

projects are repaid via revenues received under the Integrated System rates, as are Southwestern's transmission facilities that consist of 1,380 miles of high-voltage transmission lines, 24 substations, and 46 microwave and VHF radio sites. Costs associated with the Robert D. Willis and Sam Rayburn Dams, two projects that are isolated hydraulically, electrically, and financially from the Integrated System are repaid by separate rate schedules. The Sam Rayburn Dam project is addressed in this notice.

Following Department of Energy guidelines, the Administrator, Southwestern, prepared a Current Power Repayment study using the existing Sam Rayburn Dam rate. The Study indicates that Southwestern's legal requirement to repay the investment in the power generating facility for power and energy marketed by Southwestern will not be met without an increase in revenues. The need for increased revenues is due to increases in expected generation investment and operation and maintenance power-related expenses. The Revised Power Repayment Study shows that an increase in annual revenue of \$302,364 (12 percent increase), beginning January 1, 2006, is needed to satisfy repayment criteria.

Opportunity is presented for Southwestern customers and other interested parties to receive copies of the Sam Rayburn Dam Power Repayment Studies and the proposed rate schedule. Persons desiring a copy of the Power Repayment Data Package with the proposed Rate Schedule should submit a request to the Director, Rates and Repayment, Office of Corporate Operations, Southwestern Power Administration, One West Third Street, Tulsa, OK 74103, (918) 595-6673 or via email to [swparates@swpa.gov](mailto:swparates@swpa.gov).

A Public Information Forum is scheduled on September 13, 2005, to explain to customers and interested parties the proposed rate and supporting studies. The proceeding will be transcribed, if held. A chairman, who will be responsible for orderly procedure, will conduct the Forum. Questions concerning the rate, studies, and information presented at the Forum will be answered, to the extent possible, at the Forum. Questions not answered at the Forum will be answered in writing. However, questions involving voluminous data contained in Southwestern's records may best be answered by consultation and review of pertinent records at Southwestern's offices.

Persons interested in attending the Public Information Forum should so

indicate in writing by letter, email or facsimile transmission (918-595-6656) by September 6, 2005, their intent to appear at such Forum. Should no one indicate an intent to attend by the above-cited deadline, no such Forum will be held.

A Public Comment Forum is scheduled for October 13, 2005, at which interested persons may submit written comments or make oral presentations of their views and comments related to the rate proposal. The proceeding will be transcribed, if held. A chairman, who will be responsible for orderly procedure, will conduct the Forum. Southwestern's representatives will be present, and they and the chairman may ask questions of the speakers.

Persons interested in attending the Public Comment Forum should so indicate in writing by letter or facsimile transmission (918-595-6656) by October 3, 2005, their intent to appear at such Forum. Should no one so indicate an intent to attend by the above-cited deadline, no such Forum will be held. Persons interested in speaking at the Forum should submit a request in writing by October 3, 2005, to the Administrator, Southwestern, indicated their intent to appear at such Forum, so that a list of speakers can be developed. The chairman may allow others to speak if time permits.

A transcript of each Forum will be made. Copies of the transcripts may be obtained directly from the transcribing service for a fee. Copies of all documents introduced will also be available from the transcribing service for a fee.

Written comments on the proposed Sam Rayburn Dam Rate are due on or before November 28, 2005. Five copies of the written comments, together with a diskette in MS Word or Corel Word Perfect, should be submitted to Forrest E. Reeves, Assistant Administrator, Southwestern Power Administration, U.S. Department of Energy, One West Third Street, Tulsa, Oklahoma 74103.

Following review of the oral and written comments and the information gathered during the course of the proceedings, the Administrator will submit the final Sam Rayburn Dam Proposal, and Power Repayment Studies in support of the proposed rate to the Deputy Secretary of Energy for confirmation and approval on an interim basis, and subsequently to the Federal Energy Regulatory Commission (FERC) for confirmation and approval on a final basis. The FERC will allow the public an opportunity to provide written comments on the proposed rate increase before making a final decision.

Dated: August 15, 2005.

**Michael A. Deihl,**

*Administrator.*

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BILLING CODE 6450-01-P

## DEPARTMENT OF ENERGY

### Western Area Power Administration

#### **Washoe Project-Rate Order No. WAPA-119**

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

**ACTION:** Notice of order concerning a non-firm power formula rate.

**SUMMARY:** The Deputy Secretary of Energy confirmed and approved Rate Order No. WAPA-119 and Rate Schedule SNF-6, placing a non-firm power formula rate from the Stampede Powerplant of the Washoe Project (Stampede) of the Western Area Power Administration (Western) into effect on an interim basis. The provisional formula rate will be in effect until the Federal Energy Regulatory Commission (Commission) confirms, approves, and places it into effect on a final basis or until replaced by other rates. The provisional rate will provide sufficient revenue to pay all annual costs, including interest expense, and repay power investment and irrigation aid, within the allowable periods.

