

year, the product (power) would be listed on five lines. Each listing would have a unique begin and end date and the price assigned for each year would be listed on the appropriate line. Another example is a transmission contract with several ancillary services. The transmission service and each of the ancillary services could have different begin and end dates.

15. At least one of the four rate fields (rate, rate minimum, rate maximum, rate description) must be filled out. For example, most market-based rates should state "Market-Based Rate" in the Rate Description Field. If the service does not have a rate, NA should be entered in the rate description field.

16. Other mandatory fields include: Customer name, Contract Affiliate, FERC Tariff Reference, Contract Service Agreement ID, Contract Execution Date and/or Contract Commencement Date.

#### Transaction Information

17. Transaction data should be filed for all power sales pursuant to Part 35 tariffs on file with the Commission. This includes cost-based and market-based rate sales.

18. Seller company name must be exactly as listed on the Filer and Contract templates.

19. Customer information must be exactly as listed on the Contract template.

20. FERC Tariff Reference and Contract Service Agreement ID must be exactly as listed in the Contract Template.

21. The system will allow negative numbers in the price and charge fields.

22. Whether and how certain types of transactions should be reported are set forth below:

23. "Tolling" and barter transactions: Tolling transactions are energy conversion services (i.e., converting gas/oil/coal into MW). Some contracts provide for barter payments (a portion of the fuel or output). These are reportable as a sale of electricity under a utility's MBR tariff. Barter transactions should be converted to a monetary basis in the same manner used by the utility in its SEC and IRS filings, and reported on the Electric Quarterly Report.

24. Bundled service:

a. If power is sold at a "delivered price" at a specified point (and transmission and ancillary services are not separately delineated), only the delivered price should be reported on the Electric Quarterly Report as the price of power.

b. If the power is purchased at one location and, as part of the sale, it is transmitted to another location, the transmission and any other related

charges should be reported separately for market-based prices. For grandfathered cost-based rates bundled with transmission, a product name will be added ("grandfathered bundled") that identifies the transaction as a grandfathered rate. Grandfathered services are those that provided for bundled transmission, ancillary and energy prior to the effectiveness of Order No. 888's OATTs. For Grandfathered transactions, report the Commission-approved bundled rate without separating the rate into transmission and energy components.

c. The Electric Quarterly Report has a column for the transmission component of energy sales. However, many different services in addition to transmission are associated with energy sales (ancillary services most common). The Commission needs to understand the derivation of the total commodity price. To the extent that there are services delineated in the contract that are part of the total sale, they should be listed on separate lines and priced separately (other than the exception detailed above for Grandfathered rates).

25. Rate design: Many services do not have one-part commodity rates/prices for energy sales. Utilities should use different lines for listing the different components of the rate/price (such as reservation fee, commodity price, etc.) in the Contract and Transaction Templates.

26. Capacity, RMR, and stand-by service should be reported with the commodity sales if they are in the market-based rate contract. The transactions, including these charges, should be sufficiently detailed to explain the derivation of the price.

27. "Border Agreement" energy sales, exchanges as part of a Rate Schedule, emergency sales or other sales/exchanges under an Interconnection Agreement, line loss adjustments, and ISO day-ahead trades are reportable, just as any other trade or sale is.

28. In general, QF energy transactions are not reportable, as they have "exempt" status. However, some utilities with a QF exemption have a Part 35 tariff on file with the Commission, in which case transactions under that tariff are reportable.

29. Marketing fees (the fee a marketer charges the utility with a tariff for marketing the energy) should not be included in the Electric Quarterly Report if they are included in the price of the energy. However, if the marketing fee is assessed separately to the buyer in addition to the price of the energy, the fee should be broken out and shown on a separate line.

30. Options that go to delivery should be reported at the strike price. Revenue from the sale of the option should not be reported.

#### Revisions to Electric Quarterly Reports

31. A utility must file a revised Electric Quarterly Report if more complete information is obtained or errors are found in a utility's Electric Quarterly Report. Some structured markets do not give prices/revenues to sellers until after 30 or more days, so the pricing data will not be available by the report date. Utilities should enter the transaction quantities and nothing for the unknown prices, and file revised reports when the information becomes available.

Linwood A. Watson, Jr.,

Deputy Secretary.

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BILLING CODE 6717-01-P

## DEPARTMENT OF ENERGY

### Western Area Power Administration

#### Collections From Central Valley Project Power Contractors To Carry Out the Restoration, Improvement, and Acquisition of Environmental Habitat Provisions of the Central Valley Project Improvement Act of 1992

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

**ACTION:** Notice of proposed procedures.

**SUMMARY:** The Western Area Power Administration (Western) is proposing revised procedures for the assessment and collection of restoration fund payments from the Central Valley Project (CVP) Power Contractors as required by the Central Valley Project Improvement Act of 1992 (CVPIA). These proposed procedures take a different approach toward assessing Power Contractors' collections that more closely reflects Western's 2004 Power Marketing Plan. Existing procedures are linked to an older and soon to be obsolete Power Marketing Plan. The existing procedures became effective on September 3, 1998, and will remain in effect until superseded by this process.

**DATES:** The consultation and comment period will begin on the date of publication of this **Federal Register** notice and will end December 30, 2002. Western will present a detailed explanation of the proposed procedures at a public information forum on November 20, 2002, at 10 a.m., PST. It will receive oral and written comments at a public comment forum beginning at 1 p.m., PST, on this same date. Western

must receive all comments by the end of the comment period to ensure they are considered.

**ADDRESSES:** Western will hold the public information and comment forums at the Sierra Nevada Region Office, Western Area Power Administration, 114 Parkshore Drive, Folsom, CA 95630-4710. Send comments to: Mr. Thomas R. Boyko, Power Marketing Manager, Sierra Nevada Customer Service Region, Western Area Power Administration, 114 Parkshore Drive, Folsom, CA 95630-4710, e-mail [boyko@wapa.gov](mailto:boyko@wapa.gov).

**FOR FURTHER INFORMATION CONTACT:** Ms. Melinda C. Grow, Public Utilities Specialist, Rates Division, Sierra Nevada Customer Service Region, Western Area Power Administration, 114 Parkshore Drive, Folsom, CA 95630-4710, telephone (916) 353-4443, e-mail [grow@wapa.gov](mailto:grow@wapa.gov).

**SUPPLEMENTARY INFORMATION:** Section 3407 of the CVPIA (Pub. L. 102-575, Stat. 4706, 4726) establishes in the Treasury of the United States the CVP Restoration Fund (Restoration Fund) to carry out the habitat restoration, improvement, and acquisition provisions of the CVPIA. The CVPIA further requires the Secretary of the Interior to assess and collect annual mitigation and restoration payments

from CVP Water and Power Contractors (Restoration Payments). The Secretary of the Interior, through the Bureau of Reclamation (Reclamation), is responsible for determining and collecting the CVP Water and Power Contractors' share of the annual Total Power Restoration Fund Payment Obligation.

Because Western markets and transmits CVP power and maintains all CVP power contracts, Western agreed to administer the assessment and collection of the Restoration Payments from CVP Power Contractors. Western executed a letter of agreement with Reclamation to establish procedures for depositing collections from CVP Power Contractors into the Restoration Fund.

Through an open and public process, the existing procedures became effective on September 3, 1998, and remain in effect until superseded (63 FR 41561, August 4, 1998). Western indicated that it would review the procedures associated with the assessment and collection of the Restoration Payments from CVP Power Contractors every 5 years or if one of the following occurs: (1) If there is a significant change to or suspension of the legislation; (2) if a material issue arises; (3) if an apparent inequity in the procedures is discovered; or (4) if any significant

change occurs that affects the procedures.

Western published a new Marketing Plan (2004 Power Marketing Plan) in the **Federal Register** on June 25, 1999, that specifies the terms and conditions under which Western will market power from CVP and the Washoe Project beginning January 1, 2005 (64 FR 34417). Since the current methodology for the assessment and collection of Restoration Fund payments from the CVP Power Contractors is tied to the 1994 Marketing Plan (57 FR 45782, October 5, 1992) and long-term firm CVP power contracts will expire on December 31, 2004, it is necessary to change the assessment and collection of Restoration Payments from CVP Power Contractors.

Western will prorate and assess to CVP Power Contractors the annual Power Restoration Payment Obligation (PRPO), as determined by Reclamation. Western will issue each CVP Power Contractor a monthly Restoration Fund Bill reflecting its share of the PRPO. The CVP Power Contractors will pay that amount to Western. Western will transfer all amounts collected from CVP Power Contractors to Reclamation for deposit into the Restoration Fund.

The following table provides a summary comparison of the existing procedures and proposed procedures.

TABLE 1.—HIGHLIGHTS OF CHANGES FOR ASSESSING THE ANNUAL PRPO TO CVP POWER CONTRACTORS

Methodology element	Existing procedures	Proposed procedures
Effective Date .....	September 3, 1998 .....	January 1, 2005.
Assessment of Prorated Charges .....	Based on actual capacity and energy amounts delivered by or scheduled by Western.	Based on assigned Base Resource Percentage as articulated in the 2004 Power Marketing Plan.
Method of Calculation .....	Capacity and energy multipliers multiplied by actual capacity and energy amounts. The multipliers are calculated using prior year power sales to recover the PRPO.	Each Power Contractor's Base Resource Percentage is multiplied by the PRPO to determine their annual PRPO obligation.
Assessment Year .....	June 1 through May 31 .....	None.
Billing Year .....	September through August .....	No change.
Exclusion of First Preference Customers .....	Three First Preference Customers .....	All First Preference Customers.
Annual Reconciliation .....	None required .....	Required due to Exchange Program and posted on Power Contractor's August bill.

**Acronyms and Definitions**

As used throughout the remainder of this notice, the following acronyms and definitions when used with initial capitalization, whether singular or plural, will have the following meanings:

**2004 Power Marketing Plan:** The final marketing program for the Sierra Nevada Region power after 2004 established through a public process and published in the June 25, 1999, **Federal Register** (64 FR 34417).

**Administrator:** The Administrator of the Western Area Power Administration.

**Assessment Month:** The service month, which is 3 months prior to the Billing Month. This term is used in the August 4, 1998, **Federal Register** (63 FR 41561) procedures and will become obsolete assuming this proposed procedure is finalized and approved.

**Assessment Year:** The period that uses the service months from June 1 through May 31 for billing CVP Power Contractors for Restoration Payments.

This term is used in the August 4, 1998, **Federal Register** (63 FR 41561) procedures and will become obsolete assuming this proposed procedure is finalized and approved.

**Base Resource:** CVP and Washoe Project power output and existing power purchase contracts extending beyond 2004, determined by Western to be available for marketing, after meeting the requirements of Project Use and First Preference Customers, and any adjustments for maintenance, reserves,

transformation losses, and certain ancillary services.

*Billing Month:* The month CVP Power Contractors will be billed for the Restoration Payments.

*Billing Year:* The period, September through August, that represents the annual Restoration Fund billing cycle.

*Central Valley Project (CVP):* The multipurpose Federal water and power project extending from the Cascade Range in northern California to the plains along the Kern River south of the city of Bakersfield.

*CVP Improvement Act of 1992 (CVPIA):* Title 34 of Public Law 102–575, 106 Stat. 4706, *et seq.* A legislative act, enacted on October 30, 1992, that defines provisions for habitat restoration, improvement and acquisition, and other fish and wildlife restoration activities in the CVP area of California.

*DOE:* United States Department of Energy.

*Exchange Program:* Established in the **Federal Register** for the 2004 Power Marketing Plan and intended to allow customers to fully and efficiently use their power allocations.

*First Preference Customer:* A customer wholly located in Trinity, Calaveras, or Tuolumne counties, California, as specified under the Trinity River Division Act (69 Stat. 719) and the New Melones provisions of the Flood Control Act of 1962 (76 Stat. 1173, 1191–1192).

*Fiscal Year (FY):* The year which begins October 1 and ends September 30.

*Interior:* United States Department of the Interior.

*kW:* Kilowatt, the electrical unit of capacity that equals 1,000 watts.

*kWh:* Kilowatthour, the electrical unit of energy that equals the generation of 1,000 watts over 1 hour.

*Letter of Agreement:* Letter of Agreement No. 93-SAO–10156, a written agreement between Reclamation and Western that establishes procedures to deposit the Restoration Payments collected from CVP Power Contractors into the Restoration Fund.

*Midyear Adjustment:* The adjustment to the annual PRPO as determined by Reclamation on or about April 1 of each year.

*Power:* Capacity and energy.

*Power Contractor:* An entity purchasing power from Western for a period in excess of 1 year.

*Power Restoration Payment Obligation (PRPO):* The portion of the Total Restoration Payment Obligation calculated and assigned annually to CVP Power Contractors by Reclamation.

*Project Use:* The power used to operate CVP or Washoe Project facilities

in accordance with authorized purposes and pursuant to Reclamation law.

*Reclamation:* United States Department of Interior, Bureau of Reclamation.

*Restoration Fund:* The CVP Restoration Fund, established by Section 3407 of the CVPIA, into which revenues provided by the CVPIA are deposited, and from which funds are appropriated by the Secretary to carry out the habitat restoration, improvement, and acquisition provisions of the CVPIA.

*Restoration Fund Bill(s):* The instrument prepared and issued monthly as a mechanism for collecting the Restoration Payments from CVP Power Contractors.

*Restoration Payment(s):* The amount(s) recorded as payable on CVP Power Contractors' Restoration Fund Bills.

*Secretary:* Secretary of DOE.

*Total Power Restoration Fund*

*Payment Obligation:* The total amount of payments collected from the CVP Water and Power Contractors calculated annually by Reclamation.

*Washoe Project:* The Federal water project located in the Lahontan Basin in west-central Nevada and east-central California, as described in Western's final 2004 Power Marketing Plan for the Sierra Nevada Region.

*Western:* United States Department of Energy, Western Area Power Administration.

### Proposed Procedures

#### *Determination of the Total Power Restoration Fund Payment Obligation*

Reclamation is responsible for assigning the PRPO for the CVP Power Contractors. On or about July 1 of each year, Reclamation will provide a letter to Western's Regional Manager of the Sierra Nevada Region with the determined PRPO amount and a detailed explanation of the computation for the upcoming FY. Upon receiving the letter from Reclamation, Western will notify each CVP Power Contractor of the Total Power Restoration Fund Payment Obligation and the monthly amounts to be collected from CVP Power Contractors.

#### *Allocating the Power Restoration Payment Obligation (PRPO)*

Western will allocate the PRPO among CVP Power Contractors each FY. After notification by Reclamation, Western will calculate the annual obligation for each CVP Power Contractor. Western will base its calculation on the assigned Base Resource percentage for each CVP

Power Contractor as detailed in the 2004 Power Marketing Plan. This annual obligation will be divided by the number of months in the FY; *i.e.*, twelve, or in the case of FY 2005, the number of months remaining in the FY; *i.e.*, nine, to determine the monthly obligation.

Since the 2004 Power Marketing Plan does not begin until January 1, 2005, and Restoration Fund collections for FY 2005 (October 1, 2004, through September 30, 2005) begin prior to this, FY 2005 will be a transition year for Restoration Fund collections from Power Contractors.

Western will base Restoration Fund collections from Power Contractors for October through December 2004 upon the existing collection methodology articulated in the August 4, 1998, **Federal Register**. Western intends to begin collection under these new proposed procedures beginning with January 2005 collections. As a point of clarification, Western will bill the Power Contractors for the October 2004 collection in their September 2004 bills based upon energy and capacity amounts for their June 2004 service month. A similar process will continue through the December 2004 collection.

In December 2004, Western will total the Restoration Fund collections made by the Power Contractors from October and November 2004, and the amounts payable for December 2004, and subtract this amount from the annual PRPO to calculate the balance to collect for the remaining 9 months (January through September) of the FY. Western will multiply this total by each Power Contractor's Base Resource percentage. This amount will then be divided by nine to determine each Power Contractor's monthly obligation.

#### *Year-End Reconciliation Process*

Implementation of the Exchange Program may result in some Power Contractors receiving small amounts of energy in excess of their Base Resource in some months. Although recipients of this exchange energy will pay for this power, Restoration Fund obligations are based on the Power Contractors' percentage of the Base Resource excluding exchange energy. Alternatively, some Power Contractors that are not able to use all of their Base Resource and return it as exchange energy could be overpaying their Restoration Fund obligations since their actual power usage might be less than their Base Resource percentage.

In an effort to rectify underpayment made by recipients of exchange energy and overpayments by other Power Contractors, Western will conduct a

reconciliation process, otherwise known as an annual true up, before preparing August Restoration Fund Bills. This reconciliation will require Western to identify energy amounts exchanged among individual Power Contractors on a monthly basis through July. This information will provide the basis for determining the amount of energy exchanged during the billing year.

Western will add an additional charge or a balloon payment to the August Restoration Fund Bills for each Power Contractor who received exchange energy during the past year. Conversely, Western will also post an offsetting credit for those Power Contractors that provided exchange energy on their August bill.

