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**Magalie R. Salas,**

*Secretary.*

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. EL00-95-000, et al.; Docket No. EL00-98-000, et al.; Docket No. ER03-746-000, et al.]

#### **San Diego Gas & Electric Company, Complainant, v. Sellers of Energy and Ancillary Services, Into Markets Operated by the California, Independent System Operator, and the California Power Exchange, Respondents; Investigation of Practices of the California Independent System Operator and the California Power Exchange; California Independent System Operator Corporation; Notice of Technical Conference**

September 27, 2004.

The Federal Energy Regulatory Commission staff is convening a technical conference to discuss with the California Independent System Operator Corporation (CAISO) and market participants and facilitate a better understanding of several aspects of the CAISO's proposed methodology for allocating the fuel cost allowance. In *San Diego Gas & Electric Co. v. Sellers of Energy & Ancillary Serv., et al.*, 107 FERC 61,166 (2004), the Commission directed the CAISO to develop a methodology to allocate recovery of the fuel allowance. The CAISO's compliance filing, and the numerous protests and comments submitted in response thereto, raise new issues, including: the netting of sales and purchases, the mechanics of the implementation of the fuel cost allowance offset, and the consistency of the CAISO's proposed methodology for

allocating fuel cost allowance with the intent of the refund proceeding. Participants are requested to restrict their contributions to this conference to the issues related to the process and mechanics of allocating recovery of the fuel cost allowance within the framework of the refund proceeding. A separate notice will be issued by the Commission to announce the final agenda of the staff technical conference.

The staff technical conference will be held on October 7, 2004, at the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC beginning at 9 a.m. (e.s.t.) in a room to be announced at a later date.

The conference is open for the public to attend, and registration is not required. For more information about the conference, please contact: Olga Kolotushkina, Office of General Counsel, Federal Energy Regulatory Commission at (202) 502-6024 or [shawn.bennett@ferc.gov](mailto:shawn.bennett@ferc.gov).

**Magalie R. Salas,**

*Secretary.*

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket Nos. ER04-699-000, ER03-1272-002, and ER03-1272-003]

#### **Entergy Services, Inc.; Notice of Technical Conference**

September 27, 2004.

Notice is hereby provided that the Commission will convene a technical conference, to be held on Friday, October 8, 2004 in Jackson, Mississippi. The conference will be held from 9:30 a.m. to 4 p.m. (Central Time) at the Mississippi Department of Education building, 359 N. West Street, Jackson, Mississippi. Members of the Federal Energy Regulatory Commission are expected to participate, along with Entergy's state and local utility regulators.

The purpose of the conference is to discuss Entergy's Wholesale Procurement Process (WPP) and Independent Coordinator of Transmission (ICT) proposals in Docket No. ER04-699, including issues raised at the technical conference held on July 30 and 31, 2004 in New Orleans, Louisiana. Parties may also discuss Entergy's filings, in Docket Nos. ER03-1272-002 and ER03-1272-003, in compliance with Commission orders approving the implementation of the

Available Flowgate Capability (AFC) methodology to allocate transmission service.<sup>1</sup>

The Commission will provide further information on the conference, including an agenda, in a subsequent notice. Parties will have the opportunity to file supplemental comments following the conclusion of the conference.

Transcripts of the conference will be immediately available from Ace Reporting Company (202-347-3700 or 1-800-336-6646) for a fee. They will be available for the public on the commission's e-Library (FERRIS) seven calendar days after FERC receives the transcript.

All interested persons may attend. For additional information, please contact Anna Cochrane at (202) 502-6357; [anna.cochrane@ferc.gov](mailto:anna.cochrane@ferc.gov) or Sarah McKinley at (202) 502-8004; [sarah.mckinley@ferc.gov](mailto:sarah.mckinley@ferc.gov).

**Magalie R. Salas,**

*Secretary.*

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## DEPARTMENT OF ENERGY

### Western Area Power Administration

#### **Parker-Davis Project—Post-2008 Resource Pool**

**AGENCY:** Western Area Power Administration, DOE.

**ACTION:** Notice of proposed procedures and call for applications.

**SUMMARY:** The Western Area Power Administration (Western), a Federal power marketing agency of the Department of Energy (DOE), is seeking comments on proposed procedures and calling for applications from preference entities interested in an allocation of Federal power from the Parker-Davis Project. Western's Energy Planning and Management Program (Program) provides for establishing project-specific resource pools and allocating power from these pools to preference contractors. Under the Program, Western is proposing allocation criteria for comment, and is also seeking applications from entities interested in a Federal power resource pool allocation of the long-term marketable resource of the Parker-Davis Project (P-DP) that will become available October 1, 2008. Preference entities applying for an allocation of power must submit formal applications as outlined below.

