

time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at <http://www.ferc.gov>. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St. NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

**Linda Mitry,**

*Deputy Secretary.*

[FR Doc. E5-4669 Filed 8-25-05; 8:45 a.m.]

**BILLING CODE 6717-01-P**

**DEPARTMENT OF ENERGY**

**Federal Energy Regulatory Commission**

[Docket Nos. ER02-1656-000, ER02-1656-026]

**California Independent System Operator Corporation; Notice of Technical Conference**

August 22, 2005.

In accordance with the directive of the July 1, 2005 Order on Further Amendments to the California Independent System Operator's Comprehensive Market Redesign Proposal,<sup>1</sup> Federal Energy Regulatory Commission (Commission) staff will convene a technical conference to explore tariff issues related to demand response options, including special case nodal pricing. In addition to demand response generally, and special case nodal pricing in particular, participants should also come prepared to discuss the issue of wholesale load choosing to opt out of Load Aggregation Points (LAP).<sup>2</sup>

The technical conference, which all parties may attend, will be held in San Francisco, California, on Tuesday, September 13, 2005, at 9 a.m. (PST) at the Renaissance Parc 55 Hotel, 55 Cyril Magnin Street, San Francisco, California 94102; (415) 392-8000.

For further information, contact *Heidi.Werntz@FERC.gov*; (202) 502-8910.

**Linda Mitry,**

*Deputy Secretary.*

[FR Doc. E5-4696 Filed 8-25-05; 8:45 am]

**BILLING CODE 6717-01-P**

<sup>1</sup> *California Independent System Operator, Inc.*, 112 FERC ¶ 61,013 at P 39 (2005).

<sup>2</sup> *See id.* at P 37 ("[E]ach wholesale customer should have the option of establishing, as a separate zone, the set of nodes where it receives energy).

**DEPARTMENT OF ENERGY**

**Federal Energy Regulatory Commission**

[Docket Nos. EL00-95-000 and EL00-98-000]

**San Diego Gas & Electric Company, Complainant, v. Sellers of Energy and Ancillary Services Into Markets Operated by the California Independent System Operator and the California Power Exchange, Respondents; Investigation of Practices of the California Independent System Operator and the California Power Exchange; Notice of Technical Conference (Listen-Only Call-In Number)**

August 22, 2005.

On August 16, 2005, the Commission issued a notice informing parties that the Federal Energy Regulatory Commission staff will convene a technical conference to finalize the template for submission of cost filings, as discussed in *San Diego Gas & Electric Co. v. Sellers of Energy & Ancillary Services, et al.*, 112 FERC ¶ 61,176 (2005).

This technical conference will be held on August 25, 2005, at the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, beginning at 9 a.m. (EST) in the Commission Meeting Room.

By this notice, we announce further that a listen-only telephone line will be provided for interested parties to call-in and listen to the telephone conference. Below is the call-in information for the listen-only conference call:

Date: August 25, 2005.

Time: 9 a.m. EDT.

Toll-free Number: 888-390-0678.

Passcode: 5848040.

For more information about the conference, please contact: Heidi Werntz, Office of General Counsel, Federal Energy Regulatory Commission, at (202) 502-8910 or *Heidi.Werntz@ferc.gov*.

**Magalie R. Salas,**

*Secretary.*

[FR Doc. E5-4700 Filed 8-25-05; 8:45 am]

**BILLING CODE 6717-01-P**

**DEPARTMENT OF ENERGY**

**Western Area Power Administration**

**Boulder Canyon Project; Rate Order No. WAPA-120**

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

**ACTION:** Notice of order concerning existing ratesetting formula and FY 2006 base charge and rates.

**SUMMARY:** The Deputy Secretary of Energy confirmed and approved Rate Order No. WAPA-120 and Rate Schedule BCP-F7, placing the electric service ratesetting formula and fiscal year (FY) 2006 base charge and rates from the Boulder Canyon Project (BCP) of the Western Area Power Administration (Western) into effect on an interim basis. The provisional base charge and rates will be in effect 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 base charge and rates will provide sufficient revenue to pay all annual costs, including interest expense, and repayment of power investment within the allowable periods.

**DATES:** Rate Schedule BCP-F7 will be placed into effect on an interim basis on the first day of the first full billing period beginning on or after October 1, 2005, and will be in effect until the Commission confirms, approves, and places the rate schedule in effect on a final basis through September 30, 2010, or until the rate schedule is superseded.

