

**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 Energy approved the Fiscal Year (FY) 2007 Base Charge and Rates (Rates) for 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 investments, 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, 2006. These Rates will stay in effect through September 30, 2007, or until superseded by other rates.

**FOR FURTHER INFORMATION CONTACT:** Mr. Jack Murray, Rates Team Lead, Desert Southwest Customer Service Region, Western Area Power Administration, P.O. Box 6457, Phoenix, AZ 85005-6457, (602) 605-2442, e-mail [jmurray@wapa.gov](mailto:jmurray@wapa.gov).

**SUPPLEMENTARY INFORMATION:** The Deputy Secretary of Energy approved the existing Rate Schedule BCP-F7 for BCP electric service on August 11, 2005 (Rate Order No. WAPA-120, 70 FR 50316, August 26, 2005), on an interim basis. Rate Schedule BCP-F7, effective October 1, 2005, through September 30, 2010, allows for an annual recalculation of the rates. Rate Schedule BCP-F7 was approved on a final basis by the Federal Energy Regulatory Commission (Commission) on June 22, 2006.

Under Rate Schedule BCP-F7, the existing composite rate, effective on October 1, 2005, was 14.05 mills per kilowatt-hour (mills/kWh). The base charge was \$57,465,018, the energy rate was 7.03 mills/kWh, and the capacity rate was \$1.37 per kilowatt-month (kWmonth). The newly calculated Rates for BCP electric service, to be effective October 1, 2006, will result in an overall composite rate of 17.02 mills/kWh. The proposed rates were calculated using the FY 2007 Final Ten Year Operating Plan. This resulted in an increase of approximately 21 percent when compared with the existing BCP electric service composite rate. The increase is due to an increase in the annual base charge and a decrease in the projected energy sales. The FY 2007 base charge is increasing to \$67,509,136. The increase is due to increases in annual

operation and maintenance costs, replacement costs, uprating principal payments, and Federal investment principal and interest payments, as well as a shortfall in the projected FY 2005 year-end carryover into FY 2006. The reduction in projected prior year end carryover, in turn, increases the amount to be collected through the base charge in the subsequent years. The FY 2007 energy rate of 8.51 mills/kWh is approximately a 21-percent increase from the existing energy rate of 7.03 mills/kWh. The increase in the energy rate is due to a decrease in the projected energy sales resulting from continued poor hydrology in the region which results in lower Lake Mead water elevations. The FY 2007 capacity rate of \$1.63/kWmonth is approximately a 19-percent increase from the existing \$1.37/kWmonth capacity rate. The capacity rate is increasing due to a decrease in the projected capacity caused by the dropping lake elevations. Another factor that contributes to the increase in the energy and capacity rates is the significant increase in the annual base charge due to increasing annual costs.

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

1. A **Federal Register** (FR) notice was published on March 2, 2006 (71 FR 10664), announcing the proposed rate adjustment process, initiating a public consultation and comment period, announcing public information and public comment forums, and presenting procedures for public participation.

2. On February 13, 2006, a letter was mailed from Western's Desert Southwest Customer Service Region to the BCP Contractors and other Interested Parties announcing an informal customer meeting and public information and comment forums.

3. Discussion of the proposed Rates was initiated at an informal BCP Contractor meeting held March 8, 2006, 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 and held a question and answer session.

4. At the public information forum held on April 4, 2006, in Phoenix, Arizona, Western and Reclamation representatives explained the proposed Rates for FY 2007 in greater detail and held a question and answer session.

5. A public comment forum held on May 3, 2006, in Phoenix, Arizona, gave the public an opportunity to comment for the record. Five persons representing

the BCP Contractors and Interested Parties made oral comments.

6. Western received three comment letters during the 90-day consultation and comment period. The consultation and comment period ended May 31, 2006. All comments were considered in developing the Rates for FY 2007.