<sup>1</sup> *Entergy Services, Inc.*, 106 FERC ¶ 61,115 (2004) and *Entergy Services Inc.*, 108 FERC ¶ 61,046 (2004).

**DATES:** Entities interested in commenting on proposed procedures must submit written comments to Western's Desert Southwest Regional Office at the address below. Entities applying for an allocation of Western power must submit an application to the address below. Western will accept written comments and/or applications received on or before December 30, 2004. Western reserves the right to not consider any comments and/or applications received after this date. Western will hold public information forums and public comment forums on the proposed procedures and applications.

The public information forum dates are:

1. October 25, 2004, 1 p.m., Las Vegas, NV.
2. October 26, 2004, 1 p.m., Phoenix, AZ.
3. October 27, 2004, 1 p.m., Ontario, CA.

Following the public information forums, Western will hold three public comment forums. The dates for these forums are as follows:

1. November 30, 2004, 1 p.m., Las Vegas, NV.
2. December 1, 2004, 1 p.m., Phoenix, AZ.
3. December 2, 2004, 1 p.m., Ontario, CA.

**ADDRESSES:** Submit applications for an allocation of Western power and written comments regarding these proposed procedures to Mr. J. Tyler Carlson, Regional Manager, Desert Southwest Region, Western Area Power Administration, P.O. Box 6457, Phoenix, AZ 85005-6457. You may also fax applications or comments to Western at (602) 352-2490 or e-mail them to [post2008pdp@wapa.gov](mailto:post2008pdp@wapa.gov). Application forms are available upon request or may be accessed at <http://www.wapa.gov/dsw/pwrmt/FRN>. Applicants are encouraged to use the application form provided at the above Web site.

The public information and comment forum locations are:

1. Las Vegas—Las Vegas Tropicana, 3801 Las Vegas Boulevard South, Las Vegas, NV.
2. Phoenix—Western Area Power Administration, Desert Southwest Regional Office, 615 South 43rd Ave, Phoenix, AZ.
3. Ontario—Hilton Ontario Airport, 700 N. Haven Avenue, Ontario, CA.

**FOR FURTHER INFORMATION CONTACT:** Roy Tinsley, Project Manager, Desert Southwest Region, Western Area Power Administration, 615 South 43rd Ave, Phoenix, AZ 85005, telephone (602)

352-2788, e-mail [post2008pdp@wapa.gov](mailto:post2008pdp@wapa.gov).

The current Parker-Davis Project (P-DP) marketing plan and related information are available online at <http://www.wapa.gov/dsw/pwrmt>. Western will also post all public comments from this process on this Web site after the close of the comment period.

**SUPPLEMENTARY INFORMATION:** On October 20, 1995, Western published the Final Program Rule for the Program, which became effective on November 20, 1995 (60 FR 54151, October 20, 1995). Subpart C—Power Marketing Initiative of the Program, Final Rule, 10 CFR part 905, provides for project-specific resource pools and allocations of power from these pools to eligible preference contractors. Western published its decision to apply the Program Power Marketing Initiative (PMI) to the P-DP on May 5, 2003 (68 FR 23709). This decision created a resource pool of approximately 17 megawatts (MW) of summer season capacity and 13 MW of winter season capacity based on estimates of current P-DP hydroelectric resource availability, for allocation to eligible preference contractors for 20 years beginning October 1, 2008. Traditionally, Western has marketed allocations of firm power to eligible preference contractors to encourage the most widespread use, following Federal Reclamation Law. Western will make allocations to preference contractors under the current P-DP Marketing Plan (49 FR 50582, 52 FR 7014, 52 FR 28333) and the Program. Western intends to carry forward the key principles and criteria of the Marketing Plan and the Program, except as modified in this notice.

#### **Proposed Post—2008 Resource Pool Allocation Procedures**

These proposed procedures for the P-DP resource pool address (1) eligibility criteria; (2) how Western plans to allocate the resource pool to eligible applicants; and (3) the terms and conditions under which Western will sell the allocated power.

