

November 24, 1999, the Secretary of Energy again provided interim rate approval authority to the Deputy Secretary of Energy.

Background

The Sam Rayburn Hydropower Project (Rayburn) is located on the Angelina River in the State of Texas in the Neches River Basin. Since the beginning of its operation in 1965, it has been marketed as an isolated project, under contract with Sam Rayburn Dam Electric Cooperative, Inc. (Contract No. DE-PM75-92SW00215).

In the Federal Energy Regulatory Commission (FERC) Docket No. EF94-4021-000, issued December 7, 1994, for the period October 1, 1994, through September 30, 1998, the FERC confirmed and approved the current annual Sam Rayburn Dam rate of \$2,168,135. This rate was subsequently extended for three years, in one year intervals on an interim basis by the Deputy Secretary of Energy or Secretary of Energy under the Rate Order and for the periods listed below:

Rate Order SWPA-38, October 1, 1998—
September 30, 1999
Rate Order SWPA-40, October 1, 1999—
September 30, 2000
Rate Order SWPA-42, October 1, 2000—
September 30, 2001

Discussion

Southwestern's FY 2001 Current Power Repayment Study (PRS) indicates that the existing annual power rate of \$2,168,135 did not represent the lowest possible rate needed to meet cost recovery criteria. The reduced revenue requirement is due to a decrease in the Corps of Engineers (Corps) future replacement estimates. The Revised PRS indicates that a decrease in annual revenues of \$90,504 beginning in FY 2002 is sufficient to accomplish repayment of the Federal investment in the required number of years. Accordingly, Southwestern developed a proposed rate schedule based on that decreased revenue requirement.

Title 10, Part 903, Subpart A of the Code of Federal Regulations, "Procedures for Public Participation in Power and Transmission Rate Adjustment," has been followed in connection with the proposed rate adjustment. More specifically, opportunities for public review and comment during a 90-day period on the proposed Rayburn power rate were announced by notice published in the **Federal Register**, May 11, 2001, 66 FR 24132. A Public Information Forum was to be held June 14, 2001, in Tulsa, Oklahoma, and a Public Comment Forum was to be held July 18, 2001, also

in Tulsa. Both forums were canceled as no one expressed an intention to participate. Written comments were due by August 9, 2001. Southwestern provided notice of the **Federal Register**, together with supporting data, to the customer and interested parties for review and comment during the formal period of public participation. In addition, prior to the formal 90-day public participation process, Southwestern met with the customer and their representative to discuss with them preliminary information on the proposed rate adjustment. Only one formal comment was received from Gillis & Angley, Counsellors at Law, on behalf of Sam Rayburn Dam Electric Cooperative, Inc. (SRDEC), which stated that SRDEC (the sole customer) had no objection to the proposed rate adjustment.

Upon conclusion of the comment period in August 2001, Southwestern finalized the Power Repayment Study and rate schedule for the proposed annual rate of \$2,077,632 which is the lowest possible rate needed to satisfy repayment criteria. This rate represents an annual decrease of 4.2 percent.

Information regarding this rate decrease, including studies and other supporting material, is available for public review and comment in the offices of Southwestern Power Administration, One West Third Street, Tulsa, Oklahoma 74103-3519.

Comments and Responses

Southwestern received one written comment in which the customer representative expressed no objection to the proposed rate adjustment.

Other Issues

There were no other issues raised during the informal meeting or during the formal public participation period.

Administrator's Certification

The FY 2001 Revised Rayburn PRS indicates that the annual power rate of \$2,077,632 will repay all costs of the project, including amortization of the power investment consistent with provisions of the Department of Energy (DOE) Order No. RA 6120.2. In accordance with Delegation Order No. 0204-172, November 24, 1999, and Section 5 of the Flood Control Act of 1944, the Administrator has determined that the proposed Rayburn power rate is consistent with applicable law and the lowest possible rate consistent with sound business principles.

Environment

The environmental impact of the rate decrease proposal was evaluated in

consideration of DOE's guidelines for implementing the procedural provisions of the National Environmental Policy Act, 10 CFR 1021, and was determined to fall within the class of actions that are categorically excluded from the requirements of preparing either an Environmental Impact Statement or an Environmental Assessment.

Order

In view of the foregoing and pursuant to the authority delegated to me by the Secretary of Energy, I hereby confirm, approve and place in effect on an interim basis, for the period October 1, 2001, through September 30, 2005, the annual Sam Rayburn Dam Rate of \$2,077,632 for the sale of power and energy from Sam Rayburn Dam to the Sam Rayburn Electric Cooperative, Inc., under Contract No. DE-PM75-92SW00215, dated October 7, 1992.

