

No. 0204–108, as amended, was rescinded and subsequently replaced by Delegation Orders 00–037.00 (December 6, 2001) and 00–001–00C (January 31, 2007). The Deputy Secretary issued this rate order pursuant to said delegations.

#### Background

The Sam Rayburn Dam (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. (SRDEC) (Contract No. DE–PM75–92SW00215). SRDEC is comprised of two separate entities, the Sam Rayburn G&T, and the Sam Rayburn Municipal Power Agency.

In the FERC Docket No. EF07–4021–000 (122 FERC ¶ 62196), issued February 29, 2008, for the period October 1, 2007, through September 30, 2011, the FERC confirmed and approved the current annual Rayburn rate of \$3,456,696. However, the current rate is inadequate to meet cost recovery criteria for the period January 1, 2009 through September 30, 2012.

#### Discussion

Southwestern's 2008 Current Power Repayment Study (PRS) indicates that the existing annual power rate of \$3,456,696 does not represent the lowest possible rate needed to meet cost recovery criteria. The increased revenue requirement is due to an increase in the U.S. Army Corps of Engineers (Corps) projected operations and maintenance costs. The Revised PRS indicates that an increase in annual revenues of \$493,176 beginning January 1, 2009, 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 increased revenue requirement.

Title 10, Part 903, Subpart A of the Code of Federal Regulations, "Procedures for Public Participation in Power and Transmission Rate Adjustments and Extensions," has been followed in connection with the proposed rate adjustment. More specifically, opportunities for public review and comment during a 30-day period on the proposed Rayburn power rate were announced by a **Federal Register** (73 FR 65306) notice published on November 3, 2008. A Public Information and Comment Forum was scheduled to be held November 18, 2008, in Tulsa, Oklahoma. The forum was canceled as no one expressed an intention to participate. Written comments were due by December 3,

2008. Southwestern provided the **Federal Register** notice, together with requested 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 30-day public participation process, Southwestern discussed with the customer representatives the preliminary information on the proposed rate adjustment. Only one formal comment was received from Gillis & Angley, LLP, Counsellors at Law, on behalf of Sam Rayburn Municipal Power Agency, Vinton Public Power Authority, Sam Rayburn G&T and the Sam Rayburn Dam Electric Cooperative, Inc., which stated that they had no objection to the proposed rate adjustment.

Upon conclusion of the comment period in December 2008, Southwestern finalized the PRS and rate schedule for the proposed annual rate of \$3,949,872, which is the lowest possible rate needed to satisfy repayment criteria. This rate represents an annual increase of 14.3 percent.

#### Availability of Information

Information regarding this rate increase, 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.

#### 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 period or during the formal public participation period.

#### Administrator's Certification

The 2008 Revised Rayburn PRS indicates that the annual power rate of \$3,949,872 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 Nos. 00–037.00 (December 6, 2001) and 00–001.00C (January 31, 2007), 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 increase 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, I hereby confirm, approve and place in effect on an interim basis, for the period January 1, 2009, through September 30, 2012, the annual Sam Rayburn Dam rate of \$3,949,872 for the sale of power and energy from Sam Rayburn Dam to the Sam Rayburn Dam Electric Cooperative, Inc., under Contract No. DE–PM75–92SW00215, dated October 7, 1992.

This rate shall remain in effect on an interim basis through September 30, 2012, or until the FERC confirms and approves the rate on a final basis.

Dated: December 17, 2008.

