

**DEPARTMENT OF ENERGY****Western Area Power Administration****Final Power Allocation Procedures of the Post-2004 Resource Pool-Loveland Area Projects**

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

**ACTION:** Notice of final procedures.

**SUMMARY:** Western Area Power Administration (Western), a Federal power marketing agency of the Department of Energy, announces its Post-2004 Resource Pool Allocation Procedures developed under the requirements of Subpart C—Power Marketing Initiative of the Energy Planning and Management Program (Program) Final Rule, 10 CFR part 905. Subpart C of the Program provides for establishing project-specific resource pools and allocating power from these pools to new preference customers. These procedures, in conjunction with the Loveland Area Projects Final Post-1989 Marketing Plan (Post-1989 Marketing Plan), establish the framework for allocating power from the resource pool to be established for the Loveland Area Projects (LAP).

**DATES:** The Post-2004 Resource Pool Allocation Procedures become effective September 28, 2000, and will remain in effect until September 30, 2024.

**ADDRESSES:** Information about the Post-2004 Resource Pool Allocation Procedures, including comments, letters, and other supporting documents made or kept by Western for the purpose of developing the final procedures, is available for public inspection and copying at the Rocky Mountain Customer Service Region office, Western Area Power Administration, 5555 East Crossroads Boulevard, Loveland, Colorado 80538–8986.

**SUPPLEMENTARY INFORMATION:** Western published a notice of proposed procedures on March 10, 2000, to implement Subpart C—Power Marketing Initiative of the Program's Final Rule, 10 CFR part 905, published at 60 FR 54151 in the **Federal Register**. The Program, which was developed in part to implement section 114 of the Energy Policy Act of 1992, became effective on November 20, 1995. The goal of the Program is to require planning and efficient electric energy use by Western's long-term firm power customers and to extend Western's firm power resource commitments. One aspect of the Program is to establish project-specific power resource pools when existing resource commitments

expire and allocate power from these pools to new preference customers. Existing resource commitments for LAP expire on September 30, 2004. Under the Program, 96 percent of the firm power resources available in 2004 was extended to existing customers. The remaining 4 percent will make up a resource pool from which power allocations to new customers will be made following these final procedures and the Post-1989 Marketing Plan. The final Post-2004 Resource Pool Allocation Procedures for LAP address (1) eligibility criteria; (2) how Western plans to allocate the pool resources to new customers as provided for in the Program; and (3) the terms and conditions under which Western will contractually allocate the power pool.

Western held public information and comment forums on the proposed procedures on March 14, 21, and 23, 2000, to accept oral and written comments on the proposed procedures and call for applications. The formal comment period ended June 8, 2000. Western's response to public comments received about the proposed procedures are included in this notice.

The Post-2004 Resource Pool Allocation Procedures detailed in this **Federal Register** notice explain how Western intends to implement Subpart C of the Power Marketing Initiative of the Program's Final Rule for the LAP. Response to Public Comments Regarding Post-2004 Resource Pool Allocation Procedures

**I. Amount of Pool Resources**

Western proposes to allocate up to 4 percent of the LAP long-term firm hydroelectric resource available as of October 1, 2004, as firm power.

Western did not receive comments pertaining to the amount of the pool resources.

**II. General Eligibility Criteria**

Western proposes to apply general eligibility criteria to applicants seeking an allocation of firm power under the proposed Post-2004 Resource Pool Allocation Procedures.

*Comment:* The City of Fountain believes that Western's proposed criteria states that an eligible applicant must not be receiving benefits from a current LAP firm power allocation is inconsistent with EPAMP Final Rule, which at 60 FR 54173 states that Western will allocate a fair share of power to eligible to new preference entities who do not have a contract with Western or are not a member of a parent entity that has a contract with Western.

*Response:* Western acknowledges that the supplemental explanation,

published at 60 FR 54173, of the Program's rule contained in 10 CFR part 905 supports the argument that the City of Fountain may be eligible for a firm power allocation. In these final procedures, Western will change the general eligibility criteria to be consistent with the EPAMP Final Rule. Western will evaluate applicant profile data to determine eligibility under the final criteria and procedures.