**FOR FURTHER INFORMATION CONTACT:** Mr. J. Tyler Carlson, Regional Manager, Desert Southwest Customer Service Region, Western Area Power Administration, PO Box 6457, Phoenix, AZ 85005-6457, (602) 605-2453, e-mail [carlson@wapa.gov](mailto:carlson@wapa.gov) or Mr. Jack Murray, Rates Team Lead, Desert Southwest Customer Service Region, Western Area Power Administration, PO Box 6457, Phoenix, AZ 85005-6457, (602) 605-2442, e-mail [jmurray@wapa.gov](mailto:jmurray@wapa.gov).

**SUPPLEMENTARY INFORMATION:** The Deputy Secretary of Energy approved existing Rate Schedule BCP-F6 for BCP electric service on September 18, 2000 (Rate Order No. WAPA-94, October 13, 2000, 65 FR 60932). The Commission confirmed and approved the rate schedule on July 31, 2001, in FERC Docket No. EF00-5092-000. The existing rate schedule became effective October 1, 2000, and expires September 30, 2005.

The formula for establishing annual rates set forth in Rate Schedule BCP-F6, which is effective from October 1, 2000, through September 30, 2005, will be superseded by Rate Schedule BCP-F7 for the period October 1, 2005, and ending September 30, 2010. The provisional base charge and rates for the one year period from October 1, 2005, to September 30, 2006, will consist of a

base charge of \$57,465,018 and an energy charge of 7.03 mills/kWh, and a capacity charge of \$1.37 per kWhmonth. This results in an overall composite rate of 14.05 mills/kWh on October 1, 2005. The composite rate of 14.05 mills/kWh on October 1, 2005, represents a decrease of approximately five percent when compared with the composite rate of 14.82 mills/kWh during the last year of BCP-F6 (October 1, 2004-September 30, 2005).<sup>1</sup>

By Delegation Order No. 00-037.00, effective December 6, 2001, the Secretary of Energy delegated: (1) The authority to develop power and transmission rates to Western's Administrator, (2) the authority to confirm, approve, and place such rates into effect on an interim basis to the Deputy Secretary of Energy, and (3) the authority to confirm, approve, and place into effect on a final basis, to remand or to disapprove such rates to the Commission. Existing DOE procedures for public participation in power rate adjustments (10 CFR part 903) were published on September 18, 1985.

Under Delegation Order Nos. 00-037.00 and 00-001.00A, 10 CFR part 903, and 18 CFR part 300, I hereby confirm, approve, and place Rate Order No. WAPA-120, the provisional ratesetting formula, and the FY 2006 proposed BCP electric service base charge and rates into effect on an interim basis. The new Rate Schedule BCP-F7 will be promptly submitted to the Commission for confirmation and approval on a final basis.

Dated: August 11, 2005.

**Clay Sell,**

*Deputy Secretary.*

**Department of Energy**

*Deputy Secretary*

[Rate Order No. WAPA-120]

**In the matter of: Western Area Power Administration, Rate Adjustment for the Boulder Canyon Project; Order Confirming, Approving, and Placing the Boulder Canyon Project Electric Service Ratesetting Formula and FY 2006 Base Charge and Rates Into Effect on an Interim Basis**

The base charge and rates were established in accordance with section

<sup>1</sup> Under Rate schedule BCP-F6, the base charge during the one-year period (October 1, 2004 through September 30, 2005) was \$57,654,683. The energy rate during this time was 7.41 mills/kWh. The capacity charge during this time was \$1.39 per kWhmonth. This resulted in an overall composite rate of 14.82 mills/kWh for this one-year period. See Department of Energy, Western Area Power Administration, Boulder Canyon Project-Base Charge and Rates, approved by Deputy Secretary McSlarrow, 69 FR 51458, August 19, 2004.

302 of the Department of Energy (DOE) Organization Act (42 U.S.C. 7152). This Act transferred to and vested in the Secretary of Energy 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 laws, particularly section 9(c) of the Reclamation Project Act of 1939 (43 U.S.C. 485h(c)), and other Acts that specifically apply to the project involved.