**DATES:** Rate Schedule SNF-6 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. James D. Keselburg, Regional Manager, Sierra Nevada Customer Service Region, Western Area Power Administration, 114 Parkshore Drive, Folsom, CA 95630-4710, (916) 353-4418, or Mr. Sean Sanderson, Rates Manager, Sierra Nevada Customer Service Region, Western Area Power Administration, 114 Parkshore Drive, Folsom, CA 95630-4710, (916) 353-4466.

**SUPPLEMENTARY INFORMATION:** The Deputy Secretary of Energy approved existing Rate Schedule SNF-5 for Stampede non-firm energy on August 22, 2000 (Rate Order No. WAPA-93, September 1, 2000). The Commission confirmed and approved the rate schedule on October 19, 2000, in FERC Docket No. EF00-5161-000. The existing rate schedule is effective from

October 1, 2000, through September 30, 2005.

The existing non-firm power Rate Schedule SNF-5 consists of floor and ceiling rates and is designed to recover an annual revenue requirement. The floor rate for non-firm energy from Stampede is 17.89 mills per kilowatthour (mills/kWh) and on average for the 5-year rate period provides sufficient revenue to repay nearly 100 percent of annual expenses, excluding interest expense. The current ceiling rate was set by a power repayment study and provides sufficient revenues to repay all annual costs, including interest expense, and the investment within the allowable period.

The Central Valley Project (CVP) 2004 Power Marketing Plan (2004 Power Marketing Plan) states that the output from the Washoe Project remaining after meeting project use loads will be marketed to the CVP preference customers. Beginning October 1, 2005, the costs remaining after meeting project use requirements are included in the CVP Power Revenue Requirement (PRR) on an annual basis. In addition, any energy remaining after meeting project use requirements will be marketed under the 2004 Power Marketing Plan. This situation makes it unnecessary to establish a new proposed ceiling rate for Stampede. Western's Contract No. 94-SAO-00010 with the Sierra Pacific Resources (Sierra) sets the floor rate.

The existing non-firm Rate Schedule SNF-5 is being superseded by SNF-6. SNF-6 removes the ceiling rate and provides a formula for determining Stampede's annual PRR transferred to the CVP PRR.

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 Department of Energy (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-119, the non-firm energy formula rate for Stampede, into effect on an interim basis. The new Rate Schedule SNF-6 will be promptly submitted to the Commission for

confirmation and approval on a final basis.

Dated: August 16, 2005.

**Clay Sell,**  
*Deputy Secretary.*

#### **Department of Energy, Deputy Secretary**

[Rate Order No. WAPA-119]

In the matter of: Western Area Power Administration Rate Adjustment for the Washoe Project, Stampede Division, Non-Firm Power Formula Rate; Order Confirming, Approving, and Placing the Washoe Project, Stampede Division, Non-firm Power Formula Rate Into Effect on an Interim Basis

This rate was established in accordance with section 302 of the 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 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:

**2004 Power Marketing Plan:** The 2004 CVP Power Marketing Plan (64 FR 34417) effective January 1, 2005.

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

**Ancillary Services:** Those services necessary to support the transfer of electricity while maintaining reliable operation of the transmission provider's transmission system in accordance with standard utility practice.

**Base Resource:** The Central Valley and Washoe Project power output and existing power purchase contracts extending beyond 2004, as 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.

**Capacity:** The electric capability of a generator, transformer, transmission circuit, or other equipment expressed in kilowatts.

**Commission:** The Federal Energy Regulatory Commission.

**Customer:** An entity with a contract that receives service from the Western's Sierra Nevada Customer Service Region (SNR).

**CVP:** The Central Valley Project is a multipurpose Federal water development project extending from the Cascade Range in northern California to the plains along the Kern River south of Bakersfield, California.

**DOE:** United States Department of Energy.

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

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

**First Preference:** A Customer or entity qualified to use Preference power within a county of origin (Trinity, Calaveras, and Tuolumne) as specified under the Trinity River Division Act of August 12, 1955 (69 Stat. 719) and the Flood Control Act of 1962 (76 Stat. 1173, 1191-1192).

