

Dated: December 24, 2003.

Kyle E. McSlarrow,
Deputy Secretary.

Loveland Area Projects, Colorado, Kansas, Nebraska, Wyoming; Schedule of Rates for Firm Electric Service

Effective:

First Step: Beginning on the first day of the first full billing period on or after February 1, 2004, through September 30, 2004.

Second Step: Beginning on the first day of the first full billing period on or after October 1, 2004, through December 31, 2008.

Available:

Within the marketing area served by the Loveland Area Projects.

Applicable:

To the wholesale power customers for firm power service supplied through one meter at one point of delivery, or as otherwise established by contract.

Character:

Alternating current, 60 hertz, three phase, delivered and metered at the voltages and points established by contract.

Monthly Rates:

First Step:

Demand Charge: \$3.08 per kilowatt (kW) of billing demand.

Energy Charge: 11.72 mills per kilowatthour (kWh) of use.

Billing Demand: Unless otherwise specified by contract, the billing demand will be the seasonal contract rate of delivery.

Second Step:

Demand Charge: \$3.14 per kilowatt (kW) of billing demand.

Energy Charge: 11.95 mills per kilowatthour (kWh) of use.

Billing Demand: Unless otherwise specified by contract, the billing demand will be the seasonal contract rate of delivery.

Adjustments:

For Transformer Losses: If delivery is made at transmission voltage but metered on the low-voltage side of the substation, the meter readings will be increased to compensate for transformer losses as provided for in the contract.

For Power Factor: None. The customer will be required to maintain a power factor at all points of measurement between 95-percent lagging and 95-percent leading.

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DEPARTMENT OF ENERGY

Western Area Power Administration

Pick-Sloan Missouri Basin Program—Eastern Division—Rate Order No. WAPA-110

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of rate order.

SUMMARY: Notice is given of the confirmation and approval by the Deputy Secretary of the Department of Energy (DOE) of Rate Order No. WAPA-

110 and Rate Schedules P-SED-F7 and P-SED-FP7 placing into effect provisional rates for the Pick-Sloan Missouri Basin Program—Eastern Division (P-SMBP—ED) firm power service and firm peaking power service of Western Area Power Administration (Western). The provisional rates will remain in effect on an interim basis until the Federal Energy Regulatory Commission (Commission) confirms, approves, and places them into effect on a final basis or until they are replaced by other rates. The provisional rates will provide sufficient revenue to pay all annual costs, including interest expense, and repayment of required investment within the allowable period.

DATES: The provisional rates will be placed into effect on an interim basis on February 1, 2004, and will be in effect until the Commission confirms, approves, and places the provisional rates in effect on a final basis for 5 years ending December 31, 2008, or until superseded.

FOR FURTHER INFORMATION CONTACT: Mr. Robert F. Riehl, Power Marketing Manager, Upper Great Plains Region, Western Area Power Administration, 2900 4th Avenue North, Billings, MT 59101-1266, telephone (406) 247-7394, e-mail Riehl@wapa.gov.

SUPPLEMENTARY INFORMATION: The Deputy Secretary of Energy approved the existing Rate Schedules P-SED-F6 and P-SED-FP6 for P-SMBP—ED firm power service and firm peaking power service on January 6, 1994 (Rate Order No. WAPA-60, 59 FR 3348, January 21, 1994); and the Commission confirmed and approved the rate schedules on July 14, 1994, under FERC Docket No. EF94-5031-000 (68 FERC 62,040). The rates set forth in Rate Order No. WAPA-60 were approved for 5 years beginning February 1, 1994, and ending January 31, 1999. On October 16, 1998, Rate Order No. WAPA-83 (63 FR 58034, October 29, 1988), extended the existing rates for 2 years beginning February 1, 1999, and ending January 31, 2001. On July 17, 2000, Rate Order No. WAPA-90 (65 FR 44045, July 10, 2000), further extended the existing rates for 2 years and 9 months beginning February 1, 2001, and ending September 30, 2003. On May 14, 2003, Rate Order No. WAPA-102 (68 FR 33120, June 3, 2003), further extended the existing rates through March 31, 2004.

Major factors contributing to this rate adjustment are the economic impact of the drought, increased interest expense associated with deficits, increased operation and maintenance and other annual expenses due to normal inflationary pressure since the last rate

adjustment, and an additional 11 years of investment since the last rate adjustment.

Under Rate Schedule P-SED-F6, the composite rate is 14.23 mills per kilowatthour (mills/kWh), the energy rate is 8.32 mills/kWh, the tiered energy rate for energy in excess of 60 percent load factor is 3.38 mills/kWh, and the firm capacity rate is \$3.20 per kilowattmonth (kWmo). Under Rate Schedule P-SED-FP6, the firm peaking capacity rate is \$3.20 per kWmo, and the firm peaking energy rate is 8.32 mills/kWh. The provisional rates are being implemented in two steps. The first step of the provisional rates for P-SMBP—ED firm power service in Rate Schedule P-SED-F7 will result in an Eastern Division composite rate of 16.04 mills/kWh. The energy rate will be 9.34 mills/kWh, the capacity rate will be \$3.62 per kWmo and the tiered energy rate for energy in excess of 60 percent load factor will be 5.21 mills/kWh. The Eastern Division composite rate will increase approximately 12.7 percent effective on February 1, 2004. The second step of the provisional rates for P-SMBP—ED firm power service will result in an Eastern Division composite rate of 16.51 mills/kWh. The energy rate will be 9.62 mills/kWh, the capacity rate will be \$3.72 per kWmo, and the tiered energy rate for energy in excess of 60 percent load factor will be 5.21 mills/kWh. This will result in an additional increase of 2.9 percent effective on October 1, 2004.