By Delegation Order No. 00-037.00, effective December 6, 2001, the Secretary of Energy delegated: (1) The authority to develop power and transmission rates to Western's Administrator, (2) the authority to confirm, approve, and place such rates into effect on an interim basis to the Deputy Secretary of Energy, and (3) the authority to confirm, approve, and place into effect on a final basis, to remand or to disapprove such rates to the Commission. Existing DOE procedures for public participation in power rate adjustments (10 CFR part 903) were published on September 18, 1985.

#### Acronyms and Definitions

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

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

*ARR:* Annual Revenue Requirement. It is the annual base charge.

*BC:* Base charge. The total charge paid by all Contractors for capacity and energy based on the annual revenue requirement. The base charge shall be composed of a capacity component and an energy component.

*CD:* Capacity Dollars. Fifty percent (50%) of the annual revenue requirement.

*CO:* Carry Over. Revenue surplus or deficit from the previous FY, excluding the funds for the working capital balance.

*CS:* Capacity Sales.

*Commission:* Federal Energy Regulatory Commission.

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

*Contractor:* An entity that has a contract with Western for BCP Electric Service.

*Customer:* An entity with a contract that is receiving service from Western's DSWR.

*DOE*: United States Department of Energy.

*DOE Order RA 6120.2*: An order outlining power marketing administration financial reporting and ratemaking procedures.

*DSWR*: The Desert Southwest Region of Western.

*ED*: Energy Dollars. Fifty percent (50%) of the annual base charge.

*ES*: Energy Sales.

*FCR*: Forecast Capacity Rate. The rate which sets forth the charges for capacity. It is expressed in \$ per kWmonth.

*FER*: Forecast Energy Rate. The rate which sets forth the charges for energy. It is expressed in mills/kWh.

*FERC*: The Commission (to be used when referencing Commission Orders).

*FRN*: **Federal Register** notice.

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

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

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

*kWmonth*: Kilowattmonth—the electrical unit of the monthly amount of capacity.

*Mill*: A monetary denomination of the United States that equals one tenth of a cent or one thousandth of a dollar.

*Mills/kWh*: Mills per kilowatthour—the unit of charge for energy.

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

*NEPA*: National Environmental Policy Act of 1969 (42 U.S.C. 4321, *et seq.*).

*O&M*: Operation and Maintenance.

*OM&R*: Operation, Maintenance & Replacement.

*OR*: Other Revenues. This is non-power revenue from the visitors' services at Hoover Dam.

*Power*: Capacity and energy.

*Provisional Rate*: A rate which has been confirmed, approved, and placed into effect on an interim basis by the Deputy Secretary.

*PRS*: Power repayment study.

*PY*: Prior Year.

*Ratesetting PRS*: The PRS used for the rate adjustment proposal in support of the provisional base charge and rates.

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

*Reclamation Law*: A series of Federal laws. Viewed as a whole, these laws create the originating framework under which Western markets power.

*Revenue Requirement*: The revenue required to recover annual expenses, such as O&M, interest, repayment of Federal investments, and other assigned costs.

*Supporting Documentation*: A compilation of data and documents supporting the rate package and the rate proposal.

*TE*: Total Expenses. All annual costs such as operation and maintenance, payment to states, uprating payments, interest expense, and other expenses.

*WSR*: Water Sales Revenue. Revenue from sales associated with water being diverted from the lower Colorado River above and below Hoover Dam.

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

### Effective Date

The new interim ratesetting formula, base charge and rates will take effect on the first day of the first full billing period beginning on or after October 1, 2005, and will remain in effect until September 30, 2006, pending approval by the Commission on a final basis.

### Public Notice and Comment

Western followed the Procedures for Public Participation in Power and Transmission Rate Adjustments and Extensions, 10 CFR part 903, in developing these rates. The steps Western took to involve interested parties in the rate process were:

1. On February 7, 2005, the proposed rate adjustment informal process began when Western mailed a notice announcing an informal customer meeting to all BCP customers and interested parties. Western also announced the public forum dates as well as access to the BCP rate adjustment Web site at <http://www.wapa.gov/dsw/pwrmtkt/BCP/RateAdjust.htm>.

2. On February 18, 2005, a notice (70 FR 8361) was published in the **Federal Register**, announcing the proposed base charge and rates for BCP beginning the public consultation and comment period, and announcing the public information and public comment forums.

3. On February 23, 2005, Western mailed the published **Federal Register** notice dated February 18, 2005, to the BCP customers and interested parties informing them of the public information forum on April 6, 2005, and public comment forum on May 4, 2005, in Phoenix, Arizona. Western also announced that the FRN had been posted to the Web site.

