

Power Choice Settlement agreement approved by the New York Public Service Commission on March 20, 1998.

The transfer application was filed within five years of the expiration of the licenses for Project Nos. 2047, 2060, and 2084, which are the subject of pending relicensing applications. In Hydroelectric Relicensing Regulations Under the Federal Power Act (54 Fed. Reg. 23,756; FERC Stats. and Regs., Regs. Preambles 1986-1990, 30,854 at p. 31,437), the Commission declined to forbid all license transfers during the last five years of an existing license, and instead indicated that it would scrutinize all such transfer requests to determine if the transfer's primary purpose was to give the transferee an advantage in relicensing (id. at p. 31,438 n. 318). The transfer would lead to the substitution of the transferee for the transferor as the applicant in the relicensing proceedings for Project Nos. 2047, 2060, and 2084.

In addition, NIMO and Erie request that Erie be substituted for NIMO as the applicant in the pending relicensing proceedings for Project Nos. 2318, 2320, 2330, 2474, 2482, 2539, 2539, 2554, and 2616, following the approval of the transfer of these projects and the conveyance of the project properties. The licenses for the projects expired on December 31, 1993, and the Commission has authorized them to continue to operate.

Project Nos. 10461 and 10462 have pending applications for an original license. NIMO and Erie request that Erie be substituted for NIMO as the applicant in the pending license proceedings for both of these projects following the approval of the transfer of these projects and the conveyance of the project properties.

k. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, DC 20426, or by calling (202) 208-1371. This filing may be viewed on <http://ferc.fed.us/online/rims.htm> (call (202) 208-2222 for assistance). A copy is also available for inspection and reproduction at the addresses in item g above.

l. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211 and .214. In determining the appropriate action to take, the Commission will

consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "RECOMMENDATIONS FOR TERMS AND CONDITIONS", "PROTEST", OR "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary at the above-mentioned address. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

**Linwood A. Watson, Jr.,**  
*Acting Secretary.*

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## DEPARTMENT OF ENERGY

### Western Area Power Administration

#### Amistad and Falcon Projects Rate Order No. WAPA-85

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

**ACTION:** Notice of a rate order.

**SUMMARY:** Notice is given of the confirmation and approval by the Secretary of the Department of Energy (DOE) of Rate Order No. WAPA-85 placing a rate formula extension into effect on an interim basis beginning on June 8, 1999, for power marketed by the Western Area Power Administration (Western) from the Amistad and Falcon Projects under Contract No. 7-07-50-P0890 (Contract). The rate formula will remain in effect on an interim basis until the Federal Energy Regulatory

Commission (FERC) confirms, approves, and places it into effect on a final basis or until it is replaced by another rate formula.

**DATES:** The provisional rate formula extension will be placed into effect on an interim basis on June 8, 1999, and will be in effect until FERC confirms, approves, and places the provisional rate formula extension in effect on a final basis for a 5-year period ending June 7, 2004.

**FOR FURTHER INFORMATION CONTACT:** Ms. Carol Loftin, Rates Manager, Colorado River Storage Project, Customer Service Center, Western Area Power Administration, 257 East 200 South, Suite 475, Salt Lake City, UT 84111.

**SUPPLEMENTARY INFORMATION:** The Amistad and Falcon Dams are features of international water storage projects located on the Rio Grande River between Texas and Mexico. Western markets the power from these dams under the terms of the Contract dated August 9, 1977, and amended on April 10, 1986. The rate formula of that Contract was approved by the Federal Power Commission, predecessor to FERC, for a 5-year period beginning June 8, 1983, in Docket No. E-9566 on August 12, 1977. A 5-year rate extension approving this same methodology through June 7, 1993, was ordered by FERC on July 20, 1988, in 44 FERC ¶ 62,058. A subsequent 5-year rate extension approving this same methodology through June 7, 1998, was ordered by FERC on September 29, 1993, in 64 FERC ¶ 62,225. Rate Order WAPA-81, which extended the rate formula through June 7, 1999, was published in the **Federal Register** (63 FR 27278) on May 18, 1998.