The first step of Rate Schedule P-SED-FP7 will result in a firm peaking capacity rate of \$3.62 per kWmo and a firm peaking energy rate of 9.34 mills/kWh and will become effective February 1, 2004. The second step of the firm peaking capacity rate will be \$3.72 per kWmo and a firm peaking energy rate will be 9.62 mills/kWh and will become effective October 1, 2004.

Provisional Rates for P-SMBP—ED Firm Power Service and Firm Peaking Power Service

The provisional rates for P-SMBP—ED firm power service are designed to recover an annual revenue requirement that includes investment repayment, interest, purchased power, operation and maintenance expense, and other annual expenses. The annual revenue requirement for firm power service is allocated equally between capacity and energy.

The provisional rates for P-SMBP—ED firm power service are developed under the DOE Organization Act (42 U.S.C. 7101–7352), through which the power marketing functions of the Secretary of the Interior and the Bureau

of Reclamation under the Reclamation Act of 1902 (ch. 1093, 32 Stat. 388), as amended and supplemented by subsequent laws, particularly section 9(c) of the Reclamation Project Act of 1939 (43 U.S.C. 485h(c)), and other Acts specifically applicable to the project involved, were transferred to and vested in the Secretary of Energy (Secretary).

Under Delegation Order No. 00-037.00, effective December 6, 2001, the Secretary delegated (1) the authority to develop power and transmission rates on a nonexclusive basis to Western's Administrator; (2) the authority to confirm, approve, and place such rates into effect on an interim basis to the Deputy Secretary; and (3) the authority to confirm, approve, and place into effect on a final basis, to remand, or to disapprove such rates to the Commission. Existing DOE procedures for public participation in power rate adjustments are located at 10 CFR 903, effective on September 18, 1985 (50 FR 37835).

The Procedures for Public Participation in Power and Transmission Rate Adjustments and Extensions, 10 CFR 903, have been followed by Western in developing these provisional rates.

Rate Order No. WAPA-110, confirming, approving, and placing the provisional P-SMBP—ED firm power service and firm peaking power rates into effect on an interim basis, is issued. New Rate Schedules P-SED-F7 and P-SED-FP7 will be submitted promptly to the Commission for confirmation and approval on a final basis.

Dated: December 24, 2003.

Kyle E. McSiarro, Deputy Secretary.

Department of Energy, Deputy Secretary

In the matter of: Western Area Power Administration Rate Adjustment for the Pick-Sloan Missouri Basin Program—Eastern Division; Order Confirming, Approving, and Placing the Pick-Sloan Missouri Basin Program—Eastern Division Firm Power and Firm Peaking Power Service Rates Into Effect on an Interim Basis
[Rate Order No. WAPA-110]

These rates are developed under the DOE Organization Act (42 U.S.C. 7101-7352), through which the power marketing functions of the Secretary of the Interior and the Bureau of Reclamation under the Reclamation Act of 1902 (ch. 1093, 32 Stat. 388), as amended and supplemented by subsequent laws, particularly section 9(c) of the Reclamation Project Act of 1939 (43 U.S.C. 485h(c)), and other Acts specifically applicable to the project

involved, were transferred to and vested in the Secretary.

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Acronyms and Definitions

As used in this Rate Order, the following acronyms and definitions apply:

Administrator: The Administrator of the Western Area Power Administration.

Capacity: The electric capability of a generator, transformer, transmission circuit, or other equipment. It is expressed in kW.

Capacity Rate: The rate which sets forth the charges for capacity. It is expressed in dollars per kWmo and applied to each kW delivered to each customer per month.

Commission: Federal Energy Regulatory Commission.

Composite Rate: The rate for firm power. It is the total annual revenue requirement for capacity and energy divided by the expected annual firm energy sales. It is expressed in mills/kWh and used for comparison purposes.

Corps: United States Army Corps of Engineers.

CROD: Contract Rate of Delivery. The maximum amount of capacity made available to a preference customer for a period specified under a contract.

Customer: An entity with a contract for and receiving firm electric service from Western's Upper Great Plains Region.

DOE: United States Department of Energy.

DOE Order RA 6120.2: An order outlining power marketing administration financial reporting and rate-making procedures.

Energy: That which does or is capable of doing work. It is measured in terms of the work it is capable of doing over a period of time. It is expressed in kWh.

Energy Rate: The rate which sets forth the charges for energy. It is expressed in

mills/kWh and applied to each kWh delivered to each customer.

Firm: A type of product and/or service that is available at the time requested by the customer.

FRN: *Federal Register* notice.

Fry-Ark: Fryingpan-Arkansas Project.

FY: Fiscal year; October 1 to September 30.

Interior: United States Department of the Interior.

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

kWmo: Kilowattmonth—the electrical unit of the monthly amount of capacity.

kWh: Kilowatthour—the electrical unit of energy that equals 1,000 watts in 1 hour.