#### *Exclusion of First Preference Customers From the Power Restoration Payment Obligation*

Western has discretion how the PRPO is assessed to CVP Power Contractors. As a consequence, Western previously reviewed the CVPIA regarding the assessment of the Restoration Fund's costs, and similar costs under other related legislation affecting CVP Power Contractors. Western also reviewed Trinity County's contribution toward the restoration programs compared to contributions made by other CVP Power Contractors. Western concluded from this review that Trinity County may, at times, pay a greater share of the costs toward the restoration programs. As a means of mitigating the effects of these restoration programs on Trinity County, coupled with the socioeconomic effects the construction of the Trinity Dam has had on the community, Western intends to exclude Trinity County indefinitely from the PRPO.

Similar consideration was given to the remaining three First Preference Customers: Tuolumne Public Power Agency (TPPA), Calaveras Public Power Agency (CPPA), and Sierra Conservation Center (SCC). Construction of the New Melones Dam on the Stanislaus River has contributed to improved fishery habitat and water quality in the Stanislaus and San Joaquin rivers, as well as the South Delta. Given these circumstances, Western intends to exclude TPPA, CPPA, and SCC indefinitely from the PRPO.

#### *Collection of CVP Power Contractors Restoration Fund Payment*

Each CVP Power Contractor will receive a Restoration Fund Bill each month on or about the twenty-fifth (25th), but no later than the last day of the month. The Restoration Fund billing cycle for each FY will begin within 30 days following August 1 or the date

written notification of the annual PRPO is received from Reclamation, whichever occurs later.

#### *Payment Due Date*

All CVP Power Contractors' Restoration Payments are due and payable before the close of business on the twentieth (20th) calendar day each Restoration Fund Bill is issued or the next business day thereafter if said day is a Saturday, Sunday, or Federal holiday.

#### *Late Payment Charges Assessed to Delinquent Restoration Payments*

Western will add a late payment charge of five hundredths percent (0.05%) of the principal amount unpaid for each day the Restoration Fund Bill payment is delinquent. Western will apply any payments received to the charges for the late payment assessed on the principal first and then to the payment of the principal.

#### *Deposit of CVP Power Contractors' Restoration Payments Into the Restoration Fund*

On or about the twenty-seventh (27th) calendar day of the month following each Billing Month, Western will transfer all of the Restoration Payments received, including late payment charges, to Reclamation for deposit into the Restoration Fund. The thirtieth (30th) of September of each FY is the last day Western will transfer Restoration Payments, including late payment charges, to Reclamation for that FY.

#### *Adjustment to the PRPO*

Each FY's annual PRPO is subject to a Midyear Adjustment determined by Reclamation. The Midyear Adjustment occurs on or about April 1 of each FY, following Reclamation's annual determination of available CVP water supply for the year. Reclamation notifies Western, in writing, of the Midyear Adjustment. Upon receiving Reclamation's notification, Western will factor the Midyear Adjustment amount into the calculation for the remaining PRPO for the year. Western will then notify each CVP Power Contractor of the Midyear Adjustment to the annual PRPO.

#### *Instruction for Mailing Public Comments*

The comment period will begin with the publication of this notice in the **Federal Register** and will end 60 days after publication. Western must receive all comments by the end of the comment period to assure consideration. Written comments can be

mailed, faxed, or e-mailed to Mr. Thomas R. Boyko, Power Marketing Manager, Sierra Nevada Region, Western Area Power Administration, 114 Parkshore Drive, Folsom, CA 95630-4710, fax (916) 985-1931, e-mail [boyko@wapa.gov](mailto:boyko@wapa.gov).

#### **Availability of Information**

All studies, comments, letters, memorandums, or other documents made or kept by Western for developing the final procedures, will be made available for inspection and copying at Western's Sierra Nevada Regional Office, located at 114 Parkshore Drive, Folsom, CA 95630-4710.

#### **Regulatory Flexibility Analysis**

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601, *et seq.*) requires Federal agencies to perform a regulatory flexibility analysis if a final rule is likely to have a significant economic impact on a substantial number of small entities. Western has determined that this action relates to rates or services offered by Western and, therefore, is not a rule within the purview of the Act.

#### **Environmental Compliance**

In compliance with the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321, *et seq.*); the Council on Environmental Quality Regulations for implementing NEPA (40 CFR parts 1500 through 1508); and the Integrated DOE NEPA Implementing Procedures (10 CFR part 1021), Western has determined that this action is categorically excluded from the preparation of an environmental assessment or an environmental impact statement.

#### **Determination Under Executive Order 12866**

Western has an exemption from centralized regulatory review under Executive Order 12866. This notice is not required to be cleared by the Office of Management and Budget.

Dated: October 9, 2002.

**Michael S. HacsKaylo,**  
Administrator.

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