

6450-01-P

DEPARTMENT OF ENERGY

Western Area Power Administration

Pacific Northwest-Pacific Southwest Intertie Project--Point-To-Point Transmission Service Rates for the 230/345-kV Transmission System--Rate Order No. WAPA-76

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of Rate Order.

SUMMARY: Notice is given of the confirmation and approval by the Acting Deputy Secretary of the Department of Energy (DOE) of Rate Order No. WAPA-76 and Rate Schedule INT-FT3 placing provisional rates for the 230/345-kV Pacific Northwest-Pacific Southwest Intertie Project (AC Intertie) firm point-to-point transmission service into effect on an interim basis. The provisional rates will remain in effect on an interim basis until the Federal Energy Regulatory Commission (FERC) confirms, approves, and places them into effect on a final basis or until they are replaced by other rates. The provisional rates will provide sufficient revenue to pay all annual costs, including interest expense, and repayment of required investment within the allowable period.

DATES: The provisional rates will be placed into effect on an interim basis on January 1, 1999, and will be in effect until FERC confirms, approves, and places the provisional rates in effect on a final basis for a 5-year period ending December 31, 2003, or until superseded.

FOR FURTHER INFORMATION CONTACT: Mr. Maher A. Nasir, Rates Team Lead, Desert Southwest Customer Service Region, Western Area Power Administration, P.O. Box 6457, Phoenix, AZ 85005-6457, telephone (602) 352-2768.

SUPPLEMENTARY INFORMATION: The Deputy Secretary of Energy approved the existing Rate Schedule INT-FT2 for AC Intertie firm transmission service on January 31, 1996 (Rate Order No. WAPA-71, 61 FR 4650, February 7, 1996); and FERC confirmed and approved the rate schedule on July 24, 1996, under FERC Docket No. EF96-5191-000 (76 FERC ¶ 62,061). The existing Rate Schedule INT-FT2 became effective on February 1, 1996, for the period ending September 30, 2002. Rate Schedule INT-FT2 provides separate rates for firm transmission service on the AC Intertie 230/345-kV transmission system and AC Intertie 500-kV transmission system. This Rate Order (WAPA-76) seeks to put into place Rate Schedule INT-FT3 that will supersede Rate Schedule INT-FT2 as it relates to 230/345-kV firm transmission service only. Under Rate Schedule INT-FT3, the firm point-to-point transmission service rate on the AC Intertie 230/345-kV transmission system on January 1, 1999, is \$12.00/kW/year or \$1.00/kW/month and includes the cost for the ancillary service of scheduling, system control and dispatch service. The remaining ancillary services, which comply with FERC Order Nos. 888 and 888-A, will be provided through Western Area Power Administration's (Western) Open Access Transmission Service Tariff, published on January 6, 1998 (63 FR 521). The provisional rate of \$12.00/kW/year represents an increase of approximately 82 percent over the existing rate for firm transmission service on the AC Intertie 230/345-kV transmission system.

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 the Administrator of Western; (2) the authority to confirm, approve, and place such rates into effect on an interim basis to the Deputy Secretary of Energy; and (3) the authority to confirm, approve, and place into effect on a final basis, to remand, or disapprove such rates to FERC.

Rate Order No. WAPA-76 was prepared pursuant to Delegation Order No. 0204-108, existing DOE procedures for public participation in power rate adjustments in 10 CFR Part 903, and procedures for approving Power Marketing Administration rates by the FERC in 18 CFR Part 300. Rate Order No. WAPA-76, confirming, approving, and placing the proposed AC Intertie 230/345-kV transmission system firm point-to-point transmission service rate into effect on an interim basis, is issued, and the new Rate Schedule INT-FT3 will be submitted promptly to FERC for confirmation and approval on a final basis.