**Floor Rate:** Per the contract with Sierra, is equal to 85 percent of the then effective, non-time differentiated rate provided in Sierra's California Quarterly Short-Term Purchase Price Schedule for as-available purchases from qualifying facilities with capacities of 100 kilowatts (kW) or less.

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

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

**kV:** Kilovolt—The electrical unit of measure of electric potential that equals 1,000 volts.

**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.

**Load:** The amount of electric power or energy delivered or required at any specified point(s) on a transmission or distribution system.

**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.*).

**Net Revenue:** Revenue remaining after paying all annual expenses.

**Non-firm:** A type of product and/or service not always available at the time requested by the customer.

**O&M:** Operation and Maintenance.

**Power:** Capacity and Energy.

**Preference:** The provisions of Reclamation Law which require Western to first make Federal power available to certain entities. For example, section 9(c) of the Reclamation Project Act of 1939 states 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 (43 U.S.C. 485h(c)).

**Project Use:** Power used to operate Washoe Project facilities under Reclamation Law. The Lahontan National Fish Hatchery and the Marble Bluff Fish Facility are designated project use loads of the Washoe Project.

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

**PRR:** Power revenue requirement. The annual revenue that must be collected to recover annual expenses such as O&M, purchase power, transmission service expenses, interest, deferred expenses, and repay Federal investments and other assigned costs.

**PRS:** Power repayment study.

**Rate Brochure:** A document dated May 2005 explaining the rationale and background for the rate proposal contained in this Rate Order.

**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, purchase power, transmission service expenses, interest, deferred expenses, and repay Federal investments and other assigned costs.

**SEEA:** The Stampede Energy Exchange Account.

**Sierra:** Sierra Pacific Power Company also known as Nevada Power and Sierra Pacific Resources.

**SNR:** The Sierra Nevada Customer Service Region of Western.

**Stampede:** Power system facilities of Washoe Project, Stampede Division.

**Stampede Annual PRR:** The total power revenue requirement for

Stampede required to repay all reimbursable annual costs, including interest and the investment within the allowable period.

**Stampede Revenue:** Revenue generated from the floor rate and project generation.

**Washoe Project:** A Reclamation project located in the Lahontan Basin in west-central Nevada and east-central California.

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

#### **Effective Date**

The new interim 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, 2010, 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. A **Federal Register** notice published on May 6, 2005, (70 FR 24019), announced the proposed formula rate for non-firm energy from Stampede. This notice began the public consultation and comment period.

2. On May 9, 2005, Western e-mailed the **Federal Register** notice (70 FR 24019) to the SNR Preference Customers and interested parties explaining the fact that this was a minor rate adjustment. Therefore, there was no public information or comment forum for this rate process. Western also reiterated its availability to meet with interested parties to discuss the studies that support the formula rate.

3. On May 9, 2005, Western also mailed letters to the SNR Preference Customers and interested parties transmitting the Web site address to obtain a copy of the FRN and providing instructions on how to receive a copy of the Rate Brochure.

4. Western communicated clarifying information on the proposed rate with the following Customers and/or interested parties. This information is included in the record.

Bay Area Rapid Transit District, California.

Energy Source, Nevada.

Northern California Power Agency,

California.

Sacramento Municipal Utility District, California.

Sierra Pacific Power Company, aka Nevada Power, Nevada.

5. Western received no comment letters during the consultation and comment period, which ended on June 6, 2005.

#### **Project Description**

The Stampede Dam and Reservoir are located on the Little Truckee River approximately 8 miles above the confluence of the Little Truckee and Truckee River. The dam and reservoir are in Sierra County, California, about 11 miles northeast of the town of Truckee. The water source for Stampede Reservoir is the Little Truckee River drainage basin containing about 136 square miles of densely wooded slopes and grass meadowlands.

When the Stampede Dam and Reservoir project was authorized in 1956, under Public Law 858 hydroelectric power development was included. However, during the period 1966–1970 when the Stampede Dam was built, power facilities were not constructed because the power function was not economically justified. Nevertheless, provisions were made to facilitate the addition of power facilities at a later date.

Subsequently, in July 1976, a preliminary reevaluation of a powerplant at Stampede was conducted and published in a special Reclamation report *Adding Powerplants at Existing Federal Dams in California*. In the report, Reclamation recommended construction of a Stampede powerplant. As a result, definitive plan studies were initiated in FY 1977, and construction of the powerplant was completed in 1987. A one-half mile 60-kV transmission line interconnects the Stampede power facilities with Sierra's transmission system.

