

DEPARTMENT OF ENERGY

Western Area Power Administration

**Pick-Sloan Missouri Basin Program—
Eastern Division—Rate Order No.
WAPA-140**

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of Proposed Power Rates.

SUMMARY: The Western Area Power Administration (Western) is proposing revised rates for Pick-Sloan Missouri Basin Program—Eastern Division (P-SMBP—ED) firm electric and firm peaking power service. Current rates, under Rate Schedules P—SED—F9 and P—SED—FP9, extend through December 31, 2012, but are not sufficient to meet the P—SMBP—ED revenue requirements. The proposed rates will provide sufficient revenue to pay all annual costs, including interest expenses, and repay required investments within the allowable periods. Western will prepare and make available a brochure that provides detailed information on the proposed rates. The proposed rates, under Rate Schedules P—SED—F10 and P—SED—FP10, are scheduled to go into effect on January 1, 2009, and will remain in effect through December 31, 2013, or until superseded. Publication of this **Federal Register** notice begins the formal process for the proposed rate adjustment.

DATES: The consultation and comment period begins today and will end November 13, 2008. Western will present a detailed explanation of the proposed rates at public information forums. Public information forum dates are:

1. September 9, 2008, 9 a.m. to 10:30 a.m. MDT, Denver, CO.
2. September 10, 2008, 8 a.m. to 9:30 a.m. CDT, Sioux Falls, SD.

Western will accept oral and written comments at public comment forums.

Public comment forums will be held on the following dates:

1. September 9, 2008, 11:30 a.m. to 12:30 p.m. MDT, Denver, CO.
2. September 10, 2008, 10:30 a.m. to 12 p.m. CDT, Sioux Falls, SD.

Western will accept written comments any time during the consultation and comment period.

ADDRESSES: Written comments and/or requests to be informed of Federal Energy Regulatory Commission (FERC) actions concerning the rates submitted by Western to FERC for approval should be sent to Mr. Robert J. Harris, Regional Manager, Upper Great Plains Region, Western Area Power Administration, 2900 4th Avenue North, Billings, MT 59101-1266, or e-mail at ugpfirmrate@wapa.gov. Western will post information about the rate process on its Web site at <http://www.wapa.gov/ugp/rates/2009firmrateadjust>. Western will post comments received via letter and e-mail to its Web site after the close of the comment period. Western must receive written comments by the end of the consultation and comment period to ensure they are considered in Western's decision process.

Public information and comment forum locations are:

1. Denver—Ramada Plaza Hotel, 10 East 120th Avenue, Northglenn, CO.
2. Sioux Falls—Holiday Inn, 100 West 8th Street, Sioux Falls, SD.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Cady-Hoffman, Rates Manager, Upper Great Plains Region, Western Area Power Administration, 2900 4th Avenue North, Billings, MT 59101-1266, telephone (406) 247-7439, e-mail cady@wapa.gov.

SUPPLEMENTARY INFORMATION: The proposed rates for P—SMBP—ED firm electric and firm peaking service are designed to recover an annual revenue requirement that includes investment repayment, interest, purchase power, operation and maintenance, and other expenses.

Rate Schedules P—SED—F9 and P—SED—FP9 for P—SMBP—ED firm electric and firm peaking service, respectively, were approved for a 5-year period beginning on January 1, 2008, and ending December 31, 2012.¹ Under current Rate Schedule P—SED—F9 effective January 1, 2008, the composite rate is 24.49 mills per kilowatthour (mills/kWh), the firm energy rate is 13.99 mills/kWh, and the firm capacity rate is \$5.65 per kilowattmonth (kWmonth). The projected revenue requirement for firm electric service is allocated equally between capacity and energy. Under current Rate Schedule P—SED—FP9 effective January 1, 2008, the firm peaking capacity rate is \$5.10/kWmonth. These Rate Schedules are formula based, providing for an up to 2 mills/kWh increase in the Drought Adder rate component.

This proposed rate adjustment reflects a rate increase based on the P—SMBP—ED Final Fiscal Year 2007 Power Repayment Study (PRS). The PRS sets the total annual P—SMBP—ED revenue requirement for 2009 for firm electric and firm peaking power service at \$282.6 million, or a 19.8 percent increase for a composite rate of 29.34 mills/kWh. The current rates, including a 2 mills/kWh increase provided for under the Drought Adder formula rate component, are not sufficient to meet the P—SMBP—ED revenue requirements. Given the need for a Base rate component increase and the size of the Drought Adder rate component increase, Western is required to initiate a formal public process.² Western has prepared rate schedules for firm electric service (P—SED—F10) and firm peaking service (P—SED—FP10) for consideration and comment during this public process. A comparison of the existing revenue requirement and rates, and the proposed revenue requirement and rates under P—SED—F10 and P—SED—FP10 are listed in Table 1.