Dated:

Ernest J. Moniz

Acting Deputy Secretary

DEPARTMENT OF ENERGY

DEPUTY SECRETARY

In the matter of:)

)

Western Area Power Administration)

Rate Adjustment for the) Rate Order No. WAPA-76

Pacific Northwest-Pacific Southwest)

Intertie Project)

ORDER CONFIRMING, APPROVING, AND PLACING THE

PACIFIC NORTHWEST-PACIFIC SOUTHWEST INTERTIE

FIRM TRANSMISSION SERVICE RATES

INTO EFFECT ON AN INTERIM BASIS

(, 1999)

These rates are developed pursuant to the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), through which the power marketing functions of the Secretary of the Interior and the Bureau of Reclamation under the Reclamation Act of 1902 (43 U.S.C. 371 et seq.), as amended and supplemented by subsequent enactments, particularly section 9c of the Reclamation Project Act of 1939 (43 U.S.C. 485h(c)), and other acts specifically applicable to the project involved, were transferred to and vested in the Secretary of Energy (Secretary).

By Amendment No. 3 to Delegation Order No. 0204-108, published November 10, 1993 (58 FR 59716), the Secretary delegated: (1) the authority to develop long-term power and transmission rates on a non-exclusive basis to the Administrator of Western Area Power Administration (Western); (2) the authority to confirm, approve, and place such rates into effect on an interim basis to the Deputy Secretary of Energy; and (3) the authority to confirm, approve, and place into effect on a final basis, to remand, or to disapprove such rates to the Federal Energy

Regulatory Commission (FERC). Existing DOE procedures for public participation in power rate adjustments are found at 10 CFR Part 903. Procedures for approving Power Marketing Administration rates by FERC are found at 18 CFR Part 300.

Acronyms and Definitions

As used in this rate order, the following acronyms and definitions apply:

AC: Alternating Current.

AC Intertie: Pacific Northwest-Pacific Southwest Intertie Project.

Administrator: The Administrator of Western Area Power Administration (Western).

BPA: Bonneville Power Administration.

Existing PRS: The PRS used in this rate order, which was used to test the adequacy of the existing rate.

DC: Direct Current.

DOE: Department of Energy.

DOE Act: Department of Energy Organization Act, August 4, 1977 (42 U.S.C. 7101 et seq.).

DOE Order RA 6120.2: An order dealing with power marketing administration financial reporting and rate-making procedures.

DSW: Desert Southwest Customer Service Region.

FERC: Federal Energy Regulatory Commission.

FRN: Federal Register notice.

FY: Fiscal Year.

kV: Kilovolt.

kW: Kilowatt.

\$/kW/year: Annual charge for capacity usage - (\$ per kilowatt per year).

kWh: Kilowatthour.

LCRBDF: Lower Colorado River Basin Development Fund established under Section 403 of the Colorado River Basin Project Act of 1968 (82 Stat. 885).

MAP: Mead-Adelanto Project. A 500-kV transmission system joint participation construction project with termination points in southern Nevada and southern California.

MPP: Mead-Phoenix Project. A 500-kV transmission system joint participation construction project with termination points in Phoenix, Arizona and southern Nevada.

mills/kWh: Mills per kilowatthour.

Multi-Project Costs: These are costs for facilities being charged to one project that benefit other projects.

MW: Megawatt.

O&M: Operations and Maintenance.

PRS: Power Repayment Study.

Proposed Rate: A rate revision that the Administrator of Western recommends to the Deputy Secretary of Energy for approval.

Provisional Rate: A rate which has been confirmed, approved, and placed into effect on an interim basis by the Deputy Secretary.

Ratesetting PRS: The PRS that demonstrates that potential revenue levels will satisfy the cost.

Reclamation: Bureau of Reclamation.

Replacement: A unit of property constructed or acquired as a substitute for an existing unit of property for the purpose of maintaining the power features of a project.

Retirement Benefits: Civil Service Retirement Costs and Post Retirement Health Benefits.

Secretary: Secretary of Energy.

Western: Western Area Power Administration.

Effective Date

The new rate will become effective on an interim basis on the first day of the first full billing period beginning on or after January 1, 1999, and will be in effect pending FERC's approval of it or a substitute rate on a final basis for the 5-year period ending December 31, 2003, or until superseded. Western is implementing a rate for firm point-to-point transmission service on the AC Intertie 230/345-kV transmission system only.