Load Factor: The ratio of average load in kW supplied during a designated period to the peak or maximum load in kW occurring in that period.

LAP: Loveland Area Projects.

Mills/kWh: Mills per kilowatthour—the unit of charge for energy (equals one tenth of a cent or one thousandth of a dollar).

MW: Megawatt—the electrical unit of capacity that equals 1 million watts or 1,000 kilowatts.

O&M: Operation and maintenance.

P-SMBP: The Pick-Sloan Missouri Basin Program.

P-SMBP—ED: Pick-Sloan Missouri Basin Program—Eastern Division.

P-SMBP—WD: Pick-Sloan Missouri Basin Program—Western Division

Power: Capacity and energy.

Power Factor: The ratio of real to apparent power at any given point and time in an electrical circuit. Generally it is expressed as a percentage ratio.

Preference: The requirements of Reclamation Law which provide that preference in the sale of Federal power shall be given to municipalities and other public corporations or agencies and also to cooperatives and other nonprofit organizations financed in whole or in part by loans made under the Rural Electrification Act of 1936 (Reclamation Project Act of 1939, section 9(c), 43 U.S.C. 485h(c)).

Project Use: Power as defined by Reclamation law which is used to operate P-SMBP—ED facilities.

Provisional Rates: Rates schedules which have been confirmed, approved, and placed in effect on an interim basis by the Deputy Secretary of DOE.

PRS: Power repayment study.

Rate Brochure: A document prepared for public distribution explaining the rationale and background of the rate proposal contained in this rate order dated June 2003.

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

Reclamation Law: A series of Federal laws which govern the marketing and rate-setting of power by Western.

Revenue Requirement: The revenue required to recover O&M expenses, purchase power and transmission service expenses, interest, deferred expenses, and repayment of Federal investments, and other assigned costs.

Secretary: Secretary of Energy.

Tiered Rate: Pick-Sloan Missouri Basin Program—Eastern Division rate applied to energy in excess of 60 percent load factor.

Upper Great Plains Region: The Upper Great Plains Customer Service Region of Western.

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

Effective Date

The provisional rates will become effective on an interim basis on the first day of the first full billing period beginning on or after February 1, 2004, and will be in effect pending the Commission's approval of them or substitute rates on a final basis for 5 years ending December 31, 2008, or until superseded.

Public Notice and Comment

The Procedures for Public Participation in Power and Transmission Rate Adjustments and Extensions, 10 CFR 903, have been followed by Western in developing these rates. The following summarizes the steps Western took to ensure involvement of interested parties in the rate process:

1. The proposed rate adjustment was initiated on March 21, 2003, when a letter announcing informal meetings to discuss the proposed firm power service and firm peaking power service rate adjustment was sent to the P-SMBP—ED preference customers and other interested parties. Informal meetings were held on April 14 through April 16, 2003, in Denver, CO, Lincoln, NE, Sioux Falls, SD, and Fargo, ND. At these informal meetings, Western explained the rationale for the rate adjustment, presented rate designs and methodologies and answered questions.

2. On June 6, 2003, letters were mailed from Western's Upper Great Plains Regional Office to all P-SMBP—ED preference customers and interested parties announcing the upcoming publication of a **Federal Register** notice including the P-SMBP—ED rate proposal, and announcing the times and locations of four public information forums and two public comment forums.

3. A **Federal Register** notice was published on June 13, 2003 (68 FR 35402), officially announcing the proposed rates for the P-SMBP—ED, initiating the public consultation and comment period and announcing the public information and public comment forums.

4. On June 16, 2003, letters were mailed from Western's Upper Great Plains Regional Office to all P-SMBP—ED preference customers and interested parties transmitting a copy of the **Federal Register** notice published June 13, 2003 (68 FR 35402), initiating the public rate process.

5. On July 14, 2003, beginning at 1 p.m. MDT, the first public information forum was held at the Radisson Stapleton Plaza in Denver, CO. On July 15, 2003, beginning at 9 a.m. CDT, the second public information forum was held at the Southeast Community College in Lincoln, NE. On July 16, 2003, beginning at 9 a.m. CDT, the third public information forum was held at the Ramkota Hotel and Conference Center in Sioux Falls, SD. On July 17, 2003, beginning at 9 a.m. CDT, the fourth public information forum was held at the Doublewood Inn in Fargo, ND. At these public information forums, Western provided detailed explanations of the proposed rates for P-SMBP—ED, provided a list of issues that could change the proposed rates and answered questions. A rate brochure detailing the proposed rates was provided at these forums.

6. On August 6, 2003, beginning at 1 p.m. MDT, a public comment forum was held at the Radisson Stapleton Plaza in Denver, CO. Western gave the public an opportunity to comment for the record. No oral or written comments were received at this forum. On August 7, 2003, beginning at 9 a.m. CDT, a public comment forum was held at the Ramkota Hotel and Convention Center in Sioux Falls, SD. Western gave the public an opportunity to comment for the record. Two oral comments were received at this forum.

7. Thirty-one comment letters were received during the consultation and comment period that ended September 11, 2003. All formally submitted comments have been considered in preparing this rate order.

8. Western's Upper Great Plains Region provided a Web site with all of the letters, time frames, dates and locations of forums, documents discussed at the information meetings, **Federal Register** notices and all other information about this rate process for easy customer access. The Web site is located at <http://www.wapa.gov/ugp/rates/2004RateAdj/Default.htm>.