According to article 9(a) of the Contract, Western calculates the annual installment to be paid by the South Texas Electric Cooperative, Inc. (STEC), and the Medina Electric Cooperative, Inc. (MEC), for the power generated at the Amistad and Falcon Powerplants on or before August 31 of the year preceding the fiscal year to which it pertains.

Each annual installment pays the annual amortized portion of the United States' investment in the Falcon and Amistad hydroelectric facilities with interest, and the associated operation, maintenance, and administrative costs. This repayment schedule is not dependent upon the power and energy made available for sale or the rate of generation each year. Western will continue to provide STEC/MEC with a revised Exhibit A by August 31 of each year using the same methodology.

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 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 FERC.

By subsequent Order effective April 15, 1999, the Secretary rescinded all delegation of authority to the Deputy Secretary, whether contained in Delegation Orders, Departmental Directives, or elsewhere, concerning the Department's Power Marketing Administrations, including, but not limited to, authority delegated or affirmed in Delegation Order No. 0204-108, as amended. Existing DOE procedures for public participation in power rate adjustments are located at 10 CFR part 903, effective on September 18, 1985 (50 FR 37835). DOE procedures have been followed by Western in the development of these provisional rates.

Rate Order No. WAPA-85, confirming, approving, and placing the proposed Amistad and Falcon firm power rate formula extension into effect on an interim basis, is issued, and the extension will be promptly submitted to FERC for confirmation and approval on a final basis.

Dated: April 29, 1999.

**Bill Richardson,**  
Secretary.

**Order Confirming, Approving, and Placing a Rate Formula Extension for Amistad and Falcon Projects Into Effect on an Interim Basis**

June 8, 1999.

This power rate formula is established pursuant to section 302(a) of the Department of Energy (DOE) Organization Act, 42 U.S.C. 7152(a), through which the power marketing functions of the Secretary of the Interior and the Bureau of Reclamation (Reclamation) under the Reclamation Act of 1902, 43 U.S.C. 371 *et seq.*, as amended and supplemented by subsequent enactments, section 9(c) of the Reclamation Act of 1939, 43 U.S.C. 485h(c), and acts specifically applicable to the Falcon Project and the Amistad Project, 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 to the Administrator of the Western Area Power Administration (Western); (2) the authority to confirm, approve, and place in effect such rates on an interim basis to the Secretary of Energy; and (3) the authority to confirm, approve, and place into effect on a final basis, to remand, or to disapprove those rates to the Federal Energy Regulatory Commission (FERC). By subsequent Order effective April 15, 1999, the Secretary rescinded all delegation of authority to the Deputy Secretary, whether contained in Delegation Orders, Departmental Directives, or elsewhere, concerning the Department's Power Marketing Administrations, including, but not limited to, authority delegated or affirmed in Delegation Order No. 0204-108, as amended. Existing DOE procedures for public participation in power rate adjustments are found at 10 CFR part 903. Filing requirements and 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:

*DOE*: Department of Energy.

*DOE Order RA 6120.2*: An order dealing with power marketing administration financial reporting used in determining revenue requirements for rate development.

*FPC*: Federal Power Commission.

*FY*: Fiscal year; October 1 to September 30.

*kWh*: Kilowatthour.

*MEC*: Medina Electric Cooperative, Inc.

*Mills/kWh*: Mills per kilowatthour.

*NEPA*: National Environmental Policy Act of 1969.

*O&M*: Operation and maintenance.

*PRS*: Power repayment study.

*Reclamation*: Bureau of Reclamation, U.S. Department of the Interior.

*STEC*: South Texas Electric Cooperative, Inc.

*U.S. Section*: U.S. Section of the International Boundary and Water Commission.