Public Notice and Comment

The Procedures for Public Participation in Power and Transmission Rate Adjustments and Extensions, 10 CFR Part 903, have been followed by Western in the development of the firm point-to-point transmission service rate. The provisional firm point-to-point transmission service rate for the AC Intertie 230/345-kV transmission system represents a rate increase of 82 percent over the existing rate. This rate is classified as a major rate adjustment as defined at 10 CFR Part 903.2(e) and 903.2(f)(1). The distinction between a minor and a major rate adjustment is used only to determine the public procedures for the rate adjustment. The following summarizes the steps Western took to ensure involvement of interested parties in the rate process:

1. The first informal public information meeting was held on April 28, 1997, at the Desert Southwest Customer

Service Region (DSW) office located in Phoenix, Arizona. Approximately 13 customers of the AC Intertie were present. Western explained the need for the proposed rate adjustment and answered questions from those attending.

2. Western held its second informal public information meeting on June 25, 1997, at the DSW office. Approximately 11 customers of the AC Intertie were present. Western staff provided and discussed responses to data requested at the first informal public meeting.

3. Western held its third informal public information meeting on July 24, 1997, at the DSW office. Approximately 20 customers of the AC Intertie were present. Western staff provided and discussed responses to data requested at the second informal public meeting.

4. Western provided responses to the questions and comments raised at the third informal customer information meeting by letter dated January 12, 1998.

5. On April 3, 1998, Western announced in Federal Register notice (FRN) 63 FR 16497 the start of the public process for the approval of the proposed AC Intertie 230/345-kV transmission system firm point-to-point transmission service rate. The FRN identified the end of the consultation and comment period as July 2, 1998.

6. On May 4, 1998, beginning at 10 a.m., a public information forum was held at Western's DSW office. At the start of the forum, a handout containing information regarding the updated rate was provided. Western publicly presented the Proposed Rate for the AC Intertie 230/345-kV transmission system, provided a detailed explanation of the changes to the Proposed Rate, and answered questions from the public. On May 20, 1998, a letter, responding to questions not answered at the public information forum, was mailed to the AC Intertie customers.

7. On June 1, 1998, beginning at 10 a.m., a public comment forum was held at Western's DSW office. Western gave the public an opportunity to comment for the record, verbally and in written form. Eight representatives made oral comments.

8. Twenty-four comment letters were received during the consultation and comment period. The consultation and comment period ended July 2, 1998. All formally submitted comments have been considered in the preparation of this rate order.

Project Description

The AC Intertie was authorized by section 8 of the Pacific Northwest Power Marketing Act of August 31, 1964. Originally, the AC Intertie was to be a combined Alternating Current (AC) and Direct Current (DC) system which was to connect the Pacific Northwest with the southwest regions of the United States. As authorized, the overall project was to be a cooperative construction venture between Federal and non-Federal entities. In May 1969, the Department of the Interior indefinitely postponed construction because of several delays in congressional funding, revising the DC line's estimated in-service date to the point that some of the potential users withdrew their interest. Consequently, the facilities constructed provide only AC transmission service.

Western's portion of the AC Intertie consists of two parts, a northern portion and a southern portion. The northern portion is administered by Western's Sierra Nevada Customer Service Region and is incorporated, for repayment, with the Central Valley Project. The northern portion consists of a 94-mile (151 km), 500-kV line from Malin Substation (Oregon) to Round Mountain to Cottonwood Substation (California). By agreement, the Central Valley Project has transmission rights for 400 MW of northern Intertie capacity.

The southern portion is administered by Western's DSW office and is treated as a separate project for repayment and operational purposes. It consists of a 238-mile (383 km) 345-kV line from Mead Substation (Nevada) to Liberty

Substation (Arizona), a 19-mile, (31 km) 230-kV line from Liberty to Westwing Substation (Arizona), a 22-mile (35 km), 230-kV line from Westwing to Pinnacle Peak Substation (Arizona), and two new segments which came on-line in April 1996: the 260-mile (419 km) Mead-Phoenix 500-kV AC Transmission Line between Marketplace Substation (Nevada) and Perkins Substation (Arizona) and the 202-mile (325 km) Mead-Adelanto 500-kV AC Transmission Line between Marketplace Substation and the existing Adelanto Switching Substation in southern California.