Project Description

The P-SMBP was authorized by Congress in Section 9 of the Flood Control Act of December 22, 1944, commonly referred to as the 1944 Flood Control Act. The multipurpose program provides flood control, irrigation, navigation, recreation, preservation and enhancement of fish and wildlife and power generation. Multipurpose projects have been developed on the Missouri River and its tributaries in Colorado, Montana, Nebraska, North Dakota, South Dakota, and Wyoming.

In addition to the multipurpose water projects authorized by Section 9 of the Flood Control Act of 1944, certain other existing projects have been integrated with the P-SMBP for power marketing, operation, and repayment purposes. The Colorado-Big Thompson, Kendrick, and Shoshone projects were combined with the P-SMBP in 1954, followed by the North Platte Project in 1959. These projects are referred to as the "Integrated Projects" of the P-SMBP.

The Flood Control Act of 1944 also authorized the inclusion of the Fort Peck Project with the P-SMBP for operation and repayment purposes. The Riverton Project was integrated with the P-SMBP in 1954, and in 1970 was reauthorized as a unit of P-SMBP.

The P-SMBP is administered by two regions. The Upper Great Plains Region with a regional office in Billings, MT, markets power from the Eastern Division of P-SMBP and the Rocky Mountain Region with a regional office in Loveland, CO, markets the Western Division power of P-SMBP. The Upper Great Plains Region markets power in western Iowa, Minnesota, Montana east of the Continental Divide, North Dakota, South Dakota, and the eastern two-thirds of Nebraska. The Rocky Mountain Region markets P-SMBP power (and Fry-Ark power, which in combination with P-SMBP—WD is known as LAP power) in northeastern Colorado, east of the Continental Divide in Wyoming, west of the 101st meridian in Nebraska and northern Kansas. P-SMBP power is marketed to approximately 300 firm power customers by the Upper Great Plains Region and approximately 40 firm power customers by the Rocky Mountain Region.

Power Repayment Study

PRSSs are prepared each fiscal year to determine if power revenues will be sufficient to pay, within the prescribed time periods, all costs assigned to the P-SMBP power function. Repayment criteria are based on law, policies, DOE Order RA 6120.2 and authorizing legislation.

Existing and Provisional Rates

The provisional rates for P-SMBP—ED firm power service and firm peaking power service are designed to recover an annual revenue requirement that includes the investment repayment, interest, purchase power and O&M expenses. The provisional rates will be

implemented in two steps. First step rates are to become effective on an interim basis on the first day of the first full billing period beginning on or after February 1, 2004. Second step rates are to become effective on the first day of the first full billing period beginning on or after October 1, 2004. Under Rate Schedule P-SED-F7, the first and

second step provisional rates for P-SMBP—ED firm power service will result in an overall composite rate increase of approximately 15.6 percent. A comparison of the existing and provisional rates for P-SMBP—ED firm power service and firm peaking power service follows:

COMPARISON OF EXISTING AND PROVISIONAL RATES P-SMBP—ED FIRM POWER SERVICE AND FIRM PEAKING POWER SERVICE

Firm power service	Existing rates	First step provisional rates and percent of change, effective Feb. 1, 2004	Second step provisional rates and percent of change, effective Oct. 1, 2004
Revenue Requirement	\$135.2 million	\$155.5 million (15.0%)	\$160.1 million (3.0%)
Composite Rate	14.23 mills/kWh	16.04 mills/kWh (12.7%)	16.51 mills/kWh (2.9%)
Firm Capacity	\$3.20/kWmo	\$3.62/kWmo (13.1%) ..	\$3.72/kWmo (2.8%)
Firm Energy	8.32 mills/kWh	9.34 mills/kWh (12.2%)	9.62 mills/kWh (3.0%)
Tiered > 60 Percent Load Factor	3.38 mills/kWh	5.21 mills/kWh (54.1%)	5.21 mills/kWh (0.0%)
Firm Peaking Capacity	\$3.20/kWmo	\$3.62/kWmo (13.1%) ..	\$3.72/kWmo (2.8%)
Firm Peaking Energy ¹	8.32 mills/kWh	9.34 mills/kWh (12.2%)	9.62 mills/kWh (3.0%)

¹ Firm Peaking Energy is normally returned. This rate will be assessed in the event Firm Peaking Energy is not returned.

Western Division

The LAP rate will be designed to cover the P-SMBP—WD revenue requirement for the P-SMBP and the revenue requirement for Fry-Ark. The adjustment to the LAP rate is a separate formal rate process which is documented in Rate Order No. WAPA-105. Rate Order No. WAPA-105 is also scheduled to go into effect on the first day of the first full billing period beginning on or after February 1, 2004.

Certification of Rate

Western's Administrator has certified that the P-SMBP—ED firm power service and firm peaking power service rates placed into effect on an interim basis herein are the lowest possible rates consistent with sound business principles. The provisional rates were developed following administrative policies and applicable laws.

Discussion

According to Reclamation Law, Western must establish power rates sufficient to recover operation, maintenance, and purchased power expenses, and repay the Federal Government's investment in generation and transmission facilities, as well as

certain nonpower costs in excess of the irrigation users' ability to repay. Rates must also be set to cover interest expenses on the unpaid balance of facilities' investments, replacements and additions.