4. On March 9, 2005, Western hosted an informal customer meeting in Phoenix, Arizona. At this informal meeting, Western explained the rationale for the rate adjustment and answered questions.

5. On March 24, 2005, Western provided the customers with information in response to requests at the informal meeting held March 9, 2005.

6. On April 6, 2005, Western held the public information forum at the DSWR Office in Phoenix, AZ. Western provided detailed explanations of the proposed base charge and rates for BCP and answered questions. Western provided a copy of the rate presentation, supporting documentation, and informational handouts.

7. On May 4, 2005, Western held a comment forum to give the public an opportunity to comment for the record. Five individuals representing eleven entities commented at this forum.

8. Western received seven comment letters during the consultation and comment period, which ended May 19, 2005. All formally submitted comments have been considered in preparing this Rate Order.

### Comments

Written comments were received from the following organizations: Arizona Power Authority, Arizona; Colorado River Commission, Nevada; Energy Outfitters, LLC, Arizona; Irrigation & Electrical Districts Association of Arizona, Arizona; Metropolitan Water District of Southern California, California; Salt River Project, Arizona; Utility Resource Services, Arizona.

Oral comments were made on behalf of the following organizations: Aguila Irrigation District, Arizona; Arizona Power Authority, Arizona; City of Safford, Arizona; Colorado River Commission, Nevada; Electrical District Number 8, Arizona; Harquahala Valley Power District, Arizona; Irrigation & Electrical Districts Association of Arizona, Arizona; Metropolitan Water District of Southern California, California; McMullen Valley Water Conservation District, Arizona; Salt River Project, Arizona; Tonopah Irrigation District, Arizona.

### Project Description

The BCP was authorized for construction by the Boulder Canyon Project Act. The Project Act provided for a dam to be built in the Black Canyon located on the Colorado River on the Arizona-Nevada border. The dam was built for the express purposes of (1) controlling the flooding in the lower regions of the Colorado River drainage system, (2) improving navigation of the Colorado River and its tributaries, (3) regulating the Colorado River, while providing storage and delivery of the stored water for the reclamation of public lands, and (4) generating

electrical energy as a means of making the BCP a self-supporting and financially solvent undertaking. Construction of Hoover Dam, formerly known as Boulder Dam, began in 1930. Commercial power generation began in 1936 with the first generating unit of the powerplant going into service in 1937. The Hoover Powerplant has 19 generating units and an installed capacity of 2,074 MW.

The Hoover Powerplant Act of 1984 sets forth the amounts of Hoover power

to be sold beginning June 1, 1987, to the 15 Contractors located in the states of Arizona, California, and Nevada.

**Power Repayment Study—Electric Service Base Charge and Rates**

Western prepares a PRS each FY to determine if revenues will be sufficient to repay, within the required time, all costs assigned to the BCP. Repayment criteria are based on law, policies including DOE Order RA 6120.2, and authorizing legislation.

When compared to the existing BCP electric service base charge and rates under Rate Schedule BCP-F6 the proposed base charge and rates for BCP electric service reflect an overall composite rate decrease of approximately 5 percent on October 1, 2005. The current composite rate under Rate Schedule BCP-F6 is 14.82 mills/kWh. The proposed composite rate is 14.05 mills/kWh. The following table compares the current and proposed electric service base charge and rates.

**COMPARISON OF CURRENT AND PROPOSED BASE CHARGE AND RATES**

	Current	Proposed	Difference (change)
Rate Schedule .....	<i>BCP-F6</i>	<i>BCP-F7</i>	
Base Charge (\$) .....	57,654,683	57,465,018	(189,665)
Energy (mills/kWh) .....	7.41	7.03	(0.38)
Capacity (\$/kW month) .....	1.39	1.37	(0.02)
Composite Rate (mills/kWh) .....	14.82	14.05	(0.77)

The provisional base charge and rates for electric service are a formula calculation based on the annual revenue requirement. There are no changes to the existing electric service formula under Rate Schedule BCP-F7.