Existing and Provisional Rates

AC Intertie Project Firm Point-to-Point Transmission Service

The following table displays the existing rates and the Provisional Rates for the AC Intertie 230/345-kV transmission system:

EXISTING POINT-TO-POINT TRANSMISSION SERVICE RATE

AC Intertie 230/345-kV Transmission System Rate Schedule

Firm Point-to-Point Transmission Rate (\$ per kW/year)

Effective Period Existing (Effective 10/01/96 to 09/30/02) Provisional Percent Change From Existing Rate

01/01/99 to 12/31/03 \$6.58/kW/Year \$12.00/kW/Year 82.0

Certification of Rate

Western's Administrator has certified that the AC Intertie 230/345-kV transmission system firm point-to-point transmission service rate placed into effect on an interim basis herein is the lowest possible rate consistent with sound business principles. The Provisional Rate has been developed in accordance with administrative policies and applicable laws.

Discussion

AC Intertie Transmission Service

The existing AC Intertie transmission service rate schedule was placed into effect on February 1, 1996, under Rate Order WAPA-71 (61 FR 4850) until September 30, 2002, and was approved on a final basis by FERC on July 24, 1996. Under Rate Order WAPA-71, three types of transmission service rates were approved and they are: (1) a rate for firm transmission service on the AC Intertie 230/345-kV transmission system; (2) a rate for firm transmission service on the AC Intertie 500-kV transmission system; and (3) a rate for non-firm transmission service on both the 230/345-kV and the 500-kV transmission systems. Western proposes, through Rate Order WAPA-76, to supersede only the rate for firm transmission service on the AC Intertie 230/345-kV transmission system placed in effect under Rate Order WAPA-71.

Basis for Rate Development

Two major issues have prompted the transmission rate adjustment. First, the Provisional Rate accounts for recovery of abandoned project costs with interest. These costs were incurred primarily between 1964 and 1969 during the planning and early construction phases of the Celilo-Mead-Los Angeles 750-kV DC Transmission Line. In May 1969, the Department of the Interior indefinitely postponed construction because of several delays in congressional

funding, revising the DC line's estimated in-service date to the point that some of the potential users withdrew their interest.

The second issue is that costs and revenues relating to the new AC Intertie 500-kV transmission system are now being accounted for in the Power Repayment Study (PRS). It is estimated that it will take approximately 10 years for the AC Intertie 500-kV transmission system to be subscribed to a level sufficient to meet its own revenue repayment requirements. The Provisional Rate for firm transmission service on the AC Intertie 230/345-kV transmission system takes into account the phasing-in of the AC Intertie 500-kV transmission system revenues starting with a revenue contribution of \$1,500,000 in Fiscal Year (FY) FY 1999, and increasing annually by \$1,410,000 through FY 2008.

Power Repayment Study

As a result of phasing in the AC Intertie 500-kV transmission system revenues, and in order to maintain a marketable rate of \$12/kW/year, annual deficits are incurred through FY 2005. These deficits allow for the very acceptable industry practice of marketing, over time, a major capitol improvement such as the AC Intertie 500-kV transmission system. The annual deficits incurred are all repaid by FY 2017.

Statement of Revenue and Related Expenses

The following table provides a summary of revenues and expenses for the 5-year rate period:

AC Intertie Rate Period

Revenues and Expenses

(\$1,000)

Provisional Rate

PRS

FY 1999 - 2003 Existing Rate

PRS

FY 1999 - 2003

Difference

Total Revenues 91,067 43,435 47,632

Revenue Distribution:

O&M 20,690 13,226 7,464

Abandoned Plant 1,837 0 1,837

Interest 91,428

22,474 68,954

Other 4,056 1,848 2,208

Investment Repayment 0 5,887 (5,887)

Capitalized Expenses (26,943) 0 (26,943)

The following table provides a summary of the average annual revenues and expenses for the 5-year rate period:

AC Intertie Comparison of Period

Average Annual Revenues and Expenses for FY 1999-2003

(\$1,000)

Provisional Rate

Average Annual Existing Rate

Average Annual

Difference

Total Revenues 18,213 8,687 9,526

Revenue Distribution:

O&M 4,138 2,645 1,493

Abandoned Plant 367 0 367

Interest 18,286 4,495 13,791

Other 811 370 441

Investment Repayment 0 1,177 (1,177)

Capitalized Expenses (5,389) 0 (5,389)

The following table provides a summary of revenues and expenses for the 50-year study period:

AC Intertie Cost Evaluation Rate Period

Revenues and Expenses

(\$1,000)