Dated: August 29, 2001.

Francis S. Blake,

Deputy Secretary.

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DEPARTMENT OF ENERGY

Western Area Power Administration

Boulder Canyon Project—Base Charge and Rates

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of base charge and rates.

SUMMARY: The Deputy Secretary of the Department of Energy (DOE) has confirmed and approved the FY 2002 Base Charge and Rates (Rates) for the Boulder Canyon Project (BCP) electric service provided by the Western Area Power Administration (Western). The Rates will provide sufficient revenue to pay all annual costs, including interest expense, and repay required investment within the allowable period.

DATES: The Rates will be effective the first day of the first full billing period beginning on or after October 1, 2001. These Rates will stay in effect through September 30, 2002, or until other Rates replace them.

FOR FURTHER INFORMATION CONTACT: Mr. Maher Nasir, Rates Team Lead, Western Area Power Administration, Desert Southwest Customer Service Region, 615 South 43rd Avenue, Phoenix, AZ 85009, telephone (602) 352-2768, e-mail nasir@wapa.gov.

SUPPLEMENTARY INFORMATION: The Deputy Secretary of Energy approved the existing Rate Schedule BCP-F6 for BCP electric service on September 18,

2000 (Rate Order No. WAPA-94, 65 FR 60933, October 13, 2000), on an interim basis, effective on October 1, 2000, through September 30, 2005, and allowed for an annual recalculation of the Rates. On July 31, 2001, the Federal Energy Regulatory Commission (FERC) approved Rate Order No. WAPA-94 on a final basis.

Under Rate Schedule BCP-F6, the existing composite rate, effective on October 1, 2000, is 9.75 mills per kilowatt-hour (mills/kWh), the base charge is \$47,788,574, the forecasted energy rate is 5.04 mills/kWh, and the forecasted capacity rate is \$0.99 per kilowatt-month (kWmonth). The newly calculated Rates for BCP electric service to be effective October 1, 2001, will result in an overall composite rate of 10.32 mills/kWh. This is an increase of approximately 6 percent when compared with the existing BCP electric service composite rate. The increase is due to a slight increase in the annual revenue requirement and lower projected energy sales. The FY 2002 base charge is increasing slightly to \$48,039,988. The slight increase is due mainly to higher operation and maintenance expenses and replacement costs. The FY 2002 forecasted energy rate of 5.33 mills/kWh is approximately a 6-percent increase from the existing forecasted energy rate of 5.04 mills/kWh. The slight increase is due mainly from a projected lower water year that results in reduced projected energy sales. The FY 2002 forecasted capacity rate of \$0.99/kWmonth remains the same as the existing forecasted capacity rate.

The following summarizes the steps taken by Western to ensure involvement of all interested parties in determining the Rates:

1. On February 8, 2001, a letter was mailed from Western's Desert Southwest Customer Service Region to the BCP Contractors and other interested parties announcing the informal customer meeting, and the public information and public comment forums.

2. A **Federal Register** notice (FRN) was published on February 13, 2001 (66 FR 10018), announcing the proposed rate adjustment process, initiating the public consultation and comment period, announcing the public information and public comment forums, and presenting procedures for public participation.

3. Discussion of the proposed Rates was initiated at an informal BCP Contractor meeting held March 21, 2001, in Phoenix, Arizona. At this informal meeting, representatives from Western and the Bureau of Reclamation (Reclamation) explained the basis for

estimates used to calculate the Rates. A question and answer session was held.

4. At the public information forum held on April 4, 2001, in Phoenix, Arizona, Western and Reclamation representatives explained the proposed Rates for FY 2002 in greater detail. A question and answer session was held.

5. A public comment forum was held on April 25, 2001, in Phoenix, Arizona, to give the public an opportunity to comment for the record. Two persons representing customers made oral comments.

6. Three comment letters were received during the 90-day consultation and comment period. The consultation and comment period ended May 14, 2001. All comments were considered in developing the Rates for FY 2002. Written comments were received from:

Arizona Power Authority
Irrigation & Electrical Districts
Association of Arizona
Metropolitan Water District of Southern California
Comments and responses, paraphrased for brevity, are presented below.