The proposed ratesetting formula would be effective October 1, 2005, through September 30, 2010, determining an annual calculation using the following formulas:

$$ARR = TE - PY CO - WSR - OR$$

$$BC = ARR$$

$$ED = .5 * BC$$

$$CD = .5 * BC$$

$$FER = ED/ES$$

$$FCR = CD/CS$$

**Certification of Rates**

Western's Administrator has certified that the interim base charge and rates for BCP electric service are the lowest possible consistent with sound business principles. The provisional rates were developed following administrative policies and applicable laws.

**BCP Electric Service Base Charge and Rates Discussion**

According to Reclamation Law, Western must establish power rates sufficient to recover operation, maintenance, purchased power expenses, interest expenses, and repayment of power investment and irrigation aid.

The BCP electric service base charge and rates are decreasing in FY 2006 due to the carryover of \$3.4 million of post September 11, 2001, security costs that were incorporated into the BCP rates for FY 2005 prior to direction from Congress for Reclamation not to begin the reimbursement process until instructed to do so by Congress. Although total annual expenses are increasing from FY 2005 to FY 2006, the \$3.4 million of non-reimbursable security costs is being projected as FY 2005 year end carryover. The result is an overall decrease of approximately \$190,000 in the base charge since the existing base charge and rates were established.

The existing base charge and rates for BCP electric service under Rate Schedule BCP-F6 expire September 30, 2005. Effective October 1, 2005, Rate Schedule BCP-F6 will be superseded by the new base charge and rates in Rate Schedule BCP-F7. The provisional rates for BCP electric service consist of a base charge, a capacity rate, and an energy rate. The provisional base charge is \$57,465,018, the provisional capacity rate is \$1.37/kWmonth, and the provisional energy rate is 7.03 mills/kWh.

*Statement of Revenue and Related Expenses*

The annual revenue requirement for the BCP is based upon the PRS calculations for future requirements, which will be adjusted when FY actuals are known. The following table provides a summary of the revenues and expenses for the existing BCP electric service ratesetting formula and also the projected revenue and expenses for the 5-year provisional rate approval period.

**BCP REVENUES AND EXPENSES**  
[\$1,000]

Item	Existing (FY 2001-2005)	Proposed (FY 2006-2010)	Difference
Total Revenues .....	\$317,809	\$390,324	\$72,515
Revenue Distribution:			
O&M .....	141,448	197,292	55,844
Payments to States .....	3,000	3,000	0
Other Expense .....	42,490	42,998	508
Uprating Payments .....	55,751	65,614	9,863
Replacements .....	9,456	21,044	11,588
Interest Expense .....	57,792	55,230	(2,562)
Investment Repayment .....	9,811	8,583	(1,228)

## BCP REVENUES AND EXPENSES—Continued

[\$1,000]

Item	Existing (FY 2001– 2005)	Proposed (FY 2006– 2010)	Difference
Working Capital .....	0	0	0
Prior Year Carryover .....	(1,939)	(3,437)	(1,498)
Total Revenue Distribution .....	317,809	390,324	72,515

*Basis for Rate Development*

The existing base charge and rates for BCP electric service in Rate Schedule BCP-F6 expire September 30, 2005. The existing base charge and rates are in excess of the amount needed to pay all annual costs, including interest expense, and repayment of investment within the allowable period. The adjusted base charge and rates reflect increases in the overall O&M program costs, increased uprating program payments, and replacement costs. However, since \$3.4 million for post September 11, 2001, security costs are being returned to the contractors in the form of a carryover in FY 2005, the result is a decrease in the FY 2006 Base Charge. The provisional base charge and rates will provide sufficient revenue to pay all annual costs, including interest expense, and repayment of power investment within the allowable periods. The provisional base charge and rates will take effect on October 1, 2005, to correspond with the start of the Federal FY, and will remain in effect through September 30, 2006.

*Comments*

The comments and responses regarding the electric service base charge and rates, paraphrased for brevity when not affecting the meaning of the statement(s), are discussed below. Direct quotes from comment letters are used for clarification where necessary.

The issues discussed are (1) post September 11, 2001, security costs, (2) visitor center costs, (3) O&M costs, and (4) rate adjustment.

## 1. Post September 11, 2001, Security Costs

*A. Comment:* Contractors request additional clarification regarding the use of funds. Under the FY 2005 Base Charge \$3.9 million is being collected for security costs. Since the FY 2005 security costs have been deemed non-reimbursable by Congress, and a decision was made at the October 2004 Engineering & Operating Committee meeting that \$500,000 of the \$3.9 million would be used in FY 2005 to cover the stainless steel wicket gates,

the Contractors' understanding is that the remaining \$3.4 million would not be expended and would be returned in the form of a carryover. The Contractors request assurance that the \$3.4 million be credited back to them and the projected \$4.3 million for security costs for FY 2006 will not be included in the FY 2006 Base Charge.