Written comments were received from: Colorado River Commission of Nevada, Nevada Irrigation & Electrical Districts Association, Arizona Metropolitan Water District of Southern California, California

Comments and responses, paraphrased for brevity, are presented below.

**Security Costs**

*Comment:* Many Interested Parties and a Contractor continue to express concern that post September 11, 2001, security costs should not be in the BCP power rates. They suggest that Western and Reclamation take another look at how these costs are being handled and consider an alternative action in making them non-reimbursable. The Interested Parties believe that Congress expressed its desire that other beneficiaries were to share in the post September 11, 2001, security costs. An Interested Party requested the BCP power contractors to join together more aggressively and collectively to have their voices heard by their Congressional representatives, the leadership of Reclamation, and all agencies involved to ensure that all the beneficiaries of the Project share the burden of the security costs.

*Response:* The Conference Report on the FY 2006 Energy and Water Development Appropriations Bill, passed by the Senate on November 14, 2005, established the amount of FY 2006 non-reimbursable appropriated funds available to Reclamation to cover post September 11, 2001, security costs. The funding level established by the Conference Report has been allocated by Reclamation. The post September 11, 2001, security costs not funded by non-reimbursable appropriations have been included in the FY 2007 base charge and rates.

*Comment:* A Contractor expressed concern that the February 2006 Report to Congress seemed to contain inconsistent information with respect to hardening costs.

*Response:* Fortification upgrades that are required to enhance security are considered to be non-reimbursable. However, upgrades that are made by the projects for reasons other than security enhancement are considered to be part of regular operation and maintenance expenses.

*Comment:* Numerous Contractors encouraged Western and Reclamation to consider a cap limiting the Contractors' total dollar exposure for the security costs as a suitable exchange for the transparency and disclosure of such costs the Contractors would normally receive through the processes outlined in the Boulder Canyon Project Implementation Agreement (BCPIA). Information that is considered sensitive had been requested from Reclamation with regard to the post September 11, 2001, security costs but the information could not be provided for security reasons. The Contractors suggested that a strict dollar limitation would provide for certainty of future costs and eliminate the need for information considered sensitive. One commenter believes adequate information concerning the costs in the rates should continue to be provided through the BCPIA processes.

*Response:* Western and Reclamation acknowledge the customer's comments with regard to establishing a cap on the reimbursable amount of security costs. Both agencies will continue to work with the BCP Contractors through the Engineering and Operating Committee, Technical Review Subcommittee (TRC), and annual rate processes to provide the requested detailed information relevant to the proposed future power rates. However, any information deemed "For Official Use Only" will only be shared with the Interested Parties after they execute a Non-Disclosure Agreement.

#### **Visitor Center Costs**

*Comment:* The BCP Contractors remain concerned with the continuing imbalance between the visitor center costs and the revenues due to reduced visitation at the Hoover Dam since the September 11, 2001, terrorist attack.

*Response:* Reclamation will continue its efforts to find other additional sources of funding outside the BCP Contractors and is looking forward to having Western's and the BCP Contractors' participation on a special visitor center task force to complete the efforts.

#### **Due Process Concerns**

*Comment:* An Interested Party stated that the failure of Western and Reclamation to provide detailed supporting documentation with regard to increased post September 11, 2001, security costs included in the BCP base charge and rates for FY 2007 is a denial of fundamental rights of due process and a violation of the requirements of the Administrative Procedure Act. As a result, the commenter stated the rate process was flawed and requested that

the public record be reopened, and the requested information be supplied to all Hoover power users, including subcontractors for Hoover power, in order to give them a reasonable opportunity to comment on these proposed expenditures.

*Response:* Western and Reclamation shared detailed information supporting the proposed rates during numerous forums. Before the formal public information forum and public comment forum held as part of the formal rate process in accordance with 10 CFR part 903, an informal meeting was held during which Western and Reclamation shared detailed information in connection with the proposed rates. Prior to the informal rate meetings and public forums, Western and Reclamation, in accordance with the terms of the BCPIA, conducted a TRC meeting in September 2005 with participation by BCP Contractors, Western, and Reclamation. Following the TRC meeting, the BCP Engineering and Operating Committee, with participation by the BCP Contractors, Western, and Reclamation, met in October 2005, February 2006, and again in May 2006. Through these forums, BCP Contractors have been involved and informed of all costs making up the proposed rate. During these forums, the Contractors, while not necessarily agreeing that post September 11, 2001, security costs should be included in the rate, have been satisfied with the documentation included in the rates. Both Reclamation and Western have been complimented for giving them the opportunities to discuss, exchange ideas and information, and provide comments regarding the proposed rates. Western and Reclamation have followed the administrative processes outlined in 10 CFR part 903 and 18 CFR part 300 in conducting the FY 2007 rate process as well as holding numerous forums in which the Contractors had the opportunity to provide input and feedback. Based on these processes, there is not a need to extend or reopen the public process.

#### **BCP Electric Service Rates**

BCP electric service rates are designed to recover an annual revenue requirement that includes 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 equally between capacity and energy.

#### **Availability of Information**

Information about this base charge and rate adjustment, including power repayment studies, comments, letters, memorandums, and other supporting material made or kept by Western used to develop the FY 2007 BCP base charge and rates, is available for public review in the Desert Southwest Customer Service Regional Office, Western Area Power Administration, 615 South 43rd Avenue, Phoenix, Arizona. The information is also available on Western's Web site at <http://www.wapa.gov/dsw/pwrmt/BCP/RateAdjust.htm>.

#### **Regulatory Procedure 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, acting by and through Western.

By Delegation Order No. 00-037.00, effective December 6, 2001, the Secretary of Energy delegated (1) The authority to develop long-term power and transmission rates on a nonexclusive basis to Western's Administrator, (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 Commission. 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) and 18 CFR part 300. DOE procedures were followed by Western in developing the rate formula approved by the Commission on June 22, 2006, at 115 FERC ¶ 61,362.

The BCPIA 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, will become effective provisionally upon approval by the Deputy Secretary of Energy subject to final approval by the Commission. For all other rate years, the rates will become effective on a final basis upon approval by the Deputy Secretary of Energy.

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

Western's BCP electric service ratesetting formula set forth in Rate Order No. WAPA-70 was approved on April 19, 1996, in Docket No. EF96-5091-000 at 75 FERC ¶ 62,050, for the period beginning November 1, 1995, and ending September 30, 2000. Rate Order No. WAPA-94, extending the existing ratesetting formula beginning on October 1, 2000, and ending September 30, 2005, was approved on July 31, 2001, in Docket No. EF00-5092-000 at 96 FERC ¶ 61,171. Rate Order No. WAPA-120, extending the existing ratesetting formula for another five-year period beginning on October 1, 2005, and ending September 30, 2010, was approved on June 22, 2006, in Docket No. EF05-5091-000 at 115 FERC ¶ 61,362. The BCP ratesetting formula includes a base charge, an energy rate, and a capacity rate. The ratesetting formula was used to determine the BCP FY 2007 Base Charge and Rates.

Western proposes the FY 2007 base charge of \$67,509,136, the energy rate of 8.51 mills/kWh, and the capacity rate of \$1.63/kWmonth be approved on a final basis.

Consistent with procedures set forth in 10 CFR part 903 and 18 CFR part 300, Western held a consultation and comment period. The notice of the proposed FY 2007 Rates for electric service was published in the **Federal Register** on March 2, 2006 (71 FR 10664).

Under Delegation Order Nos. 00-037.00 and 00-001.00B, and in compliance with 10 CFR part 903 and 18 CFR part 300, I hereby approve the FY 2007 Rates for BCP Electric Service on a final basis under Rate Schedule BCP-F7, through September 30, 2007.

Dated: August 10, 2006.