The current rates, \$3.20 per kWmo and 8.32 mills/kWh, were placed in effect in the October 1994 billing period and approved by the Commission on a final basis on July 14, 1994, FERC Docket No. EF94-5031-000 (68 FERC ¶ 62,040). These rates were originally set to expire on January 31, 1999, but have been extended several times. The rates are currently set to expire on March 31, 2004, or until superseded.

Major factors contributing to this rate adjustment are the economic impact of the drought, increased interest expense associated with deficits, increased operation and maintenance and other annual expenses due to normal inflationary pressure since the last rate adjustment, and an additional 11 years of investment since the last rate adjustment.

The P-SMBP—ED firm power service rates were developed from the revenue requirement calculated in the FY 2003 Ratesetting PRS for the P-SMBP. The first step provisional rates are \$3.62 per

kWmo for firm capacity, 9.34 mills/kWh for energy and the tiered energy rate for energy in excess of 60 percent load factor will be 5.21 mills/kWh, and are to be implemented in the first full billing period beginning on or after February 1, 2004. The second step provisional rates are \$3.72 per kWmo for firm capacity, 9.62 mills/kWh for energy, and the tiered energy rate for energy in excess of 60 percent load factor will be 5.21 mills/kWh, and are to be implemented in the first full billing period beginning on or after October 1, 2004.

The first step of Rate Schedule P-SED-FP7 will result in a firm peaking capacity rate of \$3.62 per kWmo and a firm peaking energy rate of 9.34 mills/kWh and will become effective February 1, 2004. The second step of the firm peaking capacity rate will be \$3.72 per kWmo and a firm peaking energy rate will be 9.62 mills/kWh and will become effective October 1, 2004.

Statement of Revenue and Related Expenses

The following table provides a summary of revenues and expenses for the 5-year provisional rate period.

PICK-SLOAN MISSOURI BASIN PROGRAM COMPARISON OF 5-YEAR RATE APPROVAL PERIOD REVENUES AND EXPENSES (\$1,000)

	Existing rate PRS (FY 2004–2008)	Provisional rate PRS (FY 2004–2008)	Difference
Total Revenues	\$1,217,478	\$1,470,866	\$253,388
Revenue Distribution:			

PICK-SLOAN MISSOURI BASIN PROGRAM COMPARISON OF 5-YEAR RATE APPROVAL PERIOD REVENUES AND EXPENSES
(\$1,000)—Continued

	Existing rate PRS (FY 2004–2008)	Provisional rate PRS (FY 2004–2008)	Difference
O&M	610,380	756,944	146,564
Purchase Power	0	161,653	161,653
Transmission	0 ¹	67,012	67,012
Interest	373,360	420,099	46,739
Integrated Projects	0	0	0
Investment Repayment	233,738	6,450	(227,288)
Capitalized Expenses	0	58,708	58,708
Total	1,217,478	\$1,470,866	253,388

¹ In the existing rate PRS, transmission expense was included in O&M expense.

A table comparing the P-SMBP existing revenue requirement to the

proposed revenue requirements is shown below:

P-SMBP FIRM AND FIRM PEAKING REVENUE REQUIREMENT
(\$1,000,000)

	Existing	First step Feb- ruary 2004	Second step October 2004
P-SMBP—ED Firm Power	\$120.8	\$139.9	\$144.0
P-SMBP—ED Firm Peaking Power	14.4	15.6	16.1
Total P-SMBP—ED Revenue Requirement	135.2	155.5	160.1
P-SMBP—WD Firm Power	31.4	35.0	35.9
Total P-SMBP Revenue Requirement	166.6	190.5	196.0

Basis for Rate Development

The 2002 repayment analysis for the P-SMBP indicated a need to adjust the existing firm power service and firm peaking power service rates. To meet those requirements, the P-SMBP—ED proposed adjustments to the firm power service and firm peaking power service rates.

The proposed P-SMBP—ED firm power service rate is designed to recover 50 percent of the revenue requirement from the capacity rate and 50 percent from the energy rate. The capacity rate of \$3.62 per kWmo is calculated by dividing 50 percent of the total annual revenue requirement by the number of billing units (kWmos) in a year. The energy rate of 9.34 mills/kWh is calculated by dividing 50 percent of the total annual revenue requirement by the annual energy sales. The capacity rate is applied to both firm power and firm peaking power. The energy rate is applied to firm energy and firm peaking energy that is not returned to Western.

The P-SMBP—ED firm peaking rate is equal to the capacity charge for the firm power rate. The customer pays the capacity rate on its total firm peaking CROD each month rather than firm peaking delivered each month. Contract terms vary among firm peaking customers with respect to the return of peaking energy. One customer returns

all peaking energy, while other peaking customers may pay for 20 to 40 percent of the peaking energy they use and return the rest to Western. When a peaking customer keeps peaking energy, it pays for it at the firm peaking energy rate.

The proposed rate adjustment is scheduled to become effective on an interim basis on the first day of the February 2004 billing period. The two-step rate adjustment for P-SMBP—ED firm power service will result in an Eastern Division composite rate increase of approximately 12.7 percent effective February 1, 2004, and another 2.9 percent effective October 1, 2004, for a total increase of approximately 15.6 percent. The rate schedule approval period terminates December 31, 2008.