Provisional Rate

PRS

FY 1999 - 2049 Existing Rate

PRS

FY 1999 - 2049

Difference

Total Revenues 1,369,275 441,987 927,288

Revenue Distribution:

O&M 222,164 132,885 89,279

Abandoned Plant 9,921 0 9,921

Interest 497,108 81,851 415,257

Other 23,191 12,468 10,723

Investment Repayment 269,849 116,159 153,690

Capitalized Expenses 22,550 0 22,550

LCRBDF Transfer

324,492 98,543 225,949

The following table provides a summary of the average annual revenues and expenses for the 50-year study period:

AC Intertie Comparison of Cost Evaluation Rate Period

Average Annual Revenues and Expenses for FY 1999-2049

(\$1,000)

Provisional Rate

Average Annual Existing Rate

Average Annual

Difference

Total Revenues 27,386 8,840 18,546

Revenue Distribution:

O&M 4,443 2,658 1,785

Abandoned Plant 198 0 198

Interest 9,407 1,637 7,770

Other 464 249 215

Investment Repayment 4,230 2,323 1,907

Capitalized Expenses 451 0 451

LCRBDF Transfer 8,192 1,971 6,221

Comments

During the public consultation and comment period, Western received 24 written comments on the rate adjustment. In addition, eight customer representatives orally commented during the June 1, 1998, public comment forum. All comments received by the end of the public consultation and comment period, July 2, 1998, were reviewed and considered in the preparation of this rate order.

Written comments were received from the following sources:

Aguila Irrigation District (Arizona) Arizona Power Authority (Arizona)

Arizona Public Service Company (Arizona)

BDJ Farms, LLC (Arizona) Central Arizona Project (Arizona)

Charles A. Ditsch, Attorney at Law (Arizona)

City of Safford (Arizona) Colorado River Commission of Nevada (Nevada) Colorado River Energy Distributors Association (Arizona) Electrical District No. 3 (Arizona)

Electrical District No. 5 (Arizona) Electric Resource Strategies (Arizona) Gladden Farms II (Arizona) Harquahala Valley Power District (Arizona)

James N. Warkowski, P.E., R.L.S. (Arizona)

John DelMar, Electrical District No. 8 Member (Arizona) McMullen Valley Water Conservation and Drainage District (Arizona) Meyer, Hendricks, Bivens & Moyes, P.A. (Arizona)

Nevada Power Company (Nevada)

Robert S. Lynch, Attorney at Law (Arizona)

Salt River Project (Arizona)

Thatcher (Arizona)

Tonopah Irrigation District (Arizona)

The following is a summary of the comments received by the end of the consultation and comment period and Western's responses to those comments. The comments are paraphrased for brevity and responses are presented below. Specific comments are used for clarification where necessary.

Comment: Several commentors protested the inclusion of the abandoned project costs relating to the Celilo-Mead-Los Angeles 750-kV DC transmission line in the rate order stating that doing so would be inequitable and inconsistent with the financial reporting policies, procedures, and methodology established under DOE Order RA 6120.2. The commentors also referenced a longstanding rate making principle that customers should only be required to pay for facilities that are "prudent" investments and which are "used and useful" in providing electric service.

Response: Western held the abandoned project costs from 1969 until 1993 in a deferred asset account. In 1993, these costs were booked in Western's financial statements as an expense against Operation and Maintenance. Western has withheld the inclusion of these costs from the PRS in any of the previous rate orders while it determined the appropriate course of action. Western's auditors issued findings in 1994 and 1995 that the proper treatment of abandoned project costs is the full cost recovery through project rates of the costs plus any accrued interest. In 1996, Western's Administrator committed to comply with the auditor recommendation before a Congressional subcommittee hearing.

Comment: Several commentors questioned Western's legal authority to collect the abandoned project costs relating to the Celilo-Mead-Los Angeles 750-kV DC transmission line.

Response: Fundamental principles of Reclamation Law require the recovery of the Government's construction investment, with interest (Reclamation Project Act of 1939, Section 9(c); 53 Stat. 1187, 1194). Western is not aware of any authority exempting the abandoned project costs from this requirement.