Stampede Dam and Reservoir is operated for four specific purposes: flood control, fisheries enhancement, recreation, and power generation. The powerplant has a 3.65 MW generator and it provides approximately 11 million kWh annually. The energy generated by the powerplant has a priority reservation for designated project use loads. All remaining energy generation is sold on a non-firm basis under the conditions outlined in Western's contract with Sierra. Energy generated at Stampede is dependent on the run of the river and is, therefore, non-firm.

The Lahontan National Fish Hatchery and the Marble Bluff Fish Facility are project use facilities entitled to energy from the Stampede Powerplant. The Marble Bluff Fish Hatchery is located on the Truckee River about 3.5 miles upstream from Pyramid Lake. The other project use facility, the Lahontan

National Fish Hatchery, is located off the Carson River just south of Carson City in Gardnerville, Nevada. The loads at these facilities are projected to be approximately 2 million kWh annually.

#### Power Repayment Study

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

To benefit project use loads and market the energy from Stampede, Western's contract with Sierra provides for the SEEAA. Under this contract, Sierra accepts delivery of all energy generated from Stampede into Sierra's electrical system. The dollar value of the Stampede energy received by Sierra during any month is credited into the SEEAA at the floor rate. Western can use the SEEAA to benefit project use facilities

and market energy from Stampede to preference entities. The formula for the provisional floor rate, per the contract with Sierra, is equal to 85 percent of the then effective, non-time differentiated rate provided in Sierra's California Quarterly Short-Term Purchase Price Schedule for as-available purchases from qualifying facilities with capacities of 100 kW or less. This provisional floor rate is used to calculate the value of the SEEAA and determines the benefit of Stampede power for project use loads. Western applies the ratio of projected project use costs to the projected revenue recorded in the SEEAA to determine a non-reimbursable percentage. This non-reimbursable percentage is then applied to the appropriate power-related costs to determine the reimbursable costs. The reimbursable costs are reduced by revenues from sales made at the floor rate. Under the 2004 Power Marketing Plan, the remaining reimbursable costs are then transferred to the CVP PRR.

Based on estimated expenses and projected revenues generated from the floor rate, Western anticipates including an annual cost of \$401,000 in the CVP PRR for the 5-year rate case period (FY 2006–2010).

#### Existing and Provisional Rates and Revenue Requirement

The provisional rate for Stampede non-firm energy results in no change to the floor rate. This rate adjustment also marks a transition to a new marketing plan for Stampede. Any energy remaining after meeting project use requirements is marketed under the 2004 Power Marketing Plan and mitigates the need for a ceiling rate. In addition, the provisional formula rate calculates an annual transfer of Stampede revenue to the CVP PRR. The following table compares the current and provisional non-firm rates as listed under the existing (SNF-5) and provisional (SNF-6) rate schedules.

#### COMPARISON OF EXISTING AND PROVISIONAL RATES WASHOE PROJECT, STAMPEDE POWERPLANT

Non-firm energy formula rate components	Existing rates (as of 10/1/00)	Provisional rates (effective 10/1/05)	Percent change
Rate Schedule .....	(1) 17.89	(2) 17.89	..... 0
Floor Rate (Mills/kWh) .....	90.07	N/A	N/A
Ceiling Rate .....	N/A	\$401,000	N/A
Estimated Stampede Annual Transferred PRR (\$)			

<sup>1</sup> SNF-5.

<sup>2</sup> SNF-6.

#### Certification of Rates

Western's Administrator certified that the provisional non-firm power formula rates for Stampede are the lowest possible rates consistent with sound business principles. The provisional formula rate was developed following administrative policies and applicable laws.

#### Non-Firm Power Formula Rate and Power Revenue Requirement Discussion

According to Reclamation Law, Western must establish rates sufficient to recover O&M, other annual and interest expenses, and repay power investment and irrigation aid.

#### Statement of Revenue and Related Expenses

The following table provides a summary of projected revenues and expenses data for the Stampede non-firm power formula rate through the 5-year provisional rate approval period, including a comparison of existing rate data to provisional rate data and the difference.