Comments

During the public consultation and comment period, Western received 31 letters containing comments pertaining to this rate adjustment. In addition, we received verbal comments during the August 7, 2003, public comment forum. All comments received by the end of the public consultation and comment period, September 11, 2003, were reviewed and considered in preparing this rate order. Written comments were received from: Capital Electric Cooperative, North Dakota, City of

Akron, Iowa, City of Beatrice, Nebraska, City of McLaughlin, South Dakota, Central Electric Cooperative, South Dakota, Clay-Union Electric Corporation, South Dakota, Corn Belt Power Cooperative, Iowa, Dakota Valley Electric Cooperative, North Dakota, East Grand Forks Water & Light Department, Minnesota, East River Electric Power Cooperative, South Dakota, Harrison County Rural Electric Cooperative, Iowa, Intertribal Council On Utility Policy, South Dakota, KEM Electric Cooperative, North Dakota, L & O Power Cooperative, Iowa, Lincoln Electric System, Nebraska, Lower Yellowstone REA, Montana, Marshall Municipal Utilities, Minnesota, McLean Electric Cooperative, North Dakota, McLeod Cooperative Power, Minnesota, Mid-West Electric Consumers Association, Colorado, Minnkota Power Cooperative, North Dakota, Mni Sose Intertribal Water Rights Coalition, South Dakota, Moorhead Public Service, Minnesota, Moreau-Grand Electric Cooperative, South Dakota, Northwest Iowa Power Cooperative, Iowa, Slope Electric Cooperative, North Dakota, State of South Dakota, South Dakota, Tri-State Generation and Transmission Association, Colorado, Union County Electric Cooperative, South Dakota, Upper Missouri G & T Electric

Cooperative, Montana, Verendrye electric Cooperative, North Dakota.

The following is a summary of the comments received by the end of the consultation and comment period and Western's responses to those comments. Comments and responses, paraphrased for brevity, are presented below. Specific comments are used for clarification where necessary.

Comment: During the comment period, Western received 29 comments (28 written and 1 verbal) in favor of a two-step rate adjustment and one comment in favor of a one-step rate adjustment. Western also received 6 written comments after the comment period closed in favor of the two-step rate adjustment.

Response: The two-step option causes the projected cumulative deficit to be approximately \$5 million higher than under the one-step option, but the deficit and its associated interest expense are projected to be fully repaid in 2011 under either option. Since the two-step option meets all repayment requirements according to DOE Order RA 6120.2 and an overwhelming majority of the comments were in favor of it, Western will adopt the two-step rate adjustment.

Comment: Three customers commented that the increase is quite large and would like to see the increase as small as possible to mitigate the impacts on customers. One customer commented that Western should spread the rate increase over 3 years.

Response: In accordance with DOE Order RA 6120.2, Western has set the rate such that it is the lowest possible consistent with sound business principles. By adopting the two-step rate adjustment, Western has spread the impact of the rate increase on the customers over a longer period of time than with the one-step adjustment. Spreading the rate increase over 3 years would cause the cumulative deficit to increase even more. Western does not believe it would be consistent with sound business principles to do this.

Comment: One commenter suggested that Western should decrease its purchase power costs by offering to pay the Native American Tribal customers a lump sum payment in the amount of the benefit they would have received from their power allocation rather than making purchases to support Tribal allocations.

Response: Paying the Tribes in lieu of purchasing power to support delivery of Tribal allocations is outside the scope of this rate process. Western has the obligation under its existing P-SMBP—ED marketing plan and contracts to deliver firm power to customers.

Comment: The Intertribal Council on Utility Policy (Intertribal COUP) submitted comments related to wind and other renewable energy resources. One of the Intertribal COUP comments was that Western should purchase wind and solar power when supplementary purchases are necessary. In addition, rather than spending millions of dollars on supplemental purchases, Western should use this money to invest in wind power, which would provide 25 to 30 years of clean, wholesale power at a low fixed cost.

Response: Western does not presently have the statutory authority to invest in wind power. When Western must purchase supplemental energy to meet its contractual obligations, it purchases at the best market price available at the time to mitigate the impact on the firm power rate. This practice reflects the statutory requirement that Western set rates at the lowest possible level to consumers consistent with sound business principles. If wind or other renewable energy resources are available in the market at the time these purchases are made, and are competitively priced, they would be included in these wholesale energy market purchases. In order to promote renewable resources, Western is willing to firm a customer's allocation with wind or solar energy at the request of the customer, if the customer agrees to bear any associated expenses.

Comment: Two customers commented that they disagree with the shifting of off-system transmission costs for project use customers to firm power customers. The commenter suggested that project use customers should be subject to the same policy as firm power customers with off-system transmission costs (Western pays 1 mill/kWh of the transmission costs). Western received five letters after the close of the comment period with similar comments.

Response: These comments refer to a Reclamation policy that is outside the scope of this rate process.

Comment: One customer commented that the proposed increase in the capacity and energy charges of approximately 15 percent exceeds the normal rate increases being implemented by other electrical energy providers.

Response: P-SMBP rates have not been adjusted since October 1994. Although the second step of the firm composite rate increase is approximately 16 percent over the current firm composite rate, this translates into an annual increase of approximately 1.5 percent, which is well below the rate of inflation for the

same time period. Western sets rates to comply with statutes and regulations. Given the current revenue requirement, we need to raise the rates to a level that is approximately 16 percent higher than the current rates to comply with these statutes and regulations.