Comment: Several commentors questioned the difference in Western's proposed treatment of the abandoned project costs relating to the Celilo-Mead-Los Angeles 750-kV DC transmission line from the position stated by the Bonneville Power Administration (BPA) with regard to costs incurred under the Teton Dam Project. In 1976, the Teton Dam Project failed, and a decision was subsequently made by the Bureau of Reclamation (Reclamation) not to recommence construction. To date, the costs associated with the Teton Dam Project have not been included in BPA's customer rates for repayment.

Response: The debt incurred by Western relating to the Celilo-Mead-Los Angeles 750-kV DC transmission line was funded through government appropriations. The Reclamation Project Act of 1939 requires repayment of appropriations. Through this rate order, these costs will be repaid through the project rates. The costs associated with the Teton Dam Project remain a part of BPA's appropriated debt balance. The debt balance can be reduced through repayment or through Congressional action to de-authorize the project and declare the costs as non-reimbursable. To Western's knowledge, BPA is currently not pursuing either of the two options available for reducing appropriated debt. Western, however, recognizes the AC Intertie customers' intention of seeking, through Congressional action, to declare the abandoned project costs related to the Celilo-Mead-Los Angeles 750-kV DC transmission line as non-reimbursable. In order to avoid the costly process associated with reversing the costs should the customers' efforts be successful, Western is willing to allow the deposit of customer monies associated with these disputed abandoned project costs in an escrow account, for a 2-year period, thereby allowing sufficient time for the customers' efforts to be concluded.

Comment: A commentor questioned the amount of funds appropriated for the Celilo-Mead-Los Angeles 750-kV DC transmission line.

Response: The specific amount of funds appropriated to Reclamation for the construction of the Celilo-Mead-Los Angeles 750-kV DC transmission line is not readily available. However, appropriations funded construction activities from 1964 through 1969 were recorded as capitalized costs in Reclamation's AC Intertie financial statements. These capitalized costs, plus accrued interest, make up the abandoned project costs.

Comment: A commentor protested the inclusion of costs associated with the AC Intertie 500-kV transmission system into the proposed rates.

Response: Western has maintained maximum flexibility for the AC Intertie Project by maintaining independent transmission service rates for the 230/345-kV transmission system and the 500-kV transmission system. However, DSW is responsible for demonstrating repayment for those AC Intertie facilities constructed with appropriated funds allocated to DSW. The firm point-to-point transmission service rate being proposed under this rate order will satisfy the repayment criteria that Power Marketing Administrations are subject to while maintaining the flexibility of a possible reduction to the 230/345-kV transmission system rate in future years should revenues from the AC Intertie 500-kV transmission system materialize as projected.

Comment: A commentor questioned the existence of any specific Act authorizing Western to construct the AC Intertie 500-kV transmission system.

Response: Construction of the Intertie was initially authorized by the Pacific Northwest Preference Act of 1964 (P.L. 88-552; 78 Stat. 756). Subsequently, the Energy and Water Development Appropriation Act of 1985, Public Law No. 98-360, 98 Stat. 403, 416, authorized Western's participation in the construction of the AC Intertie 500-kV transmission system.

Comment: A commentor stated that the construction and inclusion in the proposed rate of the AC Intertie 500-kV Intertie transmission system violates Western's goals with regards to limiting increases in annual operating expenses in order to maintain competitive rates.

Response: Western's goal of limiting increases in annual operating expenses, exclusive of debt service, in order to maintain competitive rates in the markets served by Western was first published in September 1994 and was not in existence when construction began on the AC Intertie 500-kV transmission system. Nevertheless, the overwhelming majority of costs relating to the AC Intertie 500-kV transmission system is for debt service and not annual operating expenses. Furthermore, the proposed firm point-to-point transmission service rate of \$12/kW/year remains less than Western's Parker-Davis Project transmission service rate of \$12.99/kW/year and also less than the firm point-to-point transmission rates offered by the other utilities that operate in the same regional markets served by DSW.

Comment: A commentor stated that the construction and inclusion in the proposed rate of the AC Intertie 500-kV transmission system violates Western's operating rules with regards to subjecting new facilities for construction to at least one of three criteria: (1) increased revenues from the new facilities must exceed the annual cost over the cost evaluation period; (2) customers must benefit sufficiently to support the new facilities in spite of a possible rate increase; or (3) the new facilities must be funded by others.