#### STAMPEDE NON-FIRM POWER RATE COMPARISON OF 5-YEAR RATE PERIOD (FY 2006–2010) TOTAL REVENUES AND EXPENSES

	Existing rate (\$000)	Provisional revenue requirement (\$000)	Difference (\$000)
Total Revenues .....	\$2,905	\$2,989	\$84
Revenue Distribution:			
Expenses:			
O&M .....	64	64	0
Project Use Expense .....	952	952	0
Interest .....	1,147	1,213	66
Total Expenses .....	2,163	2,229	66
Principal Payments:			
Capitalized Expenses .....	742	760	18
Original Project and Additions .....	0	0	0
Replacements .....	0	0	0

**STAMPEDE NON-FIRM POWER RATE COMPARISON OF 5-YEAR RATE PERIOD (FY 2006–2010) TOTAL REVENUES AND EXPENSES—Continued**

	Existing rate (\$000)	Provisional revenue requirement (\$000)	Difference (\$000)
Irrigation .....	N/A	N/A	N/A
Total Principal Payments .....	742	760	18
Total Revenue Distribution .....	2,905	2,989	84

*Basis for Rate Development*

To benefit project use loads and market the energy from Stampede, Western's contract with Sierra provides for the SEEA. Under this contract, Sierra accepts delivery of all energy generated from Stampede into Sierra's electrical system. The dollar value of the Stampede energy received by Sierra during any month is credited into the SEEA at the floor rate. The formula for the provisional floor rate, per the

contract with Sierra, is equal to 85 percent of the then effective, non-time differentiated rate provided in Sierra's California Quarterly Short-Term Purchase Price Schedule for as-available purchases from qualifying facilities with capacities of 100 kW or less. This provisional floor rate is used to calculate the value of the SEEA and determines the benefit of Stampede power for project use loads. Western applies the ratio of projected project use costs to the projected revenue recorded

in the SEEA to determine a non-reimbursable percentage. This non-reimbursable percentage is then applied to the appropriate power-related costs to determine the reimbursable costs. The reimbursable costs are reduced by revenues from sales made at the floor rate. Under the 2004 Power Marketing Plan, the remaining reimbursable costs after meeting project use service are then transferred to the CVP PRR.

The provisional formula rate for Stampede power is:

$$\text{STAMPEDE ANNUAL TRANSFERRED PRR} = \text{STAMPEDE ANNUAL PRR} - \text{STAMPEDE REVENUE}$$

Where:

Stampede Annual Transferred PRR = Stampede annual costs (Power Revenue Requirement) transferred to the CVP.

Stampede Annual PRR = The total power revenue requirement for Stampede required to repay all reimbursable annual costs, including interest and the investment within the allowable period.

Stampede Revenue = Revenue generated from the floor rate and project generation.

Floor Rate = Per the contract with Sierra, is equal to 85 percent of the then effective, non-time differentiated rate provided in Sierra's California Quarterly Short-Term Purchase Price Schedule for as-available purchases from qualifying facilities with capacities of 100 kW or less.

*Comments*

Western received no comments on the rate proposal during the public comment and consultation period that ended on June 6, 2005.

**Availability of Information**

Information about this rate adjustment, including power repayment studies, comments, letters, memorandums, and other supporting material made and kept by Western and used to develop the provisional rates, is available for public review in the Sierra Nevada Regional Office, Western Area Power Administration, 114 Parkshore Drive, Folsom, California.

**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 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 SNF-6 for the Washoe Project, Stampede Division 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 them or substitute rates on a final basis through September 30, 2010.

Dated: August 16, 2005.  
**Clay Sell,**  
*Deputy Secretary.*

Rate Schedule SNF-6 (Supersedes Schedule SNF-5)

**United States Department of Energy,  
Western Area Power Administration,  
Washoe Project, Stampede Division**

*Schedule of Rates for Non-Firm Power Formula Rate*

*Effective:* October 1, 2005, through September 30, 2010.

*Available:* Within the marketing area served by the Sierra Nevada Customer Service Region.

*Applicable:* To preference customers under the 2004 Power Marketing Plan and to the Sierra Pacific Power Company under the terms of Contract No. 14-SAO-00010.

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

*Non-Firm Power Formula Rate:* The formula for the floor rate, per the contract with Sierra, is equal to 85 percent of the then effective, non-time differentiated rate provided in Sierra's California Quarterly Short-Term Purchase Price Schedule for as-available purchases from qualifying facilities with capacities of 100 kW or less. This floor

rate is used to calculate the value of the SEEA and determines the benefit of Stampede power for project use loads. Western applies the ratio of projected project use costs to the projected revenue recorded in the SEEA to determine a non-reimbursable percentage. This non-reimbursable percentage is then applied to the appropriate power-related costs to determine the reimbursable costs. The reimbursable costs are reduced by the revenues from sales made at the floor rate. Under the 2004 Power Marketing Plan, the remaining reimbursable costs are then transferred to the CVP PRR.

