

Department of Energy

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of Western, in amounts greater than Western's contract delivery obligation in effect for each type of service provided for in the Contract.

(l) *Project* or *Boulder Canyon Project* shall mean all works authorized by the Project Act, the Hoover Power Plant Act, and any future additions authorized by Congress, to be constructed and owned by the United States, but exclusive of the main canal and appurtenances authorized by the Project Act, now known as the All-American Canal.

(m) *Replacements* shall mean such work, materials, equipment, or facilities as determined by the United States to be necessary to keep the Project in good operating condition, but shall not include (except where used in conjunction with the word "emergency" or the phrase "however necessitated") work, materials, equipment, or facilities made necessary by any act of God, or of the public enemy, or by any major catastrophe.

(n) *Upgrading Program* shall mean the program authorized by section 101(a) of the Hoover Power Plant Act (43 U.S.C. 619(a)) for increasing the capacity of existing generating equipment and appurtenances at the Hoover Powerplant, as generally described in the report of the Department of the Interior, Bureau of Reclamation, entitled "Hoover Powerplant Upgrading, Special Report," issued in May 1980, as supplemented in the report entitled, "January 1985 Supplement (revised September 1985) to Hoover Powerplant Upgrading, Special Report-May 1980."

§ 904.4 Marketing responsibilities.

(a) Capacity and energy available from the Project will be marketed by Western under terms of the Conformed General Consolidated Power Marketing Criteria or Regulations for Boulder City Area Projects (Conformed Criteria) published in the FEDERAL REGISTER (49 FR 50582) on December 28, 1984. Western shall dispose of capacity and energy from the Project in accordance with section 105(a)(1) of the Hoover Power Plant Act (43 U.S.C. 619(a)(1)), these General Regulations, and the Contracts between the Contractors and Western.

(b) Procedures for the scheduling and delivery of capacity and energy shall be provided for in the Contracts between the Contractors and Western.

§ 904.5 Revenue requirements.

(a) Western shall collect all electric service revenues from the Project in accordance with applicable statutes and regulations and deposit such revenues into the Colorado River Dam Fund. All receipts from the Project shall be available for payment of the costs and financial obligations associated with the Project. The Secretary of the Interior is responsible for the administration of the Colorado River Dam Fund.

(b) The electric service revenue of the Project shall be collected through a charge, computed to be sufficient, together with other net revenues from the Project, to recover the following costs and financial obligations associated with the Project over the appropriate repayment periods set out in paragraph (c) of this section:

(1) Annual costs of operation and maintenance;

(2) Annual interest on unpaid investments in accordance with appropriate statutory authorities;

(3) Annual repayment of funds, and all reasonable costs incurred in obtaining such funds, advanced by non-Federal Contractors to the Secretary of the Interior for the Upgrading Program;

(4) The annual payment of \$300,000 to each of the States of Arizona and Nevada provided for in section 618(c) of the Adjustment Act and section 1543(c)(2) of the Colorado River Basin Project Act (43 U.S.C. 1501 *et seq.*) (Basin Act), as amended or supplemented;

(5) Capital costs of investments and Replacements, including amounts re-advanced from the United States Treasury (Treasury);

(6) Repayment to the Treasury of the advances to the Colorado River Dam Fund for the Project made prior to May 31, 1987, for which payment was deferred because of a deficiency in firm energy generation due to a shortage of available water, as provided for in article 14(a) of the 1941 General Regulations and section 8 of the Boulder City Act of 1958 (72 Stat. 1726), as shown on

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the books of accounts of Reclamation as of May 31, 1987;

(7) Repayment to the Treasury of the first \$25,000,000 of advances made to the Colorado River Dam Fund deemed to be allocated to flood control by section 617a(b) of the Project Act as provided by section 618f of the Adjustment Act; and

(8) Any other financial obligations of the Project imposed in accordance with law.

(c) The Project repayment period shall extend to the final year allowed under applicable cost recovery criteria. The revenue for the costs and financial obligations set out in paragraph (b) of this section shall be collected over the following repayment periods:

(1) The repayment period for advances made to the Colorado River Dam Fund from funds advanced to the Secretary of the Interior by non-Federal entities for the Uprating Program and associated work shall be the period commencing with the first day of the month following completion of each segment of the Uprating Program, or June 1, 1987, whichever is later, and ending September 30, 2017;

(2) The repayment period for the payments to the Treasury of the advances to the Colorado River Dam Fund for the Project which were payable prior to May 31, 1987, but which were deferred pursuant to article 14(a) of the 1941 General Regulations and section 8 of the Boulder City Act of 1958, shall be the power contract period beginning June 1, 1987, and ending September 30, 2017. Such repayment period is based on a 50-year repayment period beginning June 1, 1937, adjusted for the periods the initial payments were deferred;

(3) The repayment period for the payment to the Treasury of the first \$25,000,000 of advances made to the Colorado River Dam Fund deemed to be allocated to flood control by section 617a(b) of the Project Act and deferred by section 618(f) of the Adjustment Act shall be the 50-year period beginning June 1, 1987;

(4) The repayment period for advances to the Colorado River Dam Fund for the Project made on or after June 1, 1937, and prior to June 1, 1987, shall be the 50-year period beginning June 1 immediately following the year

of operation in which the funds were advanced;

(5) The repayment period for investments, other than for the visitor facilities authorized by section 101(a) of the Hoover Power Plant Act (43 U.S.C. 619(a)), made from Federal appropriations on or after June 1, 1987, shall be a 50-year period beginning with the first day of the fiscal year following the fiscal year the investment is placed in service; and

(6) The repayment period for the visitor facilities authorized by section 101(a) of the Hoover Power Plant Act (43 U.S.C. 619(a)) shall be the 50-year period beginning June 1, 1987, or when substantially completed, as determined by the Secretary of the Interior, if later.