**Clay Sell,**

*Deputy Secretary.*

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## **ENVIRONMENTAL PROTECTION AGENCY**

[ER-FRL-6678-6]

### **Environmental Impact Statements and Regulations; Availability of EPA Comments**

Availability of EPA comments prepared pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at 202-564-7167. An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 7, 2006 (71 FR 17845).

#### **Draft EISs**

*EIS No. 20060069, ERP No. D-FHW-K40260-CA*, Interstate 5/Cosumnes River Boulevard Interchange Project, Extension of Cosumnes River Boulevard from Franklin Boulevard to Freeport Boulevard with an Interchange at Interstate 5, South of the Pocket/Meadowview Road Interchange and North of the Laguna Boulevard Interchange, City of Sacramento, Sacramento County, CA.

*Summary:* EPA does not object to the proposed project. Rating LO.

*EIS No. 20060162, ERP No. D-FHW-G40189-00*, TIER 1—DEIS Trans-Texas Corridor—35 (TTC-35) System, Improvement to International, Interstate and Intrastate Movement of Goods and People, Oklahoma-Mexico/Gulf Coast Element.

*Summary:* EPA expressed environmental concerns about air quality and water quality impacts. Rating EC2.

*EIS No. 20060192, ERP No. D-AFS-L65511-ID*, Myrtle Creek Healthy Forest Restoration Act Project, Proposes Aquatic and Vegetation Improvement Treatments, Panhandle National Forests, Bonners Ferry Ranger District, City of Bonners Ferry, Boundary County, ID.

*Summary:* EPA does not object to proposed action. Rating LO.

*EIS No. 20060200, ERP No. D-COE-F39140-00, PROGRAMMATIC—Ohio River Mainstem System Study, System Investment Plan (SIP) for Maintaining Safe, Environmentally Sustainable and Reliable Navigation on the Ohio River, IL, IN, OH, KY, PA and WV.*

*Summary:* EPA expressed environmental concerns about how implementation of the System

Investment Plan would influence the ecological future of the Ohio River System, and requested additional information regarding adaptive management, institutional arrangements, environmental justice, cumulative impact analysis, mitigation, and water quality. Rating EC2.

*EIS No. 20060238, ERP No. D-NRS-H34031-00*, West Tarkio Creek Watershed Plan, Construction of a Multiple-Purpose Structure for Rural Water Supply, Recreational Opportunities and Agricultural Pollution Control, Page, Montgomery and Fremont Counties, IA and Atchison County, MO.

*Summary:* EPA does not object to the proposed project, but recommended that the Final EIS provide additional clarification on several issues, including the range of reasonable alternatives and cumulative impacts. Rating LO.

*EIS No. 20060266, ERP No. D-FTA-G40190-TX*, North Corridor Fixed Guideway Project, Propose Transit Improvements from University of Houston (UH)-Downtown Station to Northline Mall, Harris County, TX.

*Summary:* EPA does not object to the proposed action. Rating LO.

*EIS No. 20060007, ERP No. DS-COE-B32009-MA*, Boston Harbor Inner Harbor Maintenance Dredging Project, Updated Information, Boston Harbor, Mystic River and Chelsea River, MA.

*Summary:* EPA requested additional information concerning impacts to winter flounder spawning and anadromous fish migration and measures that could be taken to avoid those impacts. EPA also made suggestions concerning water quality monitoring during project implementation and offered to participate in a workgroup to develop an appropriately scaled sampling effort. Rating EC2.

#### **Final EISs**

*EIS No. 20060226, ERP No. F-FHW-K40249-CA*, Lincoln Bypass Construction, South of Industrial Boulevard to North of Riosa Road, Funding and US Army COE Section 404 Permit, Issuance, Placer County, CA.

*Summary:* EPA continues to have environmental concerns about the proposed project because of potential impacts to aquatic resources, recommends that FHWA clarify the full extent.

*EIS No. 20060244, ERP No. F-IBR-K65285-CA*, San Luis Drainage Feature Re-evaluation Project, Provide Agricultural Drainage Service to the San Luis Unit, Several Counties, CA.