Comment: Western received seven written comments during the comment period and 6 written comments after the comment period closed concerning the proposed tiered rate adjustment. Five comments received during the comment period and all of the late comments stated that the tiered rate adjustment was too high and should be reexamined. These comments also stated that Western should also consider "pooling" the cost of purchases for greater than 60 percent load factor energy rather than charging a separate rate for these costs. One comment received during the comment period stated that the purchase price of 14.4 mills/kWh used in the tiered rate calculation was too low and should be reexamined. The commenter was also concerned that a P-SMBP—ED tiered rate that does not fully recover its costs would cause the LAP rate to increase. Another comment was that the tiered rate should cover the greater than 60 percent load factor energy, but it appeared that decreased generation was one of the main causes of the tiered rate increase, which implies that customers with 60 percent load factor energy should not be singled out to pay the costs due to decreased generation. This commenter stated that Western should monitor costs related to greater than 60 percent load factor energy more closely.

Response: Western reexamined the tiered rate for energy in excess of 60 percent load factor and has determined that the rate should be 5.21 mills/kWh. This rate is calculated using average Corps generation from 1898 through 2002 excluding 1934 through 1942, the years when hydrogeneration was most affected by the 1930s drought. These years were excluded from the current tiered rate calculation because they were considered extreme years that would artificially decrease the generation average. Excluding these years from the average in the provisional tiered rate will be consistent with the previous tiered rate design.

The 5.21 mills/kWh tiered rate also reflects a change in the load figure used in the calculation. The average load figures in the tiered rate calculation should be changed from a long-term average to the average firm load from FY 2000 through 2003. The FY 2000 through 2003 average reflects the current amount of fixed energy

requirements as well as the increased energy under the Post-2000 allocations.

Finally, the 5.21 mills/kWh tiered rate reflects a purchase power price of 19.43 mills/kWh. This is the average off-peak price of Western's power purchases (in the Upper Great Plains Region) from

November 2002 through March 2003. This average reflects the most recent winter purchase prices. The Upper Great Plains Region's average off-peak purchase power prices have not been at or below 14.4 mills/kWh for at least 10 years, so it is reasonable to increase the

purchase price in the tiered rate calculation. The provisional tiered rate calculation is shown here:

295 GWH @ 19.43 mills/kWh off-peak purchase price = \$5,731,850 tiered rate revenue requirement.

PROVISIONAL TIERED RATE CALCULATION (5.21 MILLS/KWH)

Month	Corps generation (GWH)	Plus reclamation generation (GWH)	Less plant use (GWH)	Total generation less plant use (GWH)	Divided by 1.07 losses (GWH)	Average load (GWH)	Purchases (GWH)
November	912	80	4	988	923	729	0
December	765	81	5	841	786	832	46
January	769	80	6	843	788	838	50
February	664	74	5	733	685	805	120
March	632	82	5	709	663	742	79
Total	3,742	397	25	4,114	3,845	3,946	295

\$5,731,850 tiered rate revenue requirement / 1,101 GWH per year tiered energy = 5.21 mills/kWh tiered rate.

Environmental Compliance

Under the National Environmental Policy Act (NEPA) of 1969, 42 U.S.C. 4321, *et seq.*; Council on Environmental Quality Regulations, 40 CFR 1500–1508; and DOE NEPA Regulations, 10 CFR 1021, Western determined that this action is categorically excluded from 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; so no clearance of this notice by the Office of Management and Budget is required.

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 and there is a legal requirement to issue a general notice of proposed rulemaking. Western determined that this action does not require a regulatory flexibility analysis since it is a rulemaking involving rates or services for public property.

Small Business Regulatory Enforcement Fairness Act

Western determined that this rule is exempt from congressional notification requirements under 5 U.S.C. 801 because the action is a rulemaking

relating to rates or services and involves matters of procedure.

Availability of Information

Information about this rate adjustment, including power repayment studies, comments, letters, memorandums, and other supporting material made or kept by Western in developing the provisional rates, is available for public review in the Office of the Power Marketing Manager, Upper Great Plains Region, Western Area Power Administration, 2900 4th Avenue North, Billings, MT, and in the Power Marketing Liaison Office, Room 8G–027, 1000 Independence Avenue SW., Washington, DC.

Submission to the Federal Energy Regulatory Commission

The rates herein confirmed, approved, and placed into effect on an interim basis, together with supporting documents, will be submitted to the Commission for confirmation and approval on a final basis.

Order

In view of the foregoing and by the authority delegated to me by the Secretary of Energy, I confirm and approve on an interim basis, effective February 1, 2004, Rate Schedules P–SED–F7 and P–SED–FP7, for the Pick–Sloan Missouri Basin Program—Eastern Division of the Western Area Power Administration. The rate schedules shall remain in effect on an interim basis, pending the Commission confirmation and approval of them or substitute rates on a final basis through December 31, 2008.

Dated: December 24, 2003.
Kyle E. McSlarrow,
Deputy Secretary.