*Response:* It is the opinion of the Bureau of Reclamation, Lower Colorado Dams Area office, that the Area Manager has legal authority, under the terms of the Boulder Canyon Project Implementation Agreement, and with customer review and concurrence to re-program funds collected for necessary maintenance expenditures. The remaining \$3.4 million collected for security costs in FY 2005 has been shown as carryover in FY 2005 which will reduce the FY 2006 revenue requirement. Based on information presented in Reclamation's recent report to Congress concerning the Reimbursement of Security Costs on Reclamation's Facilities, security funding for FY 2006 will remain in the base charge until otherwise directed by Congress.

*B. Comment:* The Contractors request that detailed data for the security costs be separated out in the next 10-year operating plan to show the reimbursable and non-reimbursable costs for past years beginning in FY 2001 and projections into the future.

*Response:* The FY 2007 10-Year Operating Plan will include a spreadsheet detailing reimbursable and non-reimbursable security costs from FY 2001 through FY 2016.

*C. Comment:* An interested party pointed out that we are operating under the Omnibus Bill with direct instructions from Congress that for FY 2005, and future projections, security costs are deemed non-reimbursable and until Congress directs otherwise, this rate process should proceed on the basis of the current Congressional instructions.

*Response:* Reclamation is not ignoring the Omnibus Bill. There are two ongoing processes involved in the BCP. The rate process for FY 2005 went into

effect October 1, 2004. All information available at the time the rate was being developed indicated that the security costs for FY 2005 and out-years would be reimbursable. The Omnibus Bill was not passed until December 2004 when the rate process for FY 2005 was completed. In addition to directing Reclamation to stay the reimbursement process, Congress directed Reclamation to provide a report by May 1, 2005, to assist Congress in breaking out planned reimbursable and non-reimbursable security costs by project and region. Reclamation has submitted the report. It is currently being reviewed in Washington, D.C. Reclamation will incorporate Congress's findings on the report into its decisions for the FY 2006 Base Charge. If the post September 11, 2001, security costs are deemed reimbursable, Reclamation will include the costs. If these costs are deemed to be non-reimbursable and Reclamation does not receive the information in time to remove them from the FY 2006 Base Charge, Reclamation will not expend the funds and they will be returned to the Contractors.

*D. Comment:* A customer stated it is not appropriate to put the burden of the national post September 11, 2001 security costs on the power customers and requested that these costs be removed from the FY 2006 annual Base Charge. The customer also shared that protecting Hoover Dam should be a responsibility of the Federal government, as is protecting any other national critical infrastructure.

*Response:* The Reimbursement of Security Costs on Reclamation's Facilities report to Congress states:

Reclamation considers the ongoing costs of guards and patrol to clearly fall within the definition of project O&M costs. Therefore, those costs are subject to reimbursement based on project cost allocations. Like equipment maintenance, routine facility security activities such as guards and patrol are critical in ensuring the uninterrupted supply of Reclamation water and power.

Beginning in FY 2006, Reclamation's budget assumes that increased annual costs associated with facility guard and patrol activities are project O&M costs, which will

be allocated to project purposes and subject to reimbursement.

2. Visitor Center Costs

A. *Comment:* The Contractors expressed a concern with new costs being passed through to the Contractors for potential future concepts for enhancing tourism at Hoover.

*Response:* Other than the new exhibit presented in previous 10-year plans, no other enhancements have been approved. Future concepts for enhancing tourism are considered on a near continuous basis to ensure that the visitor facility covers its O&M costs entirely and also contributes an appropriate share to the visitor center debt service. Any decisions that would require increasing costs to the power contractors would be presented in future ten year plans and discussed thoroughly before implementation.

B. *Comment:* The Contractors encourage Western and Reclamation to continue to seek efficiencies in O&M and cost containment with the ultimate goal that the visitor center operates in a self-sufficient mode. Contractors remain concerned with the continuing imbalance between visitor center costs and revenues since the September 11, 2001 attack and encourage Reclamation to acquire sources of funding other than the BCP Contractors.