*Western*: Western Area Power Administration, U.S. Department of Energy.

**Effective Date**

This extension will become effective on an interim basis on June 8, 1999, and will be in effect pending FERC's approval of this or a substitute rate formula on a final basis for a 5-year period through June 7, 2004, or until superseded.

**Public Notice and Comment**

Paragraph 903.23(a) of 10 CFR part 903 for rate extensions does not require either a consultation and comment period, or public information or comment forums. On August 20, 1998, Western met with the customers, MEC and STEC, in Corpus Christi, Texas, and notified them of Western's intent to extend the rate formula. Western also discussed the number of years covered in the annual installments, operation and maintenance funding, answered questions, and received comments and suggestions. The customers expressed support for the rate formula extension.

**Project History**

The Amistad and Falcon Dams are features of international water storage projects located on the Rio Grande River between Texas and Mexico. Western markets the power from these dams under the terms of Contract No. 7-07-50-P0890 (Contract), dated August 9, 1977, and amended on April 10, 1986.

On August 12, 1977, in Docket No. E-9566, the FPC approved for a 5-year period the rate formula contained in the Contract, between Reclamation and the two electric cooperatives, to become effective on the date of initial operation of Amistad Powerplant (June 8, 1983). STEC and MEC agreed to purchase the output of the Amistad and Falcon Powerplants for a 50-year period, beginning when initial electric service became available from Amistad. The cooperatives agreed to take all Amistad and Falcon power and to pay the United States the following:

The amount of each annual installment shall be the sum of:

(1) A fixed annual payment of \$313,178 as a contribution to the amortization of the United States investment in the Falcon hydroelectric facilities and in the penstocks at Amistad Dam. The annual payment shown above will be adjusted at the time this contract becomes effective; plus

(2) An amount necessary to repay in equal annual installments amortized over a fifty-year period, the United States actual total investment costs, with interest, for hydroelectric power installation at Amistad Dam, not including penstocks, to be under the jurisdiction of the Section, including the costs of engineering plans, supervision, administration of construction, and interest during construction \* \* \* and

(3) The annual operation, maintenance, replacement, and administration costs of the Section and the administration costs of the Bureau related directly or indirectly to the United States power facilities at Amistad Dam and at Falcon Dam, provided that such costs shall be based on prudent and businesslike management practices and in accordance with established electric industry operation and maintenance practices \* \* \*.

The power marketing functions of Reclamation were transferred to Western on October 1, 1977, and Western became responsible for the administration of the above Contract.

Western, STEC, and MEC executed Supplement No. 1 to the Contract on April 10, 1986, to clarify the method for determining the annual installment consistent with DOE Order No. RA 6120.2. Those clarifications address repayment of Falcon hydroelectric facilities within the remaining period, establish interest during construction at 7 percent, capitalize major replacements and additions at current interest rates, and specify the actual date of initial service as June 8, 1983.

Supplement No. 1 requires that the amount of each annual installment be established in advance by the contracting officer in consultation with the U.S. Section and submitted to the cooperatives as Exhibit A on or before August 31 of the year preceding the appropriate fiscal year in accordance with the following:

The amount of each annual installment shall be the sum of:

(1) An annual repayment installment including interest, to amortize within the remaining period, the unpaid United States investment in the Falcon hydroelectric facilities and in the penstocks at Amistad Dam; plus

(2) An annual installment to amortize over a fifty-year period, the United States actual total investment costs with interest, for hydroelectric power facilities, not including penstocks, at Amistad Dam to be under the jurisdiction of the U.S. Section, including the costs of engineering plans, supervision, administration of construction, and interest during construction \* \* \* and

(3) The annual operation, maintenance, replacement, and administration costs of the U.S. Section and the administration costs of Western related directly or indirectly to the

United States power facilities at Amistad Dam and at Falcon Dam, provided that such costs shall be based on prudent and businesslike management practices and in accordance with established electric industry operation and maintenance practices \* \* \*.