United States Department of Energy, Western Area Power Administration; Pick–Sloan Missouri Basin Program—Eastern Division, Montana, North Dakota, South Dakota, Minnesota, Iowa, Nebraska; Schedule of Rates for Firm Power Service

[Rate Schedule P–SED–F7
(Supersedes Schedule P–SED–F6)]

Effective

First Step

The first day of the first full billing period beginning on or after February 1, 2004, through September 30, 2004.

Second Step

Beginning on the first day of the first full billing period beginning on or after October 1, 2004, through December 31, 2008.

Available

Within the marketing area served by the Eastern Division of the Pick–Sloan Missouri Basin Program.

Applicable

To the power and energy delivered to customers as firm power service.

Character

Alternating current, 60 hertz, three phase, delivered and metered at the voltages and points established by contract.

Monthly Rate:

First Step:

Demand Charge

\$3.62 for each kilowatt per month (kWmo) of billing demand.

Energy Charge

9.34 mills for each kilowatthour (kWh) for all energy delivered as firm power service. An additional charge of 5.21 mills per kWh (mills/kWh), for a total of 14.55 mills/kWh, will be assessed for all energy delivered as firm power service that is in excess of 60-percent monthly load factor and within the delivery obligations under the provisions of the power sales contract.

Billing Demand

The billing demand will be as defined by the power sales contract.

Second Step:**Demand Charge**

\$3.72 for each kW-month of billing demand.

Energy Charge

9.62 mills for each kWh for all energy delivered as firm power service. An additional charge of 5.21 mills/kWh for a total of 14.83 mills/kWh will be assessed for all energy delivered as firm power service that is in excess of 60-percent monthly load factor and within the delivery obligations under the provisions of the power sales contracts.

Billing Demand

The billing demand will be as defined by the power sales contract.

Adjustments*For Character and Conditions of Service*

Customers who receive deliveries at transmission voltage may in some instances be eligible to receive a 5-percent discount on capacity and energy charges when facilities are provided by the customer that result in a sufficient savings to Western to justify the discount. The determination of eligibility for receipt of the voltage discount shall be exclusively vested in Western.

For Billing of Unauthorized Overruns

For each billing period in which there is a contract violation involving an unauthorized overrun of the contractual firm power and/or energy obligations, such overrun shall be billed at 10 times the above rate.

For Power Factor

None. The customer will be required to maintain a power factor at the point of delivery between 95-percent lagging and 95-percent leading.

Schedule of Rates for Firm Peaking Power Service

[Rate Schedule P-SED-FP7 (Supersedes Schedule P-SED-FP6)]

Effective**First Step**

The first day of the first full billing period beginning on or after February 1, 2004, through September 30, 2004.

Second Step

Beginning on the first day of the first full billing period beginning on or after October 1, 2004, through December 31, 2008.

Available

Within the marketing area served by the Eastern Division of the Pick-Sloan Missouri Basin Program, to our customers with generating resources enabling them to use firm peaking power service.

Applicable

To the power sold to customers as firm peaking power service.

Character

Alternating current, 60 hertz, three phase, delivered and metered at the voltages and points established by contract.

Monthly Rate:**First Step:****Demand Charge:**

\$3.62 for each kilowatt per month (kWmo) of the effective contract rate of delivery for peaking power or the maximum amount scheduled, whichever is greater.

Energy Charge:

9.34 mills for each kilowatthour (kWh) for all energy scheduled for delivery without return.

Billing Demand:

The billing demand will be the greater of (1) the highest 30-minute integrated demand measured during the month up to, but not in excess of, the delivery obligation under the power sales contract, or (2) the contract rate of delivery.

Second Step:**Demand Charge:**

\$3.72 for each kW-month of the effective contract rate of delivery for peaking power or the maximum amount scheduled, whichever is greater.

Energy Charge:

9.62 mills for each kWh for all energy scheduled for delivery without return.

Billing Demand:

The billing demand will be the greater of (1) the highest 30-minute integrated

demand measured during the month up to, but not in excess of, the delivery obligation under the power sales contract, or (2) the contract rate of delivery.

Adjustments*Billing for Unauthorized Overruns:*

For each billing period in which there is a contract violation involving an unauthorized overrun of the contractual obligation for peaking capacity and/or energy, such overrun shall be billed at 10 times the above rate.

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ENVIRONMENTAL PROTECTION AGENCY

[FRL-7607-3]

EPA National Advisory Council for Environmental Policy and Technology—Compliance Assistance Advisory Committee; Notification of Public Advisory Committee Teleconference Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notification of Public Advisory Committee teleconference meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, Public Law 92-463, notice is hereby given that the Compliance Assistance Advisory Committee (CAAC) under the National Advisory Council for Environmental Policy and Technology (NACEPT) will meet in a public teleconference on Thursday, February 12, 2004, from 11:30 a.m. to 1:30 p.m. eastern time. The meeting will be hosted out of Conference Room #6148, U.S. EPA, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW, Washington, DC 20004. The meeting is open to the public, however, due to limited space, seating will be on a registration-only basis. For further information regarding the teleconference meeting, or how to register and obtain the phone number, please contact the individuals listed below.

Background: NACEPT is a federal advisory committee under the Federal Advisory Committee Act, Public Law 92-463. NACEPT provides advice and recommendations to the Administrator and other EPA officials on a broad range of domestic and international environmental policy issues. NACEPT consists of a representative cross-section of EPA's partners and principle constituents who provide advice and