**Jeffrey F. Kupfer,**

*Acting Deputy Secretary.*

[FR Doc. E8–30967 Filed 12–29–08; 8:45 am]

**BILLING CODE 6450–01–P**

## DEPARTMENT OF ENERGY

### Western Area Power Administration

#### 2015 Resource Pool

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

**ACTION:** Notice of Final 2015 Resource Pool Size and Revised Eligibility Criteria.

**SUMMARY:** The Western Area Power Administration (Western), a Federal power marketing agency of the U.S. Department of Energy (DOE), published its 2004 Power Marketing Plan (Marketing Plan) for Western's Sierra Nevada Customer Service Region (SNR) in the **Federal Register** on June 25, 1999 (64 FR 34417). The Marketing Plan specifies the terms and conditions under which Western will market power from the Central Valley Project (CVP) and the Washoe Project beginning January 1, 2005, and continuing through December 31, 2024. The Marketing Plan provides for a 2015 Resource Pool of up to 2 percent of SNR's marketable power resources. The 2015 Resource Pool will be available for power allocations to preference entities that meet the Eligibility Criteria. Western published

its Proposed 2015 Resource Pool Size and Revised Eligibility Criteria in the **Federal Register** on May 5, 2008 (73 FR 24592). This notice responds to the comments received on the Proposed 2015 Resource Pool Size and Revised Eligibility Criteria and sets forth the Final 2015 Resource Pool Size and Revised Eligibility Criteria.

This **Federal Register** notice is not a call for applications for Federal power allocations. Preference entities who wish to apply for an allocation of power from SNR must submit formal applications in response to Western's Call for 2015 Resource Pool Applications to be published under a separate notice. Application procedures will be set forth in the Call for 2015 Resource Pool Applications.

**DATES:** The Final 2015 Resource Pool Size and Revised Eligibility Criteria will become effective January 29, 2009.

**FOR FURTHER INFORMATION CONTACT:** Ms. Jeanne Haas, Power Contracts and Energy Services Manager, Sierra Nevada Customer Service Region, Western Area Power Administration, 114 Parkshore Drive, Folsom, CA 95630-4710, (916) 353-4438, e-mail [haas@wapa.gov](mailto:haas@wapa.gov).

**SUPPLEMENTARY INFORMATION:**

**Background**

As discussed in Western's May 5, 2008, **Federal Register** notice for the Proposed 2015 Resource Pool Size and Revised Eligibility Criteria, the Marketing Plan describes how SNR will market its power resources beginning January 1, 2005, through December 31, 2024. During this period, the Marketing Plan requires Western to establish and allocate a 2015 Resource Pool. The Marketing Plan provides Western with discretion to reduce all Customers' allocations by up to 2 percent to establish the 2015 Resource Pool. As more fully described in the May 5, 2008, **Federal Register** notice, as part of this public process, Western proposed: (1) To reduce all existing Customers' allocation by the full 2 percent and (2) to revise the Eligibility Criteria by deleting the following language:

Existing Customers may apply for a resource pool allocation if their Extension CRD, set forth in Appendix A [of the Marketing Plan **Federal Register** 64 FR 34417], is not more than 15 percent of their peak load in the calendar year prior to the Call for Applications, and not more than 10 MW.

Western started the public process for the 2015 Resource Pool in May 2008 to ensure that customers have adequate time to secure power and delivery arrangements to start on January 1, 2015.

The Marketing Plan continues to remain in full force and effect and will govern the formal allocation process. The size of the 2015 Resource Pool will reflect the outcome of this public process. Additionally, Western will apply the revised Eligibility Criteria developed through this process for applications received during the 2015 Resource Pool allocation.

This **Federal Register** notice is not a call for applications for Federal power allocations. Entities interested in an allocation of power from SNR must apply pursuant to the Call for 2015 Resource Pool Applications to be published in a separate **Federal Register** notice. Preference entities who wish to apply for an allocation of power from SNR must submit formal applications in response to Western's Call for 2015 Resource Pool Applications to be published under a separate **Federal Register** notice. The application information and procedures will be set forth in that **Federal Register** notice.

**Acronyms and Definitions**

**CRD:** Contract Rate of Delivery: The maximum amount of capacity made available to a Customer for a period specified under a contract.

**Customer:** A preference customer who has a contract to purchase power under the Marketing Plan.

**Eligibility Criteria:** Conditions that must be met to qualify for an allocation.

**Existing Customer:** A preference customer who had a contract to purchase firm power offered under a previous allocation process or Marketing Plan that extended through December 31, 2004. Note: The definition includes those entities who succeeded in interest to an Existing Customer; e.g., if Western approved the assignment of an Existing Customer's Federal power allocation to another preference customer, the assigned Federal power falls within the definition.