Response: Western's operating rules for construction of new facilities were first published in September 1994 and were not in existence when construction began on the AC Intertie 500-kV transmission system. However, Western had conducted studies and surveys prior to the construction of the AC Intertie 500-kV transmission system that supported Western's participation in the Mead-Phoenix Project (MPP) and Mead-Adelanto Project (MAP). Studies conducted in 1989 indicated that given Western's generation capability and load patterns, Western's transmission

system existing at the time of the studies did not have the capacity to effectively market Federal power resources. Western's decision to participate in the MPP and MAP was substantiated by an independently-produced resources and transmission study conducted in 1990. The MPP and MAP were joint participation construction projects with 11 other entities. The entities are as follows: Arizona Public Service Company; City of Anaheim; City of Azusa; City of Banning; City of Burbank; City of Colton; City of Glendale; City of Pasadena; City of Riverside; City of Vernon; Los Angeles Department of Water and Power; Public Power Agency of Modesto, Santa Clara, and Redding; and Salt River Project.

This vast number of participants only underscores the perceived need by the participants at the time of construction. Furthermore, Western conducted a number of surveys between November 1990, and January 1996, all of which resulted in substantial interest by prospective customers for transmission capacity. In February 1996, Western began contract negotiations with prospective customers. During negotiations, it became apparent that various external industry issues were emerging and that these issues were having an impact on the negotiations. The prospective customers decided to delay contracting for long-term firm transmission capacity over the AC Intertie 500-kV transmission system. FERC Order No. 888 became effective July 9, 1996. FERC Order No. 888 is designed to promote competition through open access and has brought many new players to the wholesale bulk power business. As a result, utilities are striving to improve their short-term competitive position, and prospective customers are staying away from committing to long-term transmission contracts.

Comment: A commentor referenced 10 C.F.R. 903.21(g) in conjunction with a statement concerning the AC Intertie 500-kV transmission facilities, that "Western is not legally permitted to construct speculative transmission facilities on the backs of the preference customers it has a statutory obligation to serve at the lowest possible rates consistent with sound business principles."

Response: The reference to 10 C.F.R. 903.21(g) is erroneous because no such section exists. Moreover, as explained previously, Western's participation in the construction of the AC Intertie 500-kV transmission system was specifically authorized by Public Law No. 98-360. In response to the criticism that the construction of the AC Intertie 500-kV transmission system was a speculative enterprise, it should be noted once again that the MPP and MAP were joint participation construction projects with 11 other entities. The entities are as follows: Arizona Public Service Company; City of Anaheim; City of Azusa; City of Banning; City of Burbank; City of Colton; City of Glendale; City of Pasadena; City of Riverside; City of Vernon; Los Angeles Department of Water and Power; Public Power Agency of Modesto, Santa Clara, and Redding; and Salt River Project. Due to changes in the electric industry as a whole, utilities are having to defend stranded investments that the electric utility industry has undertaken. At the present time, many of the participants are trying to effectively market their entitlement of the MPP and MAP. Stranded investments, due to industry restructuring in California alone, are projected to be more than \$4 billion. At the time Western and other utilities made the decision to participate in the MPP and MAP, the decision was sound. As late as February 1996, utilities were requesting 649 MW of capacity on the AC Intertie 500-kV transmission system.

Comment: Several commentors protested the inclusion of the unfunded portion of the Civil Service Retirement Costs and Post-Retirement Health and Life Insurance Benefits (Retirement Benefits) in the rate order and in some cases stated that Western did not possess the legal authority to either collect the funds, to divert the funds to the Office of Personnel Management prior to their deposit in the Reclamation Fund, or to withdraw the funds from the Reclamation Fund for these same purposes.

Response: Under a legal opinion provided by the General Counsel of the DOE by memorandum dated July 1, 1998, the Power Marketing Administrations have the authority to collect through the rates the full costs of the Retirement Benefits. Based on the FY 1998 data expected to be booked to the AC Intertie, this amounts to \$120,359 for FY 1999, representing less than one percent of the AC Intertie revenue requirements for FY 1999. At this time, Western's only intention is to deposit the funds into the Reclamation Fund.

Comment: A commentor requested that the construction work planned for replacing the 345-kV series capacitor banks at Mead and Liberty Substations be reevaluated and that the projected cost be removed from the rate order.