Civil Service Retirement Costs

Comment: A Contractor requested that Western and Reclamation cease from including the civil service retirement costs in the BCP Rates until FERC has made its final ruling on the reimbursability of these costs. The Contractor argued that Western cannot use its power revenues to augment the appropriations from outside sources without specific statutory authority. The Contractor also challenged Western's authority to fund any civil service retirement costs for employees of agencies other than Western such as Reclamation, the Corps of Engineers (Corps), and the International Boundary and Water Commission (IBWC). A Contractor stated that neither the Boulder Canyon Project Act nor the Colorado River Storage Project Act allow for the removal of money from the Colorado River Dam Fund (CRDF) to specifically satisfy the liability for the civil service retirement costs. Therefore, the BCP Contractors have concerns with the authority to collect these dollars in the CRDF. A Contractor also requested a copy of the accounting for those costs collected into the CRDF, including interest, be sent to all BCP Contractors and what has already been collected from the Contractors be refunded accordingly.

Response: On July 31, 2001, FERC issued an Order approving Rate Order No. WAPA-94, including the BCP rates for capacity and energy for FY 2001. In the Order, FERC expressly approved

Western's recovery of the full civil service retirement costs in these rates, finding that such recovery was not an unlawful augmentation of appropriations, was not prohibited by the pertinent BCP legislation, and was consistent with FERC's previous approval of the collection of these costs for Western's Pacific Northwest-Pacific Southwest Intertie Project rates, 87 FERC 61,346 (June 22, 1999) and for Southeastern Power Administration's rates, 90 FERC 61,266 (March 17, 2000) and 86 FERC 61,195 (February 26, 1999). Therefore, Western will continue to collect these costs in the BCP rates. As for the Contractors' challenge to Western's authority to fund any civil service retirement costs for employees of agencies other than Western, the rates for the Desert Southwest Customer Service Region's projects do not include costs from the Corps or IBWC agencies. A copy of the accounting records to date for the collection of the civil service retirement costs was provided to the BCP Contractors prior to the close of the comment period.

Allocation of Specific Costs

Comment: A Contractor requested that Western continue to determine a fair and equitable allocation of costs for (1) the potable water and fire systems at Mead Substation, (2) the Buchanan Boulevard Project at Mead Substation, and (3) the Arizona/Nevada Switchyard.

Response: Western is committed to continue working with the Contractors in developing a fair and equitable allocation of costs for these items.

Visitor Services Expense

Comment: A Contractor requested explanation of why both the revenues and expenses for the visitor services are decreasing for FY 2003 and FY 2004.

Response: The Contractor's understanding is incorrect, as both the revenues and expenses for the visitor services are increasing for FY 2003 and FY 2004 due to indexing for inflation. It should be recognized that the estimated figures for FY 2003 and FY 2004 do not impact these Rates, as the Rates are based on FY 2002 data.

Comment: An interested party raised concerns about a \$1.5 million increase in the visitor center costs, a \$1.2 million increase in Reclamation's administrative and general expenses, and a \$0.5 million increase in Western's system operations and dispatch costs.

Response: Western and Reclamation have explained in great detail the amount of the increases, and why the increases have incurred. Visitor service costs have increased \$1.6 million to provide more security, customer service,

and backlogged maintenance and repair items. Reclamation's administrative and general expenses have increased \$1.2 million due mainly to transfers of personnel from operations to administrative and general expense. During the public forum presentations, Western specified in detail why its system operations and load dispatching costs were increasing approximately \$450,000 in the proposed base charge from the existing base charge. The majority of the increase was due to the staffing of two additional full time positions, mandatory travel, training requirements, and additional costs incurred in keeping up with the pace of the utility industry changes. Since the closing of the comment and consultation period, Western has implemented a new cost distribution methodology for the operations' scheduling and dispatcher staff. The new charging methodology decreased the total operation and maintenance budget for FY 2002 by approximately \$1.0 million in the proposed base charge from the existing base charge. Western has been reallocating its budget to cover costs where they are anticipated to occur.

Uprating Credit Program Process

Comment: A Contractor requested Western identify methods to ensure the BCP Uprating Credit process is being performed properly beginning in FY 2002, and the interest rate calculated for cash-funded Contractors is being determined in accordance with the BCP Implementation Agreement and associated resolutions.

