to address the needs of CRSP customers.¹⁰ The Districts commend WAPA's ability to use bundled rates and operating practices to deal with drought concerns and required water releases in the past.¹¹ The Districts elaborate that the CRSP transmission system, energy exchanges, and obligations to Native American Tribes were not designed with organized market participation in mind, such that if WAPA does add the CRSP to SPP, WAPA's arrangements with customers and tribes will have to be unwound, which will affect all of its customers.¹² The Districts state that WAPA has indicated that, in subsequent proceedings, it intends to address issues related to potential rate impacts of its decision to pursue SPP regional transmission organization participation.¹³ The Districts state that they look forward to WAPA working with CSRP customers to mitigate any adverse effects from its joining SPP and prioritizing the needs of its preference customers.¹⁴

6. NTUA also expresses concern with WAPA's plan to participate in SPP's Markets+ initiative.¹⁵ NTUA states that the instant rate proposal and WAPA's plans for the CRSP are integrally related, and that WAPA's plans to expand its participation in SPP call into question the assumptions underlying the proposed rates.¹⁶ NTUA states

⁹ *Id.* at 4.

¹⁰ Districts Comments at 1, 4-7.

¹¹ *Id.* at 2, 4-5.

¹² *Id.* at 2, 5-6.

¹³ *Id.* at 2.

¹⁴ *Id.* at 2, 6-7.

¹⁵ The Markets+ initiative is SPP's proposal to establish a centralized day-ahead and real-time unit commitment and dispatch market in the Western Interconnection. SPP filed the Markets+ proposal on March 29, 2024 in Docket No. ER24-1658-000, which is pending Commission action.

¹⁶ NTUA Comments at 4-5.

that WAPA's 2021 entry into SPP's Western Energy Imbalance Service market¹⁷ increased NTUA's costs, particularly with regard to obtaining ancillary services for NTUA's solar projects.¹⁸ NTUA states that it is critically important that WAPA's customers' interests be protected from any adverse effects, including costs of WAPA's participation in SPP's Markets+.¹⁹

III. Discussion

A. Procedural Matters

7. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2023), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

8. Pursuant to Rule 214(d) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214(d), we grant CREDA's late-filed motion to intervene given its interest in the proceeding, the early stage of the proceeding, and the absence of undue prejudice or delay.

B. Standard of Review

9. The Department of Energy Organization Act grants the Secretary of Energy authority to approve WAPA's rates on both an interim and final basis.²⁰ The Secretary of Energy, in turn, delegated the authority to confirm and approve WAPA's rates on a final basis to the Commission.²¹ The delegation establishes the standard and scope for Commission review of WAPA's rates. The scope of Commission review is limited to: (1) whether the rates are the lowest possible to customers consistent with sound business principles; (2) 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

¹⁷ SPP's Western Energy Imbalance Service market is a five-minute energy imbalance service market operated by SPP in the Western Interconnection. *See Sw. Power Pool, Inc.*, 173 FERC ¶ 61,267, at PP 4-5 (2020).

¹⁸ NTUA Comments at 5.

¹⁹ *Id.*

²⁰ 42 U.S.C. § 7152; Pub. L. 95-91, 91 Stat. 565 (1977).

²¹ Department of Energy Delegation Order No. 00-037.00A, §§ 1.1, 3 (Delegation Order).

power and costs assigned by Acts of Congress to power for repayment; and (3) the assumptions and projections used in developing the rate components that are subject to Commission review.²²

10. The Commission is prohibited from reviewing policy judgments and interpretations of laws and regulations made by the power generating agencies.²³ The Commission may reject the rate determinations of WAPA'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 WAPA's Administrator and the applicable power generating agency.

11. 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.²⁴

C. Substantive Matters

12. We have evaluated WAPA's filing for conformance with the applicable standards and find that it is consistent with those standards. By statute,²⁵ WAPA must repay the federal investment within a reasonable period of time, which, as a general practice, is 50

²² *Id.* § 1.3.

²³ 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 Federal Power Marketing Administrations, such as WAPA, market the output of the projects. *See* Delegation Order at § 1.3.

²⁴ *See, e.g., U.S. Dept. of Energy – W. 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 (9th Cir. 1996); *U.S. Dept. of Energy – W. Area Power Admin. (Salt Lake City Area Integrated Projects)*, 59 FERC ¶ 61,058, at 61,240-41 & nn.17 & 20, *reh'g denied*, 60 FERC ¶ 61,002 (1992).

²⁵ 16 U.S.C. § 825s.

years.²⁶ Our review of the Power Repayment Study²⁷ included in WAPA's filing indicates that the revenues to be collected under the rates should be sufficient to recover WAPA's costs, including the recovery of the remaining federal investment, with interest, over the remaining repayment period.²⁸ Moreover, since the revenues generated by the rates recover no more than WAPA's annual costs and the remaining federal investment, the rates are the lowest possible to customers. Our review also indicates that the assumptions and projections used in developing the rates were reasonable and that the Power Repayment Study was prepared in a manner consistent with Department of Energy Order No. RA 6120.2, which requires that WAPA's financial statements 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.

13. The concerns expressed by the Districts and NTUA regarding WAPA's plans to participate in SPP's proposed Markets+ initiative or other markets are beyond the scope of this proceeding, which is limited to our review of WAPA's rates under the standards identified above. Because WAPA's proposed rates are consistent with the standards by which they must be judged, i.e., the standards provided in the Delegation Order, they merit final confirmation and approval. Therefore, the proposed rates are confirmed and approved as requested.

²⁶ See Department of Energy Order No. RA 6120.2.

²⁷ The Power Repayment Study is used to determine if projected power revenues will be sufficient to pay project costs assigned to power within the prescribed repayment period. See WAPA Filing, Ex. 23-WAPA-206 at 11.

²⁸ See *id.* at 11-13. See also WAPA Filing, Exs. 13-WAPA-206, 15-WAPA-206, 17-WAPA-206, 19-WAPA-206, and 21-WAPA-206.

The Commission orders:

WAPA's proposed Rate Schedules SLIP-F13, SP-NW6, SP-PTP10, SP-NFT9, SP-UU3, SP-EI6, SP-SSR6, SP-SS2, and SP-NFJDT are hereby confirmed and approved on a final basis for the period January 1, 2024, through December 31, 2028.

By the Commission.

(S E A L)

Debbie-Anne A. Reese,
Acting Secretary.