*Response:* Both Western and Reclamation have expended significant

effort on keeping costs down and increasing efficiency and productivity, and will continue their ongoing effort to manage costs. One of the goals of the visitor center is to operate in a self-sufficient mode as identified in the Boulder Canyon Project Implementation Plan. Reclamation and Western, along with the power contractors, are committed to working toward achieving that goal. Cost containment, operating efficiency, and revenue generation are all mechanisms employed to achieve the goal.

C. *Comment:* The Contractors believe that Congress never intended that the visitor center facility would result in such a significant drain on resources. They suggested that if the facility could not be operated on a businesslike basis, especially since September 11, 2001, that perhaps its operations should be turned over to a private contractor who will be responsible for generating sufficient revenues to make the necessary contributions to repayment of the facility. When the O&M costs are greater than the revenue requirement to contribute to capital repayment as promised by Reclamation, the Contractors believe they would be better off paying the entire repayment burden and avoiding the additional drain of operating the facility in its current fashion.

*Response:* Reclamation agreed to use its best efforts to generate enough

revenue from the visitor facilities to cover approximately 50 percent of the capital cost. Reclamation remains committed to that goal.

3. O&M Costs

A. *Comment:* A Contractor encouraged Reclamation to take a second look at its FY 2006 O&M expenses and reduce or defer costs such as materials and supplies from FY 2005 to FY 2006 where proper management of purchases can lead to these cost increases being lowered rather than raised. The Contractor reminded Reclamation of a pledge it made a few years ago to the Contractors that it would limit annual cost increases to 3 percent or the rate of inflation if higher.

*Response:* Over the past few years, Reclamation has improved unit availability and dramatically reduced critical items identified in the comprehensive power review. Costs to accomplish these items exceeded the rate of inflation in 2 of the past 5 years and, overall, the simple average of the annual percentage changes is 3.22 percent. The average percentage change, considering the compound nature of inflation and indexing, suggests an average rate of increase of about 3.1 percent. Reclamation anticipates that future year increases can be held to no more than the rate of inflation.

Fiscal year	Actual O&M program <sup>1</sup>	Percent of increase from prior year
2001 .....	\$34,579	
2002 .....	\$33,567	(2.9%)
2003 .....	\$36,507	8.8%
2004 .....	\$37,398	2.4%
	Estimated O&M Program <sup>1</sup>	
2005 .....	\$39,962	6.9%
2006 .....	\$40,324	0.9%
	Average Percent of Change	3.22%

<sup>1</sup> Includes Operations, Maintenance, Post Civil Service Retirement, Administrative & General Expenses, Extraordinary Operations and Maintenance, Replacements, and Visitor Services (Security costs are not included).

4. Rate Adjustment

A. *Comment:* A Contractor asks Western to confirm a rate increase would not be necessary for FY 2006 since the FY 2005 post September 11, 2001, security costs have been deemed non-reimbursable.

*Response:* The rate adjustment increase is no longer necessary. Although total annual expenses increased from FY 2005 to FY 2006, the carryover of the \$3.4 million in security costs in FY 2005 resulted in a decrease for the FY 2006 Base Charge and rates.

Availability of Information

Information about this rate adjustment, including power repayment studies, comments, letters, memorandums, and other supporting material made or kept by Western used to develop the provisional base charge and rates, is available for public review in the Desert Southwest Customer Service Regional Office, Western Area Power Administration, 615 South 43rd Avenue, Phoenix, Arizona.

Regulatory Procedure Requirements

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 has determined that this action does not require a regulatory flexibility analysis since it is

a rulemaking of particular applicability involving rates or services applicable to public property.

#### *Environmental Compliance*

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

#### *Small Business Regulatory Enforcement Fairness Act*

Western has determined that this rule is exempt from congressional notification requirements under 5 U.S.C. 801 because the action is a rulemaking of particular applicability relating to rates or services and involves matters of procedure.

#### *Submission to the Federal Energy Regulatory Commission*

The interim ratesetting formula and FY 2006 Base Charge and rates herein confirmed, approved, and placed into effect, together with supporting documents, will be submitted to the Commission for confirmation and final approval.

#### **Order**

In view of the foregoing and under the authority delegated to me, I confirm and approve on an interim basis, effective October 1, 2005, Rate Schedule BCP–F7, for the Boulder Canyon Project of the Western Area Power Administration. The rate schedule shall remain in effect on an interim basis, pending the Commission's confirmation and approval of it or substitute rates on a final basis through September 30, 2010.