#### **I. Amount of Pool Resources**

As of October 1, 2008, Western proposes to allocate, as long-term firm power to eligible preference contractors, approximately 17 MW of summer season capacity and 13 MW of winter season capacity, based on estimates of current P-DP hydroelectric resource availability. Firm power means capacity and associated energy allocated by Western and subject to the terms and conditions specified in the Western P-DP electric service contract. The

associated energy will equal 3,441 kilowatt hours per kilowatt (kWh/kW) in summer and 1,703 kWh/kW in winter, based on current marketing plan criteria. This new resource pool includes 0.869 MW of summer withdrawable capacity and 0.619 MW of winter withdrawable capacity. Withdrawable power is power reserved for United States priority use, but not presently needed. Priority use power is capacity and energy required for the development and operation of Bureau of Reclamation (Reclamation) projects as required by legislation and irrigation pumping on certain Indian lands. When priority-use power is requested, Western will substantiate that the power to be withdrawn will be used for the purposes specified in the Conformed Criteria (49 FR 50586) and then, upon a 2-year written advance notice, Western may withdraw the necessary amount of power on a *pro-rata* basis (52 FR 28336).

#### **II. General Eligibility Criteria**

Western proposes to apply the following general eligibility criteria to applicants seeking a firm power allocation under the proposed Post-2008 Resource Pool Allocation Procedures:

A. Qualified applicants must be preference entities as defined by section 9(c) of the Reclamation Project Act of 1939, 43 U.S.C. 485h(c), as amended and supplemented.

B. First consideration will be given to qualified applicants in the P-DP marketing area who do not have a contract with Western for Federal power resources or are not a member of a parent entity that has a contract with Western for Federal power resources.

C. Qualified applicants, except Native American tribes, must be ready, willing, and able to receive and distribute or use power from Western. Ready, willing, and able means that the potential customer has the facilities needed for the receipt of power or has made the necessary arrangements for transmission and/or distribution service; and the potential customer's power supply contracts with third parties permit the delivery of Western's power (60 FR 54173). End users must have the necessary arrangements for transmission and/or distribution service in place by April 1, 2008.

D. Qualified applicants that desire to purchase power from Western for resale to consumers, including cooperatives, municipalities, public utility districts, and public power districts must have utility status by October 1, 2005; and must have the necessary arrangements for transmission and/or distribution service in place by April 1, 2008. Native American tribes are not subject to this

requirement. Utility status means the applicant has responsibility to meet load growth, has a distribution system, and is ready, willing, and able to purchase Federal power from Western on a wholesale basis for resale to retail customers.

E. Qualified Native American applicants must be a Native American tribe as defined in the Indian Self Determination Act of 1975, 25 U.S.C. 450b, as amended.

### III. General Allocation Criteria

Western proposes to apply the following general allocation criteria to applicants seeking an allocation of firm power under the proposed Post-2008 Resource Pool Allocation Procedures.

A. Allocations of firm power will be made in amounts as determined solely by Western in exercise of its discretion under Federal Reclamation Law.

B. An allottee may begin service to purchase firm power only upon the execution of an electric service contract between Western and the allottee, and satisfaction of all conditions in that contract.

C. Firm power will be allocated under these procedures to qualified applicants following preference provisions of section 9(c) of the Reclamation Project Act of 1939, in the following order of priority:

1. Preference entities in the P-DP marketing area that do not have a contract with Western for Federal power resources or are not a member of a parent entity that has a contract with Western for Federal power resources.

2. Preference entities in the P-DP marketing area that have a contract with Western for Federal power resources or are a member of a parent entity that has a contract with Western for Federal power resources.

3. Preference entities in adjacent Federal marketing areas that do not have a contract with Western for Federal power resources or are not a member of a parent entity that has a contract with Western for Federal power resources.

D. The P-DP marketing area includes:

- All of the drainage area considered tributary to the Colorado River below a point 1 mile downstream from the mouth of the Paria River (Lee's Ferry).
- The State of Arizona, excluding that portion lying in the Upper Colorado River Basin, except for that portion of the Upper Colorado River Basin in which the Navajo Generating Station is located. The Navajo Generating Station is included in the power marketing area as a resource only.

- That portion of the State of New Mexico lying in the Lower Colorado River Basin and the independent

Quemada Basin lying north of the San Francisco River drainage area.