**Extension CRD:** An Existing Customer's CRD exclusive of diversity and curtailable power and peaking/excess capacity, as it may be adjusted in accordance with the Marketing Plan.

**Responses to Comments Received on the Notice of Proposed 2015 Resource Pool Size and Revised Eligibility Criteria (73 FR 24592, May 5, 2008)**

During the public consultation and comment period, Western received nine letters commenting on the proposal. In addition, two customer and interested party representatives commented during the May 21, 2008, public comment forum. In preparing the Final 2015 Resource Pool Size and Revised Eligibility Criteria, Western reviewed

and considered all comments it received during the public comment period. The comment period closed on July 7, 2008.

The following is a summary of the comments received and Western's responses to those comments. Western grouped the comments by subject and paraphrased them for brevity. Specific comments are used for clarification where necessary.

**2015 Resource Pool Size Comments and Responses**

**Comment:** Three commentors supported the full 2 percent reduction in customer allocations to establish the 2015 Resource Pool.

**Response:** Western notes the comments. The full 2 percent reduction in all customers' Base Resource percentage to provide for a 2015 Resource Pool will promote widespread use of Federal power.

**Eligibility Criteria Comments and Responses**

**Comment:** A commentor supported the proposal to delete the criterion because the formula, which is based on an Existing Customer's Extension CRD, is no longer applicable.

**Response:** Western notes the comment and agrees that because Existing Customers no longer have CRDs, and CRDs are not allocated under this Marketing Plan, the criterion is no longer applicable.

**Comment:** Two commentors supported deleting the criterion in order to ensure full subscription of Western's resources.

**Response:** Western notes the comment and agrees that the criterion, if used, may be too restrictive to ensure full subscription of Western's resources. In addition, Western believes that if this criterion is not deleted, it would unfairly disadvantage Existing Customers by subjecting them to a criterion that only applies to that customer class, while customers that received an allocation under the 2005 Resource Pool would be exempt.

**Comment:** A commentor objected to deleting the criterion. The commentor suggested the continued application of the existing criterion will ensure Western's resources will be equitably allocated to a variety of customers.

**Response:** CRDs were used in Western's marketing plans previous to this Marketing Plan as a measurement of capacity allocated to a customer. Under the current Marketing Plan, customers are allocated a percentage of the generation available after Western meets certain other obligations. Western used Extension CRDs initially only to calculate a percentage for Existing

Customers. CRDs and Extension CRDs are obsolete and not applicable under the 2015 reallocation. Western is committed to its mission to provide wide-spread use of its power resources. Removal of this criterion will not prevent Western from equitably allocating its resources among potential customers.

*Comment:* Three commentors suggested modifying the criterion's formula to be based on Base Resource percentages rather than Extension CRDs.

*Response:* If Western were to modify the criterion to be based on Base Resource percentages as the commentors suggest, Western believes that the criterion is unfairly restrictive and may not ensure full subscription of its power resources. Western does not want to continue to put any type of criterion in place that unfairly limits the ability of any existing customers to apply for an allocation of the 2015 Resource Pool.

*Comment:* A commentor supported deleting the criterion and replacing it with a new criterion under which only Existing Customers who have a substantial percentage of qualified renewable energy in their power portfolio would be qualified to apply for a 2015 Resource Pool allocation.

*Response:* Although Western supports those customers who have substantial qualified renewable energy assets, a renewable portfolio is not a criteria to receive an allocation. Western feels that to put such a restriction on preference entities may unfairly limit some from receiving an allocation of Base Resource.

*Comment:* A commentor suggested modifying the criterion to recognize the relative size of a Western allocation compared to a customer's load.

*Response:* Western believes the best method to ensure full subscription of its resources is to maintain wide discretion in the Eligibility Criteria. However, in determining allocations, Western may consider various factors relative to the allocation including the size of a customer's load compared to its existing allocation.