**III. General Allocation Criteria**

Western proposes to apply general allocation criteria to applicants seeking an allocation of firm power under the proposed Post-2004 Resource Pool Allocation Procedures.

*Comment:* Several comments stated that the Native American allocations should be capped at 65 percent of the actual load served in 1998–1999 to be consistent with the criteria used by other Regions. Furthermore, the share of allocations to Native American tribes should be the total Federal power to include the share of the load currently served by a Federal allocation to the current tribal service provider. Other comments stated that the Department of Energy has established a target of at least serving 65 percent of the Native American load with power allocations from the LAP and Salt Lake City Area Integrated Projects (SLCA/IP). Crediting any power received indirectly by the tribes via their current service provider is not satisfactory. If the tribe forms a utility during the term of the firm electric service contract, the tribe would not be able to take advantage of the portion of the allocation held by the service provider. The full 65-percent allocation should be determined without considering the benefit derived from the serving utility.

*Response:* Western has not established targets for serving Native American load with power allocations from LAP. The Pick-Sloan Missouri Basin Program, Eastern Division's Post-2000 Resource allocation process resulted in approximately 62 percent benefit in the summer season and 55 percent benefit in the winter season to Native American tribes. The SLCA/IP Post-2004 Resource allocation process has used a 65 percent benefit to Native American tribes as an anticipated goal. Applicant profile data will be evaluated to determine the benefit that will go to each applicant. Western will take into account benefits of Federal power resources received by Native American tribes through the existing supplier when determining allocations. Native American tribal allocations from the LAP resource pool will be set forth in

a subsequent **Federal Register** notice and will be available for comment then.

*Comment:* Before allocating power to new non-tribal customers with utility status, available power resources should be allocated on a priority basis to satisfy at least 65 percent of Native American load.

*Response:* Reclamation Law provides that public entities be given preference over private entities in marketing power from Federal reclamation projects. Western has always considered Native American tribes to be preference customers. In response to comments received during the Program's public process, Western has changed its policy of requiring that Native American tribes achieve utility status prior to receiving an allocation. An appropriate share of LAP resources will be allocated to applicants based on the final procedures.

*Comment:* The Iowa Tribe of Kansas and Nebraska is partly in Nebraska, which is outside of the LAP marketing area. The Tribe should be allowed to count all loads that are on the reservation, including the portion in Nebraska.

*Response:* The firm power allocated under the general allocation criteria will be available only to new eligible applicants in LAP's existing marketing area. Western considers the broader scope of this statement to mean that only load within the LAP marketing area will be considered in determining an allocation. Even though benefits of Western's power would potentially be for all tribal members, no load outside the established marketing area is eligible for consideration.

*Comment:* Allocations should be limited to use by Native American tribes and their members on reservations. Allocations should not be made to Native Americans living beyond the reservation's boundaries or to tribal land holdings beyond the reservation boundaries. Limiting allocations to tribal organizations on reservation property recognizes the unique nature of these reserved lands and will provide immediate economic benefit to Native Americans where this benefit is needed most. Definition of load should be clarified to state that load area is limited to the actual loads currently on tribal lands. Calculation of load for Native Americans should exclude non-Native American loads served on the Native American lands. The tribes face the issue of whether load of non-Indians on the reservation can be counted. If a tribal utility were formed, the total load served by that utility would be eligible. Allocation of power to tribes should

therefore be based on the total reservation load.

*Response:* The Program, published at 60 FR 54151, states that Western expects to make allocations to Native American tribes for use on the reservation and potentially off the reservation under certain circumstances as determined by Western. Western wants the flexibility to tailor allocations from the LAP Post-2004 resource pool to meet specific tribal circumstances. Applicant profile data submitted by Native American tribes should be based on usage by tribal members and tribal entities on the tribe's reservation. However, the tribes should submit any data or estimates that may potentially be considered during the allocation process. Western will seek clarification when reviewing applications and adjust inconsistent data and estimates before making proposed allocations. The proposed allocations developed from Native American tribe load data and estimates will be published in a subsequent **Federal Register** notice. Western cannot dictate the universe of customers that a Native American tribal utility could serve. If a Native American tribe submits an application as a utility applicant, Western would evaluate the application under utility applicant criteria. As a utility applicant, if non-tribal load were served, then that load would be valid to include for consideration of an allocation. When submitting Native American load data as a non-utility, only load of tribal entities and their members will be considered for an allocation.

*Comment:* One comment stated that load basis should be consistent for all applicants and based on the actual 1998–99 winter season and 1999 summer season loads of the applicant. In reference to Native American loads, it is assumed that estimate refers only to the inaccuracy that might occur in separating that load from load of the current supplier and does not refer to the inclusion of any future load that may be anticipated. Another comment stated that tribal economic development projects that show a reasonable likelihood of being completed by 2004 should be considered as tribal load.

*Response:* Allocations made to qualified utility and non-utility applicants will be based on the 1998–99 winter season and 1999 summer season loads. Allocations to Native American tribes will be based on the 1998–99 winter season and 1999 summer season load data if available. Western will accept 1998 summer season and 1998–99 winter season load data, if available, from the Eastern Shoshone and Northern Arapaho on the Wind River

Reservation since that data was requested for the SLCA/IP Post-2004 Resource Pool. Western will also accept load estimates developed by the Native American tribes. During the public information forums, Western said that limited projected load estimates would be considered. However, any projected load estimates considered by Western would be limited to load anticipated to exist prior to September 30, 2004. Western will evaluate and adjust inconsistent data and estimates. The proposed allocations developed from Native American tribe load data and estimates will be published in a subsequent **Federal Register** notice.

*Comment:* Many comments stated that if any of the resource pool remains unallocated or cannot be delivered after the Post-2004 allocation, it should be returned to the existing customers on a pro rata basis. Several other comments stated that firm power not under contract after the closing date for executing firm power contracts should be made available exclusively for the benefit of contracting Native American tribes.

*Response:* The Program states: "If power is reserved for new customers but not allocated, or resources are offered but not placed under contract, this power will be offered on a pro rata basis to customers that contributed to the resource pool through application of the extension formula in the Program." In these final procedures, Western will change the general allocation criteria to comply with the regulations in 10 CFR part 905, published at 60 FR 54151.

*Comment:* Several comments stated that the maximum allocation for tribes will be no more than, and could be less than, 5,000 kilowatts (kW). Other comments stated that an exception should be granted to the maximum allocation of 5,000 kW for any Native American tribe that 65 percent of their load exceeds the 5,000 kW limit.

*Response:* The Post-1989 Marketing Plan criteria established the 5,000 kW limitation referenced in the allocation criteria. The 5,000 kW limit was placed in the Post-1989 Marketing Plan to ensure that the sale of LAP power would benefit a wide class of users, which is consistent with Federal Reclamation Law. The 5,000 kW limitation will not apply to Native American tribe applicants requesting a LAP allocation. Western will change the proposed general allocation criteria to clarify the maximum allocation.

*Comment:* Western should clarify what economic benefits it may be able to provide for the tribes. Western should allow various options to deliver power benefits to the tribes.

*Response:* Western will retain the right to provide the economic benefits of its resources directly to tribes if unanticipated obstacles to delivering hydropower to Native American tribes arise. Unanticipated obstacles pertain to the denial of delivery contracts and will not include fiscal issues where costs of accessing the power negate the hydropower benefits. Western does not anticipate obstacles will exist and views alternative methods of delivering benefits a last resort in lieu of delivering Western power and energy. Western does not want to exclude alternatives that may be required to provide the benefits of Federal hydropower to the tribes.

#### IV. General Contract Principles

Western proposes to apply general contract principles to all applicants receiving an allocation of firm power under the proposed Post-2004 Resource Pool Allocation Procedures.

*Comment:* Western should adopt a priority policy for any adjustments to the Contract Rate of Delivery (CROD) in response to changes in hydrology and river operations so that allocations to other customers are reduced prior to reduction of Tribal allocations.

*Response:* Treating all customers alike in adjusting CRODs due to changes in hydrology and river operations is consistent with the Program.

*Comment:* Assistance provided by Western should be paid for by the entity requesting assistance and should not be provided free of charge by Western.

*Response:* Western, as a Federal entity, has an obligation to assist all applicants to the greatest extent possible. General assistance, such as negotiating contract extensions with existing customers, was not charged on an individual basis. If Western is requested to provide assistance outside of what Western would consider normal contracting activities to execute firm electric service contracts, compensation for those services may need to be evaluated.

*Comment:* Certain changes to the standard contract format and General Power Contract Provisions should be made to reflect Native American tribal sovereignty. The use of reserve contracts for tribes in Western's Upper Great Plains Region was a good approach.

*Response:* All new customers, utility, non-utility, and Native American tribes will have contracts that are substantially identical to the current firm electric service contracts held by Western's present customers. To the extent possible, Western will recognize tribal sovereignty in these contracts.

Responses to Comments on Other Issues

*Comment:* LAP should create a program of internships for tribal personnel or scholarships to Western's training center for selected high school graduates.

*Response:* This comment is outside the scope of this process. However, Western has participated in Native American summer internship programs in the past.

*Comment:* A proposal discussed at the Topeka, Kansas, information meeting was that for Western to serve Native American loads, retail wheeling would be required. Kansas does not have retail wheeling presently and the Kansas Legislature has not supported it in recent sessions.

*Response:* Western is not imposing retail wheeling on rural electric cooperatives under the Program. Retail wheeling is an option only in those states that have adopted it. Cooperatives in Kansas have been supportive of delivering the benefits of power allocations to tribes, and support a bill crediting approach to accomplish Western's goals in a manner that avoids the need for a separate transmission service agreement.

*Comment:* Western should extend the comment period for a sufficient period to allow comment on significant changes resulting from the initial comments on the proposed procedures. Western should extend the comment period in order to allow adequate opportunity to examine and comment on the proposed contract terms and conditions.

*Response:* The public comment period for this part of the allocation process ended June 8, 2000. Comments received will be used to determine the final procedures for determining applicant eligibility and allocation criteria. A similar public process will take place to allow comment on the proposed allocations derived from these procedures. Contractual terms and conditions will be addressed with each applicant that receives an allocation after the allocations are final.

*Comment:* Federal Agencies have a trust responsibility when working with Native American tribes and are required to respect the government-to-government relationship and improve Federal consultation with tribal governments.

*Response:* Western supports the Department of Energy's American Indian policy that stresses the need for a government-to-government, trust based relationship. Western intends to continue its practice of consultation with tribal governments so that tribal

rights and concerns are considered prior to any actions being taken that affect tribes.

*Comment:* If a tribe receives an allocation of power under this process and then forms a tribal utility, the tribe should be eligible to receive an additional allocation in 2009 and 2014 as a utility. A tribe receiving a 2004 allocation of power should also be eligible to receive an additional allocation in 2009 and 2014 if the tribe has not formed a utility. Tribes propose that resource allocations during the 2009 and 2014 allocation be first made available to satisfy the unmet load of tribes in LAP.

*Response:* Two future 1 percent resource pools were identified as part of the Program and allocations from these future resource pools will be dealt with in future public processes.

*Comment:* Both the Eastern Shoshone and Northern Arapaho tribes should receive their full allocation in fair proportion to the Kansas tribes from the LAP and allow the SLCA/IP to stand on its own.

*Response:* Western will apply LAP's final Post-2004 procedures and criteria during the evaluation of applicant profile data from each applicant in the LAP marketing area. The method for determining allocations will be published with the proposed allocations in a subsequent **Federal Register** notice. Western's final allocations will be published after considering all comments related to the proposed allocations. Western will consider the benefits of the SLCA/IP power to tribes in determining LAP allocations.

Final Post-2004 Resource Pool Allocation Procedures

#### I. Amount of Pool Resources

Western will allocate up to 4 percent of the LAP long-term firm hydroelectric resource available as of October 1, 2004, as firm power (firm power). Current hydrologic studies indicate that about 28 megawatts (MW) will be available for the summer season and about 24 MW will be available for the winter season. Firm power means firm capacity and associated energy allocated by Western and subject to the terms and conditions specified in Western's long-term firm power electric service contracts.

#### II. General Eligibility Criteria

Western will apply the following general eligibility criteria to applicants seeking an allocation of firm power under the proposed Post-2004 Resource Pool Allocation Procedures.

A. Qualified applicants must be preference entities as defined by section 9c of the Reclamation Project Act of

1939, 43 U.S.C. 485h(c), as amended and supplemented.

B. Qualified applicants must be located within the currently established LAP marketing area.

C. Qualified applicants must not have a current firm electric service contract nor be a member of a parent entity that has a firm electric service contract with Western. Eligible Native American applicants are not subject to this requirement for the Post-2004 resource pool.

D. Qualified utility and non-utility applicants must be able to use the firm power directly or be able to sell it directly to retail customers.

E. Qualified applicants that are municipalities, cooperatives, public utility districts, and public power districts, must have utility status by September 30, 2000. Utility status means that the entity has responsibility to meet load growth, has a distribution system, and is ready, willing, and able to purchase Federal power from Western on a wholesale basis.

F. Qualified Native American applicants must be Native American Tribes as defined in the Indian Self Determination Act of 1975, 25 U.S.C. 450b, as amended.

### III. General Allocation Criteria

Western will apply the following general allocation criteria to applicants seeking an allocation of firm power under the Post-2004 Resource Pool Allocation Procedures.

A. Allocations of firm power will be made in amounts as determined solely by Western in exercising its discretion under Reclamation Law.

B. An allottee will have the right to purchase such firm power only after executing an electric service contract between Western and the allottee.

C. Firm power allocated under these procedures will be available only to new eligible applicants in LAP's existing marketing area. This marketing area includes parts of Colorado, Kansas, Nebraska, and Wyoming. LAP's marketing area is specifically defined as the portion of Colorado east of the Continental Divide, Mountain Parks Rural Electric Association's service territory in Colorado west of the Continental Divide, the portion of Kansas located in the Missouri River Basin, and the portion of Kansas west of the eastern borders of the counties intersected by the 100th Meridian, the portion of Nebraska west of the 101st Meridian, and Wyoming east of the Continental Divide.

D. Allocations made to Native American Tribes will be based on actual and estimated load developed by the

Native American Tribes. Western will evaluate and adjust inconsistent estimates during the allocation process. Western is willing to assist tribes in developing load estimating methods assuring consistent Native American Tribe load estimates across the region.

E. Allocations made to qualified utility and non-utility applicants will be based on 1998–99 winter season and 1999 summer season loads. Western will apply the Post-1989 Marketing Plan criteria to these loads.

F. Firm capacity and energy will be based upon the applicant's seasonal system load factor.

G. Any electric service contract offered by Western to an applicant shall be executed by the applicant within 6 months from the date of a final offer.

H. The initial resource pool will be dissolved subsequent to the closing date for executing firm power contracts. Firm power not under contract will be offered on a pro rata basis to customers that contributed to the resource pool through application of the Program's extension formula.

I. The minimum allocation shall be 100 kW.

J. The maximum allocation for qualified utility and non-utility applicants shall be 5,000 kW. Eligible Native American applicants are not subject to this requirement.

K. Contract rates of delivery shall be subject to adjustment in the future as provided for in the Program and contract.

L. Western retains the right to provide the economic benefits of its resources directly to tribes if unanticipated obstacles to delivering hydropower benefits to Native American Tribes arise.

### IV. General Contract Principles

Western will apply the following general contract principles to all applicants receiving an allocation of firm power under the Post-2004 Resource Pool Allocation Procedures.

A. Western, at its discretion and sole determination, reserves the right to adjust the contract rate of delivery on 5 years' notice in response to changes in hydrology and river operations. Any such adjustments shall only take place after a public process.

B. Western shall assist allottees to obtain third-party transmission arrangements to deliver firm power allocated under these procedures; nonetheless, each allottee is ultimately responsible for obtaining its own delivery arrangements.

C. Contracts entered into under the Post-2004 Resource Pool Allocation Procedures shall provide for Western to

furnish firm electric service effective from the October 2004 billing period, through the September 2024 billing period.

D. Contracts entered into as a result of these procedures shall incorporate Western's standard provisions for power sales contracts, integrated resource planning, and general power contract provisions.

### V. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* (Act), requires Federal agencies to perform a regulatory flexibility analysis if a proposed regulation is likely to have a significant economic impact on a substantial number of small entities. Western has determined that (1) this rulemaking relates to services offered by Western, and, therefore, is not a rule within the purview of the Act, and (2) the impacts of an allocation from Western would not cause an adverse economic impact on a substantial number of such entities. The requirements of this Act can be waived if the head of the agency certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. By the execution of this **Federal Register** notice, Western's Administrator certifies that no significant economic impact on a substantial number of small entities will occur.

### VI. Review Under the Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980, 44 U.S.C. 3501–3520, Western has received approval from the Office of Management and Budget (OMB) to collect customer information in this rule, under control number 1910–1200.

### VII. Review Under the National Environmental Policy Act

Western has completed an environmental impact statement on the Program, pursuant to the National Environmental Policy Act of 1969 (NEPA). The Record of Decision was published in the **Federal Register** on October 12, 1995 (60 FR 53181). Western's NEPA review assured all environmental effects related to these procedures have been analyzed.

### VIII. Determination Under Executive Order 12866

DOE has determined that this is not a significant regulatory action because it does not meet the criteria of Executive Order 12866, 58 FR 51735. Western has an exemption from centralized regulatory review under Executive

Order 12866; accordingly, no clearance of this notice by OMB is required.

Dated: August 8, 2000.

**Michael S. Hacsakaylo,**  
*Administrator.*

[FR Doc. 00-22000 Filed 8-28-00; 8:45 am]

BILLING CODE 6450-01-P

## DEPARTMENT OF ENERGY

### Western Area Power Administration

#### **Pacific Northwest-Pacific Southwest Intertie Project—Extension of Firm and Nonfirm Transmission Service Rates—Rate Order No. WAPA-91**

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

**ACTION:** Notice of Rate Order.

**SUMMARY:** This action is to extend the existing Pacific Northwest-Pacific Southwest Intertie Project (AC Intertie) firm point-to-point transmission service rate for the 500-kilovolt (kV) transmission system and the nonfirm point-to-point transmission service rate for the 230/345/500-kV transmission system, established under Rate Order No. WAPA-71, through December 31, 2003. The existing rates expire September 30, 2000. This notice of an extension of rates is issued pursuant to 10 CFR 903.23, whereby Rate Order No. WAPA-71 is extended under Rate Order No. WAPA-91.

**FOR FURTHER INFORMATION CONTACT:** Mr. Maher Nasir, Rates Team Lead, Desert Southwest Customer Service Region, Western Area Power Administration, P.O. Box 6457, Phoenix, AZ 85005-6457, (602) 352-2768, or e-mail nasir@wapa.gov.

**SUPPLEMENTARY INFORMATION:** 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 Area Power Administration (Western); and (2) 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). In Delegation Order No. 0204-172, effective November 24, 1999, the Secretary of Energy delegated the authority to confirm, approve, and place such rates into effect on an interim basis to the Deputy Secretary.

Pursuant with Delegation Order No. 0204-108 and existing Department of Energy procedures for public

participation in power and transmission rate adjustments in 10 CFR part 903, Western's firm and nonfirm point-to-point transmission service rates for the AC Intertie 230/345/500-kV transmission system were submitted to FERC for confirmation and approval on January 31, 1996. On July 24, 1996, in Docket No. EF96-5191-000, at 76 FERC ¶ 62,061, FERC issued an order confirming, approving, and placing in effect on a final basis the firm and nonfirm point-to-point transmission service rates for the AC Intertie 230/345/500-kV transmission system. The rates set forth in Rate Order No. WAPA-71 were approved for the period beginning February 1, 1996, and ending September 30, 2000.

Under Rate Order No. WAPA-71, the three types of transmission service rates approved were (1) a firm point-to-point transmission service rate for the AC Intertie 230/345-kV transmission system; (2) a firm point-to-point transmission service rate for the AC Intertie 500-kV transmission system; and (3) a nonfirm point-to-point transmission service rate for the AC Intertie 230/345/500-kV transmission system.

Western's firm point-to-point transmission service rate for the AC Intertie 230/345-kV transmission system was superseded through Rate Order No. WAPA-76 and submitted to FERC for confirmation and approval on February 8, 1999. On June 22, 1999, in Docket No. EF99-5191-000, at 87 FERC ¶ 61,346, FERC issued an order confirming, approving, and placing in effect on a final basis the firm point-to-point transmission service rate for the AC Intertie 230/345-kV transmission system. Western's rate of \$12.00/kilowattyear for firm point-to-point transmission service for the AC Intertie 230/345-kV transmission system, set forth in Rate Order No. WAPA-76 was approved for a 5-year period beginning January 1, 1999, and ending December 31, 2003.

During the firm point-to-point transmission service rate development for the AC Intertie 230/345-kV transmission system (Rate Order No. WAPA-76), Western determined 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 ratesetting Power Repayment Study (PRS) established for the AC Intertie 230/345/500-kV transmission system (Rate Order No. WAPA-76) reflected the phasing-in of AC Intertie 500-kV transmission system revenues starting in fiscal year (FY) 1999 through FY 2008. This ratesetting

PRS remains valid. The projected revenue levels through sales of firm and nonfirm point-to-point transmission service and miscellaneous items are sufficient to recover project expenses and capital requirements through FY 2049 for the AC Intertie 230/345/500-kV transmission system. Western, therefore, has decided to extend the existing firm point-to-point transmission service rate of \$17.23/kilowattyear for the AC Intertie 500-kV transmission system and the nonfirm point-to-point transmission service rate of 2.00 mills/kilowattyear for the AC Intertie 230/345/500-kV transmission system through December 31, 2003. This extension will synchronize the expiration dates for all firm and nonfirm point-to-point transmission service rates for the AC Intertie 230/345/500-kV transmission system.

In accordance with 10 CFR 903.23(a)(2), Western did not have a consultation and comment period and did not hold public information and comment forums. The notice of proposed extension of the firm point-to-point transmission service rate for the AC Intertie 500-kV transmission system and the nonfirm point-to-point transmission service rate for the AC Intertie 230/345/500-kV transmission system was published in the **Federal Register** (65 FR 36132) on June 7, 2000.

Following review of Western's proposal within the Department of Energy, I approved Rate Order No. WAPA-91, which extends the existing firm point-to-point transmission service rate of \$17.23/kilowattyear for the AC Intertie 500-kV transmission system and the nonfirm point-to-point transmission service rate of 2.00 mills/kilowattyear for the AC Intertie 230/345/500-kV transmission system on an interim basis through December 31, 2003.

Dated: August 15, 2000.

**T.J. Glauthier,**  
*Deputy Secretary.*

#### **Order Confirming and Approving an Extension of the Pacific Northwest-Pacific Southwest Intertie Project Firm and Nonfirm Transmission Service Rates**

These transmission service rates were established pursuant to Section 302(a) of the Department of Energy Organization Act (42 U.S.C. 7152(a)), through which the power marketing functions of the Secretary of the Department 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)), 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