Response: Western is administering the uprating credit process in accordance with the June 1996 uprating credits program written procedures and practices document. Western received a request in July 2000 to review the uprating credit process and ensure the interest rate is being calculated correctly for the cash-funded Contractors. On August 31, 2000, Western met with a working group of the BCP Contractors to address the discrepancies that were discovered in the review. Western's goal was to complete this review and recalculation process and implement any revisions to the uprating credit program by February or March 2001. Due to delays in receiving Contractors' revisions to their schedules and Western's workload constraints, completion of this task has been delayed. In the upcoming months Western will meet with the Contractors again to discuss the impacts of the discrepancies. Provided Western and the Contractors can meet and come to an agreement on the impacts and preferred

method of resolution, the process would be properly in place beginning in FY 2002.

BCP Electric Service Rates

BCP electric service Rates are designed to recover an annual revenue requirement that includes the operation and maintenance expenses, payments to States, visitor services, uprating program, replacements, investment repayment, and interest expense. Western's power repayment study (PRS) allocates the projected annual revenue requirement for electric service between capacity and energy, 50 percent to capacity and 50 percent to energy.

Procedural Requirements

BCP electric service Rates are developed under the Department of Energy Organization Act (42 U.S.C. 7101-7352), through which the power marketing functions of the Secretary of the Interior and the Bureau of Reclamation under the Reclamation Act of 1902 (ch. 1093, 32 Stat. 388), as amended and supplemented by subsequent enactments, particularly section 9(c) of the Reclamation Project Act of 1939 (43 U.S.C. 485h(c)), and other acts that specifically apply to the project involved, were transferred to and vested in the Secretary of Energy.

By Amendment No. 3 to Delegation Order No. 0204-108, published November 10, 1993 (58 FR 59716), the Secretary of Energy delegated (1) the authority to develop long-term power and transmission rates on a nonexclusive basis to Western's Administrator; and (2) the authority to confirm, approve, and place into effect on a final basis, to remand, or to disapprove such rates to the FERC. In Delegation Order No. 0204-172, effective November 24, 1999, the Secretary of Energy delegated the authority to confirm, approve, and place such rates into effect on an interim basis to the Deputy Secretary. Existing DOE procedures for public participation in electric service rate adjustments are located at 10 CFR part 903, effective September 18, 1985 (50 FR 37835). DOE procedures have been followed by Western in developing these Rates.

The Boulder Canyon Project Implementation Agreement Contract No. 95-PAO-10616 requires Western, prior to October 1 of each rate year, to determine the annual Rates for the next fiscal year. The Rates for the first rate year and each fifth rate year thereafter, shall become effective provisionally upon approval by the Deputy Secretary of Energy subject to final approval by FERC. For all other rate years, the Rates shall become effective on a final basis

upon approval by the Deputy Secretary of Energy.

Western will continue to provide the Contractors annual Rates by October 1 of each year using the same rate setting formula. The Rates are reviewed annually and adjusted upward or downward to assure sufficient revenues to achieve payment of all costs and financial obligations associated with the project. Each fiscal year, Western prepares a PRS that updates actual revenues and expenses and includes future estimates of annual revenues and expenses for the BCP including interest and capitalized costs.

Western's BCP electric service rate setting formula was submitted to FERC for confirmation and approval on October 31, 1995. On April 19, 1996, in Docket No. EF96-5091-000 at 75 FERC 62,050, FERC issued an order confirming, approving, and placing into effect on a final basis the electric service rate setting formula for BCP. The rate setting formula set forth in Rate Order No. WAPA-70 was approved for a period beginning November 1, 1995, and ending September 30, 2000. Rate Order No. WAPA-94 extends the existing rate setting formula beginning on October 1, 2000, and ending September 30, 2005.

Western proposes the FY 2002 base charge of \$48,039,988, the forecasted energy rate of 5.33 mills/kilowatt-hour, and the forecasted capacity rate of \$0.99/kilowatt-month be approved on a final basis.

In accordance with 10 CFR part 903, Western held a consultation and comment period. The notice of the proposed FY 2002 Rates for electric service was published in the **Federal Register** on February 13, 2001.

Following review of Western's proposal within DOE, I approve the FY 2002 Rates, on a final basis, for BCP electric service, under Rate Schedule BCP-F6, through September 30, 2002.

Dated: August 29, 2001.

Francis S. Blake,

Deputy Secretary.

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ENVIRONMENTAL PROTECTION AGENCY

[FRL-7053-9]

Agency Information Collection Activities: Submission for OMB Review; Comment Request, NSPS for Coal Preparation Plants.

AGENCY: Environmental Protection Agency (EPA).