#### **Establishing the 2015 Resource Pool Size**

Western has established the pool size for its 2015 Resource Pool taking into consideration all of the comments received during the comment period. The 2015 Resource Pool will be established by reducing all customers' Base Resource by exactly 2 percent. In choosing to set the Resource Pool at 2 percent, Western is creating the largest possible resource pool allowed under

the Marketing Plan and promoting the most wide-spread use of its resources.

#### **Revisions to the Eligibility Criteria**

Western has revised the Eligibility Criteria taking into consideration the comments received during the comment period and public forums. The revision is summarized below.

The Eligibility Criterion provides that:

Existing Customers may apply for a resource pool allocation if their Extension CRD, set forth in Appendix A [of the Marketing Plan **Federal Register** 64 FR 34417], is not more than 15 percent of their peak load in the calendar year prior to the Call for Applications, and not more than 10 MW is no longer applicable.

Western believes this criterion is out-of-date because Western no longer uses CRDs or Extension CRDs. In addition, Western no longer allocates its resources via a fixed power amount but, rather, allocates a percentage of its generation. Using a 10-megawatt limit on a fixed amount of power as a prerequisite to applying for power is not practical under the current Marketing Plan. Therefore, Section IV.B.2.g. is deleted from the Marketing Plan.

#### **Authorities**

The Marketing Plan for marketing power by SNR after 2004, published in the **Federal Register** (64 FR 34417) on June 25, 1999, was established pursuant to the DOE Organization Act (42 U.S.C. 7101-7352); the Reclamation Act of June 17, 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. 485 h(c)); and other acts specifically applicable to the projects involved. This action falls within the Marketing Plan and, thus, is covered by the same authority.

#### **Regulatory Procedure Requirements**

##### *Environmental Compliance*

In compliance with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321, *et seq.*); the Council on Environmental Quality Regulations for implementing NEPA (40 CFR Parts 1500-1508); and DOE NEPA implementing regulations (10 CFR Part 1021), Western completed an environmental impact statement (EIS) on its Energy Planning and Management Program. The Record of Decision was published in the **Federal Register** (60 FR 53181, October 12, 1995). Western also completed the 2004 Power Marketing Program EIS (2004 EIS), and the Record of Decision was published in the **Federal Register** (62 FR 22934, April 28, 1997). The Marketing Plan falls

within the range of alternatives considered in the 2004 EIS. This NEPA review identified and analyzed environmental effects related to the Marketing Plan. This action falls within the Marketing Plan and, thus, is covered by the 2004 EIS.

#### *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.

Dated: December 15, 2008.

**Timothy J. Meeks,**

*Administrator.*

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**BILLING CODE 6450-01-P**

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## **FEDERAL COMMUNICATIONS COMMISSION**

### **Sunshine Act Meeting; Open Commission Meeting Via Conference Call; Tuesday, December 30, 2008**

December 23, 2008.

The Federal Communications Commission will hold an open meeting via a conference call regarding Commission announcements, Tuesday, December 30, 2008, which is scheduled to commence at 11 a.m.

Meeting participants can listen to the "audio only" of the meeting by:

- Visiting Room TW-C305, at 445 12th Street, SW., Washington, DC (sign language interpreters, open captioning, and assistive listening devices will be provided on site);
- Calling 1-888-603-9685 and using pass code 3950472. Call in capacity may be limited depending on the volume of calls. Callers may call the toll free number up to ten minutes before the scheduled meeting time; or
- Accessing the FCC's Audio/Video Events Web page at <http://www.fcc.gov/realaudio> (with open captioning over the Internet).

Additional information concerning this meeting may be obtained from Audrey Spivack or David Fiske, Office of Media Relations, (202) 418-0500; TTY 1-888-835-5322.

Federal Communications Commission.

**William F. Caton,**

*Deputy Secretary.*

[FR Doc. E8-31141 Filed 12-24-08; 4:15 pm]

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