Response: Western agrees with the commentor's request to reevaluate the necessity of replacing the series capacitor banks and has removed the projected costs from the rate order.

Comment: A commentor requested an explanation as to why Multi-Project Costs are no longer being booked in the PRS.

Response: Western had intended to separate the investment costs that are the basis for the Multi-Project Cost calculation and allocate them to their respective projects for repayment. Western has reevaluated the benefit of such action and will continue to book the Multi-Project Costs in the PRS consistent with previously established procedures.

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.

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

Environmental Compliance

In compliance with the National Environmental Policy Act of 1969, 42 U.S.C. 4321 et seq.; Council on Environmental Quality Regulations, 40 CFR Parts 1500-1508; and DOE NEPA Regulations, 10 CFR Part 1021, Western has determined that this action is categorically excluded from the preparation of an environmental assessment or an environmental impact statement.

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.

Availability of Information

Information regarding this rate adjustment, including project repayment studies, comments, letters, memorandums, and other supporting material made or kept by Western for the purpose of developing the Provisional Rates, is available for public review in the Desert Southwest Regional Office, Western Area Power Administration, Office of the Power Marketing Manager, 615 South 43rd Avenue, Phoenix, Arizona.

Submission to the Federal Energy Regulatory Commission

The rates herein confirmed, approved, and placed into effect on an interim basis, together with supporting

documents, will be submitted to FERC for confirmation and approval on a final basis.

ORDER

In view of the foregoing and pursuant to the authority delegated to me by the Secretary of Energy, I confirm and approve on an interim basis, effective January 1, 1999, Rate Schedule INT-FT3 for the Pacific Northwest-Pacific Southwest Intertie Project 230/345-kV transmission system of the Western Area Power Administration. The rate schedule shall remain in effect on an interim basis, pending FERC confirmation and approval of it or a substitute rate on a final basis through December 31, 2003.

Dated:

Ernest J. Moniz

Acting Deputy Secretary

Rate Schedule INT-FT3

(Supersedes Schedule INT-FT2)

for 230/345-kV Firm Transmission

UNITED STATES DEPARTMENT OF ENERGY

WESTERN AREA POWER ADMINISTRATION

PACIFIC NORTHWEST-PACIFIC SOUTHWEST INTERTIE PROJECT

SCHEDULE OF RATE(S) FOR LONG-TERM AND SHORT-TERM 230/345-KV

FIRM POINT-TO-POINT TRANSMISSION SERVICE

Effective:

The first day of the first full billing period beginning on or after January 1, 1999, and will remain in effect through December 31, 2003, or until superseded, whichever occurs first.

Available:

Within the marketing area served by the Pacific Northwest-Pacific Southwest Intertie Project (AC Intertie) 230/345-kV transmission system.

Applicable:

To firm transmission service customers where capacity and energy are supplied to the AC Intertie 230/345-kV transmission system at points of interconnection with other systems and transmitted and delivered, less losses, to points of delivery on the AC Intertie 230/345-kV transmission system pursuant to the applicable firm point-to-point transmission service agreement and the rates referred to below.

Character and Conditions of Service:

Alternating current at 60 Hertz, three-phase, delivered and metered at the voltages and points of delivery established by contract over the AC Intertie 230/345-kV transmission lines.

Long-Term Rate on the AC Intertie 230/345-kV Transmission System:

For transmission service of longer than one year, the rate to be in effect January 1, 1999, through December 31, 2003, is \$12.00 per kilowatt per year for each kilowatt delivered at the point of delivery, as established by contract, payable monthly at the rate of \$1.00 per kilowatt per month.

Short-Term Rates on the AC Intertie 230/345-kV Transmission System:

For transmission service up to one year, the maximum rate to be in effect from January 1, 1999, through December 31, 2003, is as follows:

Yearly: \$12.00/kW

Monthly: \$ 1.00/kW

Weekly: \$.23/kW

Daily: \$.03/kW

Hourly: \$.00137/kWh

Discounts may be offered from time-to-time in accordance with Western's open access transmission service tariff.

Billing:

The rates listed above will be applied to the amount of capacity reserved, payable whether utilized or not.

For Losses:

Capacity and energy losses incurred in connection with the transmission and delivery of capacity and energy under this rate schedule shall be supplied by the customer in accordance with the transmission service agreement.