(d) Annual costs for operation and maintenance and payments to States as set out in paragraph (b) of this section shall be collected as long as revenues accrue from the operation of the Project.

(e) Surplus revenues will also be collected for transfer from the Colorado River Dam Fund for contribution to the Lower Colorado River Basin Development Fund pursuant to section 1543(c)(2) of the Basin Act as amended by the Hoover Power Plant Act to provide revenue for the purposes of sections 1543(f) and 1543(g) of the Basin Act.

(f) All annual costs will be calculated based on a Federal fiscal year. To accommodate the transition from the pre-1987 operating year of June 1 to May 31 to a fiscal year, there will be a 4-month transition period beginning June 1, 1987, and ending September 30, 1987.

(g) If integrated operation of the Boulder Canyon Project with other Boulder City Area Projects and other Federal projects on the Colorado River, as provided in §904.9 of these General Regulations, confers a direct power benefit upon such other Boulder City Area Projects and such other Federal projects, or if a direct power benefit is conferred by other Boulder City Area Projects or other Federal projects on the Colorado River upon the Boulder Canyon Project, Western shall equitably apportion such benefits and appropriate charges among the Boulder

Canyon Project, other Boulder City Area Projects, and other Federal projects on the Colorado River.

§ 904.6 Charge for capacity and firm energy.

The charge for Capacity and Firm Energy from the Project shall be composed of two separate charges; a charge to provide for the basic revenue requirements, as identified in paragraphs (b), (c), and (d) of § 904.5 of these General Regulations (Base Charge), and a charge to provide the surplus revenue for the Lower Colorado River Basin Development Fund contribution, as identified in paragraph (e) of § 904.5 of these General Regulations (Lower Basin Development Fund Contribution Charge).

§ 904.7 Base charge.

(a) The Base Charge shall be developed by the Administrator and promulgated in accordance with appropriate DOE regulations. The Base Charge shall be composed of a capacity component and an energy component.

(b) The capacity component of the Base Charge shall be a dollar per kilowattmonth amount determined by (1) multiplying the estimated average annual revenue requirement developed pursuant to paragraphs (b), (c), and (d) of § 904.5 of these General Regulations by 50 percent, and (2) dividing the results of that multiplication by the estimated average annual kW rating of the Project, and (3) dividing the quotient by 12. The total estimated kW rating will be based on the powerplant output capability with all units in service at 498 feet of net effective head or 1,951,000 kW, whichever is less. The capacity component of the Base Charge shall be applied each billing period to each kW of rated output to which each Contractor is entitled by Contract. Adjustments to the application of the capacity component shall be made during outages which cause significant reductions in capacity as provided by the Contract.

(c) The energy component of the Base Charge shall be a mills per kWh amount determined by (1) multiplying the estimated average annual revenue requirements developed pursuant to paragraphs (b), (c), and (d) of § 904.5 of these General Regulations by 50 per-

cent and (2) dividing the results of that multiplication by the average annual kWh estimated to be available from the Project. The energy component of the Base Charge shall be applied to each kWh made available to each Contractor, as provided for by Contract, except for the energy purchased by Western, at the request of a Contractor, to meet that Contractor's deficiency in Firm Energy pursuant to section 105(a)(2) of the Hoover Power Plant Act (43 U.S.C. 619(a)(2)) and section F of the Conformed Criteria, and that Contractor's Uprating Program credit carry forward, as provided by Contract.

(d) Application of the Base Charge to capacity and energy overruns will be provided for by Contract. The capacity component and the energy component of the Base Charge shall be applied each billing period for each Contractor.

(e) The Base Charge shall be reviewed annually. The Base Charge shall be adjusted either upward or downward, when necessary and administratively feasible, to assure sufficient revenues to effect payment of all costs and financial obligations associated with the Project pursuant to paragraphs (b), (c), and (d) of § 904.5 of these General Regulations. The Administrator shall provide all Contractors an opportunity to comment on any proposed adjustment to the Base Charge pursuant to the DOE's power rate adjustment procedures then in effect.

§ 904.8 Lower basin development fund contribution charge.

(a) The Lower Basin Development Fund Contribution Charge will be developed by the Administrator of Western on the basis that the equivalent of 4½ mills or 2½ mills per kWh, as appropriate, required to be included in the rates charged to purchasers pursuant to section 1543(c)(2) of the Basin Act, as amended by the Hoover Power Plant Act, shall be collected from the energy sales of the Project.

(b) The Lower Basin Development Fund Contribution Charge shall be applied to each kWh made available to each Contractor, as provided for by Contract, except for the energy purchased by Western at the request of a Contractor to meet: