

155 FERC ¶ 61,042
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Norman C. Bay, Chairman;
Cheryl A. LaFleur, Tony Clark,
and Colette D. Honorable.

Western Area Power Administration

Docket No. EF15-10-000

ORDER CONFIRMING AND APPROVING RATE SCHEDULES
ON A FINAL BASIS

(Issued April 21, 2016)

1. In this order, we confirm and approve on a final basis, effective October 1, 2015 through September 30, 2020, Western Area Power Administration's (Western) proposed transmission and ancillary services rate schedules.¹

I. Background

2. On September 2, 2015, as supplemented on September 11, 2015, the Deputy Secretary of Energy (Deputy Secretary) filed a request for final confirmation and approval of proposed rate schedules for the Integrated Projects and the CSRP.² These rate schedules supersede the prior rate schedules from Rate Order No. WAPA-137,

¹ The particular rate schedules for which Western seeks confirmation and approval are as follows: SLIP-F10 for firm power from the Salt Lake City Area Integrated Projects (Integrated Projects), SP-PTP8 for firm point-to-point transmission service, SP-NW4 for network integration transmission service, SP-NFT7 for non-firm transmission service on the Colorado River Storage Project (CRSP), and SP-SD4, SP-RS4, SP-EI4, SP-FR4, SP-SSR4, and SP-UU1 for ancillary services.

² The Integrated Projects comprise the CRSP, the Rio Grande Project and the Collbran Project. These 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. That facility represents about 70 percent of the combined power output of the Integrated Projects.

approved by the Commission on a final basis on June 19, 2009.³ The 2009 rate schedules were extended through September 30, 2015, under Rate Order No. WAPA-161.⁴ In Rate Order No. WAPA-169, the Deputy Secretary confirmed and approved the rate schedules at issue here on an interim basis, placing the rates into effect October 1, 2015. The Deputy Secretary requests that the Commission give final confirmation and approval of the rates for the period October 1, 2015, through September 30, 2020.

3. Western maintains that the proposed rates will provide sufficient revenue to pay all annual costs, including interest expense, and repay required investments and irrigation aid, within the allowable periods.

II. Notice, Interventions, and Comments

4. Notice of the filing was published in the *Federal Register*,⁵ with interventions and protests due on or before October 5, 2015.

5. Powerex Corporation filed a motion to intervene. Arizona Electric Power Cooperative and Southwest Transmission Cooperative (Arizona Cooperatives) and the Colorado River Energy Distributors Association, Inc. (Colorado Distributors) each filed timely motions to intervene and comments in support of the filing.

6. Arizona Cooperatives ask the Commission to approve the proposed rates, but they also ask the Commission to clarify that the parties' service agreements should be amended appropriately before any penalties for unauthorized use of transmission under the newly proposed Rate Schedule SP-UU1 are assessed.⁶ They note that Schedule 10 of Western's open access transmission tariff requires notice to existing customers and an amendment to the applicable service agreements with those customers for any modification of the methodology for assessment of unreserved use penalties.

7. Colorado Distributors comment that they participated in Western's public information and comment forums, and submitted written comments. They state that they

³ See *U.S. Dept. of Energy – Western Area Power Admin.*, 127 FERC ¶ 62,220 (2009).

⁴ Rate Order No. WAPA-161, 78 Fed. Reg. 56,692 (2009) (filed with the Commission for informational purposes only).

⁵ 86 Fed. Reg. 56,453 (2015).

⁶ Arizona Cooperatives at 1, 4.

appreciate Western's commitment to customer consultation,⁷ which reinforces cost and rate transparency.⁸ Colorado Distributors also appreciate that Western's responses during the rate process were detailed, giving the sources of Colorado Project input data and review of these data at annual 10-Year Plan regional/project customer meetings.⁹ Finally, Colorado Distributors appreciate Western's commitment to using the Work Program Review process and asset management program to develop its 10-Year Plan as a three-step customer consultation to provide the factual basis for its rate analyses.¹⁰

III. Discussion

A. Procedural Matters

8. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2015), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

B. Standard of Review

9. The Secretary of Energy has delegated the authority to confirm and approve Western's rates on a final basis to the Commission.¹¹ 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

⁷ Colorado Distributors at 2.

⁸ *Id.*

⁹ *Id.* at 3.

¹⁰ *Id.*

¹¹ Delegation Order No. 00-037.00, FERC Stats. & Regs. ¶ 9,919 (2001) (Delegation Order).

- the assumptions and projections used in developing the rate components that are subject to Commission review.¹²

10. The Commission is prohibited from reviewing policy judgments and interpretations of laws and regulations made by the power generating agencies.¹³ 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.

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.¹⁴

C. Commission Determination

12. By statute, Western must repay the Federal investment within a reasonable period of time, which, as a general practice, is 50 years.¹⁵ Our review of Western's submittal indicates that the revenues to be collected under the rates should 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

¹² *Id.*

¹³ 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 Western, market the output of the projects.

¹⁴ See, e.g., *Western Area Power Admin.*, 148 FERC ¶ 61,193, at PP 9-11 (2014); *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 (9th Cir. 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, *reh'g denied*, 60 FERC ¶ 61,002 (1992).

¹⁵ See Department of Energy Order No. RA 6120.2.

generated by the rates recover no more than Western's annual costs and the remaining Federal investment, the rates are 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.

13. Because Western'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.

14. While we approve these rates, we agree with Arizona Cooperatives that Western has an obligation to update its service agreements before it can, in fact, assess any penalties under the new Rate Schedule SP-UU1.

The Commission orders:

The Commission hereby confirms and approves on a final basis Western's proposed Rate Schedules SLIP-F10, SP-PTP8, SP-NW4, SP-NFT7, SP-SD4, SP-RS4, SP-EI4, SP-FR4, SP-SSR4, and SP-UU1 for the period October 1, 2015, through September 30, 2020.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.