- Those portions of the State of California lying in the Lower Colorado River Basin and in drainage basins of all streams draining into the Pacific Ocean south of Calleguas Creek.

- Those parts of the States of California and Nevada in the Lahontan Basin including and lying south of the drainages of Mono Lake, Adobe Meadows, Owens Lake, Amargosa River, Dry Lakes, and all closed independent basins or other areas in southern Arizona not tributary to the Colorado River.

For a map of the P-DP marketing area, visit Western's Web site at <http://www.wapa.gov/dsw/pwrmkt>.

E. Western will base allocations made to qualified applicants on the actual loads experienced in calendar year 2003 and will apply current marketing plan criteria and Program criteria to these loads, except as stated in this notice.

F. Western will base allocations made to Native American tribes on the actual load experienced in calendar year 2003. Western has the right to use estimated load values should actual load data not be available. Western will review and adjust, where necessary, inaccurate estimates received during the allocation process.

G. New contractors must execute electric service contracts within 6 months of receiving a contract offer from Western, unless Western agrees otherwise in writing.

H. The resource pool will be dissolved subsequent to the closing date for executing firm power contracts. Firm power not under contract by the closing date will be used as determined by Western.

I. The minimum allocation shall be 1,000 kW.

J. If unanticipated obstacles to the delivery of hydropower benefits to Native American tribes arise, Western retains the right to provide the economic benefits of its resources directly to the tribes.

### IV. General Contract Principles

Western proposes to apply the following general contract principles to all applicants receiving an allocation of firm power under the proposed Post-2008 Resource Pool Allocation Procedures.

A. Western reserves the right to reduce the withdrawable portion of a contractor's contract rate of delivery, upon 2 years' notice of a request by Reclamation for additional energy needed to serve project pumping requirements.

B. Western, at its discretion and sole determination, reserves the right to adjust the contract rate of delivery on 5 years' written notice in response to changes in hydrology and river operations. Such adjustments will only take place after Western conducts a public process.

C. Each contractor is ultimately responsible for arranging third-party delivery. Western may assist new contractors in obtaining third-party transmission arrangements for delivery of firm power allocated under these contracts.

D. No contractor shall sell for profit any of the capacity and energy allocated to it to any customer of the contractor for resale by that customer (49 FR 50585).

E. Contracts entered into under the Post-2008 Resource Pool Allocation Procedures will provide for Western to furnish firm electric service effective from October 1, 2008, through September 30, 2028.

F. Contractors will be required to pay in advance for their firm electric service.

G. To the extent existing contractors' allocations are reduced to create the resource pool, new contractors will be required to reimburse existing contractors for undepreciated replacement advances.

H. Contracts entered into as a result of the proposed procedures will incorporate Western's standard provisions for power sales contracts, integrated resource planning, and the general power contract provisions.

### V. Applications for Firm Power

This notice formally requests applications from qualified entities wishing to purchase power from the Desert Southwest Region. Western is requesting Applicant Profile Data (APD) to provide a uniform basis for evaluating applications. To be considered, qualified entities must submit an application to the Desert Southwest Region as requested below. To ensure full consideration for all applicants, Western will not consider applications submitted before publication of this notice or after the deadline specified in the **DATES** section. Application forms are available upon request or may be accessed at <http://www.wapa.gov/dsw/pwrmkt/FRN>. Western encourages applicants to use the application form provided at the above Web site.

#### A. Applicant Profile Data Application

The content and format of the APD are outlined below. Applicants should submit requested information in the sequence listed. Applicants must provide all requested information, or the

most reasonable available estimate, or should indicate "not applicable" if they have no information they wish to be considered for a requested item.

Western is not responsible for errors in data or missing pages. All items of information in the APD should be answered as if prepared by the entity seeking the allocation. The APD shall consist of the following:

1. Applicant:
  - a. Applicant's (entity requesting a new allocation) name and address.
  - b. Person(s) representing applicant: Please provide the name, title, address, telephone and fax number, and e-mail address of such person(s).
  - c. Type of organization: For example, Federal or state agency, irrigation district, municipal, rural, or industrial user, municipality, Native American tribe, public utility district, or rural electric cooperative. Please provide a brief description of the organization that will interact with Western on contract and billing matters and whether the organization owns and operates its own electric utility distribution system.
  - d. Parent organization of applicant, if any.
  - e. Name of members or suballottees, if any.
  - f. Applicable law under which the organization was established.
  - g. Taxpayer Identification Number (TIN).
  - h. Applicant's geographic service area: If available, submit a map of the service area, and indicate the date prepared.