TABLE 1—PROPOSED P—SMBP—ED FIRM ELECTRIC AND FIRM PEAKING POWER SERVICE REVENUE REQUIREMENT AND RATES

Firm electric service	Existing rates as of 2008	Proposed rates (Jan. 1, 2009) ²	Percent change from existing 2008 to proposed 2009
Firm and Firm Peaking Revenue Requirement	\$235.9 million	\$282.6 million	19.8
Composite Rate	24.49 mills/kWh	29.34 mills/kWh	19.8
Firm Capacity Rate	\$5.65/kWmonth	\$6.80/kWmonth	20.4

¹ WAPA-135 was approved by the Deputy Secretary of Energy on November 14, 2007 (72 FR ¶ 64067), and confirmed and approved by FERC on a final basis on April 14, 2008, through December 31, 2012, in Docket No. EF08-5031-000 (123 FERC ¶ 62048).

² Under the current Rate Schedules Western had the option of increasing the Drought Adder rate component by up to 2 mills/kWh outside of a formal public process, and only initiating the formal public process for the Base rate component increase and the incremental increase of the

Drought Adder rate component above 2 mills/kWh. Instead, Western has opted to initiate the formal public process for this rate increase.

TABLE 1—PROPOSED P-SMBP-ED FIRM ELECTRIC AND FIRM PEAKING POWER SERVICE REVENUE REQUIREMENT AND RATES—Continued

Firm electric service	Existing rates as of 2008	Proposed rates (Jan. 1, 2009) ²	Percent change from existing 2008 to proposed 2009
Firm Energy Rate	13.99 mills/kWh	16.71 mills/kWh	19.4
Firm Peaking Capacity Rate	\$5.10/kWmonth	\$6.20/kWmonth	21.6
Firm Peaking Energy Rate ¹	13.99 mills/kWh	16.71 mills/kWh	19.4

¹ Firm peaking energy is normally returned. This will be assessed in the event firm peaking energy is not returned.

² The proposed rates are subject to adjustment prior to publication in the final Notice of Order Concerning Power Rates. Adjustments, if any, would be based on revisions to the Drought Adder rate component due to changes in hydrological conditions.

Under Rate Schedule P-SED-F10, Western is proposing to continue to identify its firm electric service revenue requirement using Base and Drought Adder rate components and provide up to a 2 mills/kWh increase in the Drought Adder rate component. The Base rate component is a revenue requirement that includes annual operation and maintenance expenses, investment repayment and associated interest, normal timing power purchases, and transmission costs. Western's normal timing power purchases are purchases due to operational constraints (e.g., management of endangered species habitat, water quality, navigation, etc.) and are not associated with the current drought.

The Drought Adder rate component is a formula-based revenue requirement

that includes costs attributable to the past and present drought conditions within the Pick-Sloan Program. The Drought Adder rate component includes costs associated with future non-timing purchases of additional power to firm obligations not covered with available system generation due to the drought, previously incurred deficits due to purchased power debt that resulted from non-timing power purchases made during this drought, and the interest associated with the previously incurred and future drought debt. The Drought Adder rate component is designed to repay Western's drought debt within 10 years from the time the debt was incurred, using balloon-payment methodology. For example, the drought debt incurred by Western in 2007 will be repaid by 2017.

The annual revenue requirement calculation will continue to be summarized by the following formula: Annual Revenue Requirement = Base Revenue Requirement + Drought Adder Revenue Requirement. Under this proposal, effective January 1, 2009, the P-SMBP-ED annual revenue requirement equals \$293.7 million and is comprised of a Base revenue requirement of \$163.5 million plus a Drought Adder revenue requirement of \$130.2 million. Both the Base and Drought Adder rate components recover portions of the firm power revenue requirement, firm peaking power, and associated five percent discount revenue necessary to equal the P-SMBP-ED revenue requirement. A comparison of the current and proposed rate components are listed in Table 2.

TABLE 2—SUMMARY OF P-SMBP-ED RATE COMPONENTS

	Existing rates as of 2008			Proposed rates (effective January 1, 2009) ²		
	Base rate component	Drought adder rate component	Total	Base rate component	Drought adder rate component	Total
Firm Capacity Rate (/kWmonth)	\$3.65	\$2.00	\$5.65	\$3.80	\$3.00	\$6.80
Firm Energy Rate (mills/kWh)	8.93	5.06	13.99	9.27	7.44	16.71
Firm Peaking Capacity Rate (/kWmonth)	\$3.25	\$1.85	\$5.10	\$3.40	\$2.80	\$6.20
Firm Peaking Energy Rate (mills/kWh) ¹	8.93	5.06	13.99	9.27	7.44	16.71

¹ Firm peaking energy is normally returned. This will be assessed in the event firm peaking energy is not returned.

² The proposed rates are subject to adjustment prior to publication in the final Notice of Order Concerning Power Rates. Adjustments, if any, would be based on revisions to the Drought Adder rate component due to changes in hydrological conditions.

As set forth in Table 2 above, under proposed Rate Schedule P-SED-FP10, the firm peaking capacity rate will increase to \$6.20/kWmonth, or a 21.6 percent increase for the proposed January 1, 2009, rate adjustment. Peaking energy is either returned to Western or paid for in accordance with the terms of the contract between Western and the peaking power customer.