The billing procedures contained in Supplement No. 1 require Western to submit bills to the cooperatives for each monthly payment on the annual installment on or before the tenth day of the month for which such payment is due. Payments are due and payable by the cooperatives on the first day of the following month. Western divides the calculated annual installment by 12 and bills the customer monthly for this amount.

The rate formula of that Contract was approved by the FPC, predecessor to FERC, for a 5-year period beginning June 8, 1983, in Docket No. E-9566 on August 12, 1977. A 5-year rate extension approving the rate formula, as amended by Supplement No. 1, through June 7, 1993, was ordered by FERC on July 20, 1988, in 44 FERC ¶ 62,058. A subsequent 5-year rate extension approving this same rate formula through June 7, 1998, was ordered by FERC on September 29, 1993, in 64 FERC ¶ 62,225. Rate Order No. WAPA-81, which extended the rate formula through June 7, 1999, was published in the **Federal Register** (63 FR 27278) on May 18, 1998. FERC approval is now sought for another 5-year extension through June 7, 2004, of this same rate formula.

**Power Repayment Studies**

Electric service Contract No. 7-07-50-P0890, dated August 9, 1977, and Supplement No. 1 thereto require that Western calculate the annual installment to be paid by STEC and MEC for the power generated at the

Falcon and Amistad Powerplants, by consultation with the U.S. Section, and submit it to STEC and MEC in the form of a contract exhibit on or before August 31 of the year preceding the FY to which it pertains.

Previously, the annual installment was calculated using data from 3 years. The previous FY reflected actual figures; the current year in which the annual installment is being calculated reflected updated estimates; and the first future year for which the annual installment is being calculated reflects projected estimates. The previous FY actual data is a final calculation for that year and normally does not change in future calculations. Annual installments have been prepared each year, and this 3-year methodology has been followed since the Contract became effective in 1983.

In an effort to streamline and simplify the rate installment computation process and in agreement with STEC, MEC, and the U.S. Section, Western is calculating the annual installment based on 2 years' data. The calculation includes the projected costs of the rate installment year (future fiscal year) and an adjustment from the last historic fiscal year. The adjustment is the surplus or deficit that occurs in the last historic year when actual costs and repayment obligations are subtracted from actual revenues. This surplus or deficit is combined with the projected rate installment year costs to arrive at the rate installment.

**Statement of Revenue and Related Expenses**

The following table provides a summary of revenues and expenses for the current 5-year rate formula and the actual revenues and expenses for the same period.

AMISTAD/FALCON COMPARISON OF 6-YEAR REVENUES AND EXPENSES—FY 1993–1998  
[\$1,000]

Item	Projected	Actual	Difference
Total Revenues .....	20,445	20,572	127R
Revenues Distribution:			
O&M .....	4,972	5,266	294
Interest .....	13,893	13,634	(259)
Repayment .....	1,580	1,947	367
(Deficit)/Surplus .....		(275)	(275)
Total Revenue Distribution .....	20,445	20,572	127

The following table provides a summary of the projected revenues and expenses during the provisional rate period.

AMISTAD/FALCON 6-YEAR PROJEC-  
TIONS<sup>1</sup> REVENUES AND EXPENSES  
[\$1,000]

	FY 1999- 2004
Total Revenues .....	20,550
Revenue Distribution:	
O&M .....	4,912
Interest .....	13,022
Investment Repayment .....	2,616
Total .....	20,550

<sup>1</sup> Although this rate process seeks approval for a 5-year period (FY 2000-2004), 6 years of data (including FY 1999) are shown in the above table because FY 1999 data is an estimate.

#### 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 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 formula extension is available for public review in the Colorado River Storage Project Customer Service Center, Western Area Power Administration, 257 East 200 South, Suite 475, Salt Lake City, Utah, and in the Power Marketing Liaison Office, Room 8G-027, 1000 Independence Avenue SW., Washington, D.C.