Dated: August 11, 2005.

Clay Sell,

Deputy Secretary.

Rate Schedule BCP–F7 (Supersedes Schedule BCP–F6)

#### **United States Department of Energy, Western Area Power Administration**

*Boulder Canyon Project, Arizona, Nevada, Southern California; Schedule of Rates for Electric Service*

*Effective:* The first day of the first full billing period beginning on or after October 1, 2005, and remaining in effect through September 30, 2010, or until superseded.

*Available:* In the marketing area serviced by the Boulder Canyon Project (BCP).

*Applicable:* To power Contractors served by the BCP supplied through one meter, at one point of delivery, unless otherwise provided by contract.

*Character and Conditions of Service:* Alternating current at 60 hertz, three-phase, delivered and metered at the voltages and points established by contract.

*Base Charge:* The total charge paid by a Contractor for annual capacity and energy based on the annual revenue requirement. The base charge shall be composed of an energy component and a capacity component:

*Energy Charge:* Each Contractor shall be billed monthly an energy charge equal to the Rate Year Energy Dollar multiplied by the Contractor's firm energy percentage multiplied by the Contractor's monthly energy ratio as provided by contract.

*Capacity Charge:* Each Contractor shall be billed monthly a capacity charge equal to the Rate Year Capacity Dollar divided by 12 multiplied by the Contractor's contingent capacity percentage as provided by contract.

*Forecast Rates: Energy:* Shall be equal to the Rate Year Energy Dollar divided by the lesser of the total master schedule energy or 4,501.001 million kWhs. This rate is to be applied for use of excess energy, unauthorized overruns, and water pump energy.

*Capacity:* Shall be equal to the Rate Year Capacity Dollar divided by 1,951,000 kWhs, to be applied for use of unauthorized overruns.

*Calculated Energy Rate:* Within 90 days after the end of each rate year, a Calculated Energy Rate shall be calculated. If the energy deemed delivered is greater than 4,501.001 million kWhs, then the Calculated Energy Rate shall be applied to each Contractor's energy deemed delivered. A credit or debit shall be established based on the difference between the Contractor's Energy Dollar and the Contractor's actual energy charge, to be applied the following month calculated or as soon as possible thereafter.

*Lower Basin Development Fund Contribution Charge:* The contribution

charge is 4.5 mills/kWh for each kWh measured or scheduled to an Arizona purchaser and 2.5 mills/kWh for each kWh measured or scheduled to a California or Nevada purchaser, except for purchased power.

*Billing for Unauthorized Overruns:* For each billing period in which there is a contract violation involving an unauthorized overrun of the contractual power obligations, such overrun shall be billed at 10 times the Forecast Energy Rate and Forecast Capacity Rate. The contribution charge shall be applied also to each kWh of overrun.

*Adjustments:* None.

[FR Doc. 05–17000 Filed 8–25–05; 8:45 am]

BILLING CODE 6450–01–P

#### **ENVIRONMENTAL PROTECTION AGENCY**

[AMS–FRL–7961–1]

#### **California State Motor Vehicle Pollution Control Standards; Waiver of Federal Preemption; Notice of Decision**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice Regarding Waiver of Federal Preemption.

**SUMMARY:** EPA today, pursuant to section 209(b) of the Clean Air Act (Act), 42 U.S.C. 7543(b), is granting California its request for a waiver of federal preemption for its heavy-duty diesel regulations for 2007 and subsequent model year vehicles and engines (2007 California Heavy Duty Diesel Engine Standards) and related test procedures including the not-to-exceed (NTE) and supplemental steady-state tests (supplemental test procedures) to determine compliance with applicable standards. By letter dated July 16, 2004, the California Air Resources Board (CARB) requested that EPA grant California a waiver of federal preemption for its 2007 California Heavy Duty Diesel Engine Standards, which primarily align California's standards and test procedures with the federal standards and test procedures for 2007 and subsequent model year vehicles and engines.

**ADDRESSES:** The Agency's Decision Document, containing an explanation of the Assistant Administrator's decision, as well as all documents relied upon in making that decision, including those submitted to EPA by CARB, are available at the EPA's Air and Radiation Docket and Information Center (Air Docket). Materials relevant to this decision are contained in Docket No. OAR–2004–0132. The docket is located