The formula rate for Stampede power is:

$$\text{STAMPEDE ANNUAL TRANSFERRED PRR} = \text{STAMPEDE ANNUAL PRR} - \text{STAMPEDE REVENUE}$$

Where:

Stampede Annual Transferred PRR = Stampede annual costs (Power Revenue Requirement) transferred to the CVP.

Stampede Annual PRR = The total power revenue requirement for Stampede required to repay all reimbursable annual costs, including interest and the investment within the allowable period.

Stampede Revenue = Revenue generated from the floor rate and project generation.

Floor Rate = Per the contract with Sierra, is equal to 85 percent of the then effective, non-time differentiated rate provided in Sierra's California Quarterly Short-Term Purchase Price Schedule for as-available purchases from qualifying facilities with capacities of 100 kW or less.

**Billing:** Billing for the floor rate will be as specified in the service agreement.

**Adjustment for Losses:** Losses will be accounted for under this rate schedule as stated in the service agreement.

[FR Doc. 05-17106 Filed 8-26-05; 8:45 am]

**BILLING CODE 6450-01-P**

**ENVIRONMENTAL PROTECTION AGENCY**

[FRL-7961-2]

**Proposed Settlement Agreement,  
Clean Air Act Citizen Suit**

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

**ACTION:** Notice of proposed consent decree; request for public comment.

**SUMMARY:** In accordance with section 113(g) of the Clean Air Act, as amended ("Act"), 42 U.S.C. (7413(g), notice is hereby given of a proposed Consent Decree to address a lawsuit filed by Our Children's Earth Foundation and the Sierra Club (collectively "Plaintiffs"): *Our Children's Earth Found. et al. v. U.S. EPA*, No. C 05-00094 CW (N.D. Cal.). On or about January 6, 2005, Plaintiffs filed a complaint alleging that EPA had failed to perform a non-discretionary duty to review and, if appropriate, revise the new source performance standards ("NSPS") for petroleum refineries and equipment

leaks as required by Section 111(b) of the Clean Air Act, 42 U.S.C.

7411(b)(1)(B). Under the terms of the proposed Consent Decree, deadlines are established for EPA to review and, if appropriate, revise the NSPS standards for Subparts J, VV and GGG, 40 CFR 60.100-109, 60.480-498, 60.590-593.

**DATES:** Written comments on the proposed Consent Decree must be received by September 28, 2005.

**ADDRESSES:** Submit your comments, identified by docket ID number OGC-2005-0013, online at <http://www.epa.gov/edocket> (EPA's preferred method); by e-mail to [oei.docket@epa.gov](mailto:oei.docket@epa.gov); mailed to EPA Docket Center, Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; or by hand delivery or courier to EPA Docket Center, EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC, between 8:30 a.m. and 4:30 p.m. Monday through Friday, excluding legal holidays. Comments on a disk or CD-ROM should be formatted in WordPerfect or ASCII file, avoiding the use of special characters and any form of encryption, and may be mailed to the mailing address above.

**FOR FURTHER INFORMATION CONTACT:** Sonja Petersen, Air and Radiation Law Office (2344A), Office of General Counsel, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW.,

Washington, DC 20460, telephone: (202) 564-4079.

**SUPPLEMENTARY INFORMATION:**

**I. Additional Information About the Proposed Consent Decree**

The proposed Consent Decree would resolve the deadline suit filed by Plaintiffs alleging that EPA failed to review and, if appropriate, revise the new source performance standards ("NSPS") for petroleum refineries and equipment leaks (NSPS subparts J, VV and GGG). The proposed Consent Decree establishes deadlines by which EPA must review and revise all standards in subparts J, VV, and GGG except to the extent that EPA sets forth a proposed determination that review and/or revision is not appropriate. The Consent Decree relates only to these deadlines. It does not require the Administrator to make any specific revisions to the standards.

The Consent Decree provides the following schedule for reviewing and, if appropriate, revising these subparts. EPA must: (1) Within twelve months of entry of the Consent Decree, propose any appropriate revisions to the standards in NSPS subparts VV and GGG; (2) within twenty-four months of entry of the Consent Decree, sign a final rule containing any appropriate revisions to the standards in NSPS subparts VV and GG; (3) within eighteen months of entry of the Consent Decree,