Continuing to identify the firm electric service revenue requirement using Base and Drought Adder rate

components will assist Western in the presentation of the impacts of the drought within the Pick-Sloan Program, demonstrate repayment of the drought related costs in the PRS, and allow Western to be more responsive to changes in drought related expenses. Western will continue to charge and bill its customers firm electric service rates for energy and capacity, which are the sum of the Base and Drought Adder rate components.

Western reviews its firm electric service rates annually. Western will

review the Base rate component after the annual PRS is completed, generally in the first quarter of the calendar year. If an adjustment to the Base rate component is necessary, Western will initiate a public process pursuant to 10 CFR part 903 prior to making an adjustment.

In accordance with the original implementation of the Drought Adder rate component, Western will continue to review the Drought Adder rate component each September to determine if drought costs differ from

those projected in the PRS, and, if so, whether an adjustment, either incremental or decremental, to the Drought Adder rate component is necessary. Western will notify customers by letter each October of the planned incremental or decremental adjustment and implement the adjustment in the January billing cycle. Although decremental adjustments to the Drought Adder rate component will occur as drought costs are repaid, the adjustments cannot result in a negative Drought Adder rate component. To give customers advance notice, Western will conduct a preliminary review of the Drought Adder rate component in early summer and notify customers by letter of the estimated change to the Drought Adder rate component for the following January, with the final Drought Adder rate component adjustment verified with notification in the October letter to the customers. Implementing the Drought Adder rate component adjustment on January 1 of each year will help keep the drought deficits from escalating as quickly, will lower the interest expense due to drought deficits, will demonstrate responsible deficit management, and will provide prompt drought deficit repayments.

As a part of the current and proposed rate schedules, Western provides for a formula-based adjustment of the Drought Adder rate component of up to 2 mills/kWh. The 2 mills/kWh cap is intended to place a limit on the amount the Drought Adder formula can be adjusted relative to associated drought costs without having to go through a public process to recover costs attributable to the Drought Adder formula rate for any one-year cycle.

During informal discussions with its customers prior to the commencement of this rate adjustment process, Western discussed the possibility of implementing a two-step rate adjustment for the Base rate component to address operational and maintenance costs as well as normal inflationary costs that would be entered into the PRS from the FY 2010 work plans. Western has reevaluated the benefits of a two-step rate adjustment and concluded with the unpredictability of the hydrological conditions, rising fuel costs and proposed changes in the electric transmission industry, it is more prudent to forego a two-step rate adjustment and continue the annual customer consultations and possible annual rate adjustments. Therefore, Western is not proposing a two-step rate adjustment in this public process.

Due to continuing below normal hydropower generation in the P-SMBP—ED, Western may need to use

the Continuing Fund (Emergency Fund) to pay for unanticipated purchase power and wheeling expenses necessary to meet its contractual obligations for the sale and delivery of power to its customers. Should Western use this funding mechanism, Western will replenish the Continuing Fund (Emergency Fund) in accordance with law and Western's associated repayment policy, dated March 15, 2007.³

Legal Authority

Since the proposed rates constitute a major rate adjustment as defined by 10 CFR part 903, Western will hold public information forums and public comment forums. Western will review all timely public comments and make amendments or adjustments to the proposal as appropriate. Proposed rates will be forwarded to the Deputy Secretary of Energy for approval on an interim basis.

Western is establishing firm electric service and peaking rates for P-SMBP—ED under the Department of Energy Organization Act (42 U.S.C. 7152); 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)); section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s); and other acts that specifically apply to the projects 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 FERC. Existing Department of Energy (DOE) procedures for public participation in power rate adjustments (10 CFR part 903) were published on September 18, 1985.

Availability of Information

All brochures, studies, comments, letters, memorandums, or other documents that Western initiates or uses to develop the proposed rates are available for inspection and copying at the Upper Great Plains Regional Office, located at 2900 4th Avenue North, Billings, Montana. Many of these documents and supporting information

³ Western's Continuing Fund (Emergency Fund) Policy can be found at <http://www.wapa.gov/powerm/pdf/repaypolicy.pdf>.

are also available on Western's Web site under the "2009 Firm Rate Adjustment" section located at <http://www.wapa.gov/ugp/rates/2009firmrateadjust>.

Ratemaking Procedure Requirements

Environmental Compliance

In compliance with the National Environmental Policy Act of 1969 (NEPA) (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 is in the process of determining whether an environmental assessment or an environmental impact statement should be prepared or if this action can be categorically excluded from those requirements.

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.

Dated: July 31, 2008.

Timothy J. Meeks,

Administrator.

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ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-8584-7]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at 202-564-7146. An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 6, 2008 (73 FR 19833).

Draft EISs

EIS No. 20080164, ERP No. D-NRC-D06005-PA, GENERIC—License Renewal of Nuclear Plants, Supplement 35 to NUREG-1437, Regarding Susquehanna Steam Electric Station, Units 1 and 2, Issuing Nuclear Power Plant Operating Licenses for a 20-Year Period, PA.

Summary: EPA expressed environmental concerns about pollution prevention issues and impacts to