2. Loads:

- a. All Applicants:
  - I. If applicable, number and type of customers served in calendar year 2003; e.g., residential, commercial, industrial, military base, agricultural.
  - II. The actual monthly maximum demand (in kilowatts) and energy use (in kilowatt hours) experienced in calendar year 2003.

III. For Native American tribe applicants, if actual demand and energy data is not available, provide estimated monthly demand (in kilowatts) with a description of the method and basis for this estimated demand.

3. Resources:

a. A list of current power supplies, including the applicant's own generation and purchases from others. For each supply, provide capacity and location.

b. Status of power supply contract(s), including a contract termination date. Indicate whether power supply is on a firm basis or some other type of arrangement.

4. Transmission:

a. Point(s) of delivery: Provide the preferred point(s) of delivery on

Western's P-DP system or a third party's system and the required service voltage.

b. Transmission arrangements: Describe the applicant's transmission arrangements necessary to deliver firm power to the requested points of delivery beyond Western's P-DP system. Provide a single-line drawing of applicant's system, if one is available.

5. Other Information: The applicant may provide any other information pertinent to receiving an allocation.

6. Signature: The signature and title of an appropriate official who is able to attest to the validity of the APD and who is authorized to submit the request for allocation is required.

*B. Western's Consideration of Applications*

1. Upon receiving the APD, Western will verify that the applicant meets the general eligibility criteria in Section II, and that the application contains all items requested in the APD.

a. Western may request in writing additional information from any applicant whose APD is determined to be deficient. The applicant will have 15 days from the date on Western's letter of request to provide the information.

b. If Western determines the applicant does not meet the general eligibility criteria, Western will send a letter explaining why the applicant did not qualify.

c. If the applicant has met the eligibility criteria, Western, through the public process, will determine the amount of firm power, if any, to allocate in accordance with the general allocation criteria in Section III. Western will send a draft contract to the applicant that identifies the terms and conditions of the offer and the amount of firm power allocated to the applicant.

**VI. Regulatory Flexibility Analysis**

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601, *et seq.*) requires Federal agencies to perform a regulatory flexibility analysis if a final rule is likely to have a significant economic impact on a substantial number of small entities and there is a legal requirement to issue a general notice of proposed rulemaking. Western has determined that this action does not require a regulatory flexibility analysis since it is a rulemaking of particular applicability involving rates or services applicable to public property.

**VII. Small Business Regulatory Enforcement Fairness Act**

Western has determined that this rule is exempt from congressional notification requirements under 5 U.S.C. 801 because the action is a rulemaking

of particular applicability relating to rates or services and involves matters of procedure.

**VIII. Determination Under Executive Order 12866**

Western has an exemption from centralized regulatory review under Executive Order 12866; accordingly, no clearance of this notice by the Office of Management and Budget is required.

**IX. Environmental Compliance**

Western has completed an environmental impact statement on the Program, pursuant to the National Environmental Policy Act of 1969 (NEPA). The Record of Decision was published in 60 FR 53181, October 12, 1995. Western's NEPA review assured all environmental effects related to these actions have been analyzed.

Dated: September 16, 2004.

**Michael S. Hacskeylo,**

*Administrator.*

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**ENVIRONMENTAL PROTECTION AGENCY**

[OAR-2003-0118; FRL-7822-1]

**Protection of Stratospheric Ozone: Notice 19 for Significant New Alternatives Policy Program**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of acceptability.

**SUMMARY:** This Notice of Acceptability expands the list of acceptable substitutes for ozone-depleting substances (ODS) under the U.S. Environmental Protection Agency's (EPA) Significant New Alternatives Policy (SNAP) program. The substitutes are for use in the following sectors: Refrigeration and air conditioning, foam blowing, fire suppression and explosion protection, and sterilants. This document also clarifies the status of the use of a hydrochlorofluorocarbon as an aerosol solvent, revises the global warming potential for a substitute previously listed as acceptable for use in fire suppression and explosion protection based on new information, and clarifies a statement from the previous SNAP notice of acceptability of August 21, 2003, regarding a refrigerant.

**EFFECTIVE DATE:** October 1, 2004.

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. OAR-2003-0118 (continuation of Air Docket A-91-42). All electronic documents in the docket are listed in