#### Submission to Federal Energy Regulatory Commission

The rate formula extension 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 vested in me as the

Secretary of Energy, I confirm and approve and place into effect on an interim basis an extension of the rate formula provisions contained in Contract No. 7-07-50-P0890 and Supplement No. 1 to that Contract effective on June 8, 1999. The rate formula provisions shall remain in effect on an interim basis, pending Federal Energy Regulatory Commission confirmation and approval of this or a substitute rate on a final basis or until superseded, through June 7, 2004.

Dated: April 29, 1999.

Bill Richardson,

Secretary.

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BILLING CODE 6450-01-P

## DEPARTMENT OF ENERGY

### Western Area Power Administration

#### Desert Southwest Customer Service Region Network Integration Transmission and Ancillary Services—Rate Order No. WAPA-84

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

**ACTION:** Notice of Rate Order.

**SUMMARY:** Notice is given of the confirmation and approval by the Secretary of the Department of Energy (DOE) of Rate Order No. WAPA-84 and Rate Schedules DSW-SD1, DSW-RS1, DSW-FR1, DSW-EI1, DSW-SPR1, DSW-SUR1, PD-NTS1, and INT-NTS1 placing into effect provisional formula rates for the Desert Southwest Customer Service Region (DSW) network integration transmission services (NTS) for Parker-Davis Project (P-DP) and Pacific Northwest-Pacific Southwest Intertie Project (Intertie) and ancillary services for the Western Area Lower Colorado (WALC) control area. The provisional formula 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.

**DATES:** The formula rates will be placed into effect from April 1, 1999, through March 31, 2004.

**FOR FURTHER INFORMATION CONTACT:** Mr. Maher A. Nasir, Rates Team Lead, telephone (602) 352-2768, or Mr. Tyler Carlson, Regional Manager, telephone (602) 352-2453, Desert Southwest Customer Service Region, Western Area Power Administration, P.O. Box 6457, Phoenix, AZ 85005-6457.

**SUPPLEMENTARY INFORMATION:** On December 7, 1998, the Administrator of Western Area Power Administration

(Western) approved formula rate methodologies for short-term sales of NTS and ancillary services in the Western Area Lower Colorado (WALC) control area of the Desert Southwest Region. The six ancillary services include: scheduling, system control, and dispatch service; reactive supply and voltage control service; regulation and frequency response service; energy imbalance service; spinning reserve service, and supplemental reserve service. The provisional formula rates will replace the formula rates for short-term sales.

#### Provisional Rate Formula for Network Integration Transmission Service

NTS will be separately provided from P-DP and Intertie. The charge for NTS is the product of the transmission customer's load-ratio share times one-twelfth of the annual transmission revenue requirement. The customer's load-ratio share is calculated on a rolling 12-month basis (12-CP). The customer's load-ratio share is equal to the network transmission customer's hourly load coincident with Western's corresponding transmission system's monthly peak divided by the resultant value of the corresponding transmission system's monthly peak minus the coincident peak for all corresponding firm point-to-point transmission service plus corresponding firm point-to-point reservations.

#### Provisional Rates for Ancillary Services

Six ancillary services will be offered by DSW for WALC, two of which are required to be purchased by the transmission customer. These two are: (1) scheduling, system control, and dispatch service and (2) reactive supply and voltage control service. The remaining four ancillary services (3) regulation and frequency response service; (4) energy imbalance service; (5) spinning reserve service; and (6) supplemental reserve service will be offered, but are subject to availability from DSW generation resources. If DSW is unable to provide these services from its own resources, it will provide the services by making market purchases and passing these costs directly to the customer plus a 10 percent administrative charge.

Scheduling, system control, and dispatch service costs are included in transmission service provided by DSW. The scheduling, system control, and dispatch formula rates apply only to non-transmission customers, and depending on the type of service, will vary between \$34.10 and \$56.20 per schedule per day.