

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Western Area Power Administration

Docket No. EF21-1-000

ORDER CONFIRMING AND APPROVING RATE SCHEDULES
ON A FINAL BASIS

(April 27, 2021)

Summary:

On February 16, 2021, the Administrator for Western Area Power Administration (Western) filed a request for final confirmation and approval of Rate Order No. WAPA-194,¹ which places into effect certain new and revised formula rates for the Central Valley Project reflecting Western's participation in the California Independent System Operator's (CAISO) Energy Imbalance Market (EIM). Specifically the new and revised formula rates are Rate Schedules EIM Administrative Service Charge (CV-EIM1S), EIM Energy Imbalance Service (CV-EIM4S), EIM Generator Imbalance Service (CV-EIM9S), Sale of Surplus Products (CV-SSP2), Energy Imbalance Service (CV-EID5), and Generator Imbalance Service (CV-GID2).² The Administrator placed the new and revised rate schedules into effect on an interim basis on February 10, 2021,³ and requests

¹ Rate Order No. WAPA-194, placing the rate schedules into effect on an interim basis, was issued February 10, 2021, under the authority granted to the Assistant Secretary for Electricity by the Department of Energy Redelelegation Order No. 00-002.10-05.

² Western Area Power Administration, FERC FPA Electric Tariff, Rate Schedules, [Energy Imbalance Rate, Energy Imbalance Rate, 3.0.0, Generator Imbalance Rate, Generator Imbalance Rate, 3.0.0, EIM Admin Service Charge, EIM Admin Service Charge Rate, 0.0.0, EIM Energy Imbalance, EIM Energy Imbalance Rate, 0.0.0, EIM Generator Imbalance, EIM Generator Imbalance Rate, 0.0.0, Sale for Surplus Product, Sale for Surplus Product Rate, 0.0.0](#).

³ By Redelelegation Order No. 00-002.10-05, effective July 8, 2020, the Assistant Secretary for Electricity delegated the authority to confirm, approve, and place power and transmission rates into effect on an interim basis to the Western Administrator.

final confirmation and approval for the period March 25, 2021, through December 31, 2024.

In addition, Western requests waiver of the requirement in sections 300.11, 300.12(b), and 300.12(c) of the Commission's regulations to file Statements A through F, a Power Repayment Study and a Cost of Service Study, because the rates addressed in Rate Order No. WAPA-194 are formula rates for administrative charges, ancillary services, and sales of surplus products. Western contends that these rates are not generated through a Power Repayment Study and a Cost of Service Study and therefore such studies are inapplicable.

Notice of the filing was published in the *Federal Register*.⁴ Comments, protests, or motions to intervene were due on or before March 18, 2021. The City of Redding, California; the City of Santa Clara, California; Northern California Power Agency; and the Modesto Irrigation District filed timely motions to intervene, raising no substantive issues. Notices of intervention and unopposed timely filed motions to intervene are granted pursuant to operation of Rule 214 of the Commission's Rules of Practice and Procedure.⁵ Any opposed or untimely filed motion to intervene is governed by the provisions of Rule 214.

Standard of Review:

The Secretary of Energy has delegated the authority to confirm and approve Western's rates on a final basis to the Commission⁶ and established the scope of Commission review. The scope of Commission review is limited to:

- whether the rates are the lowest possible to customers consistent with sound business principles;
- whether the revenue levels generated by the rates are sufficient to recover the costs of producing and transmitting the electric energy including the repayment, within the period of cost recovery permitted by law, of the capital investment allocated to power and costs assigned by Acts of Congress to power for repayment; and

⁴ 86 Fed. Reg. 11,760 (2021).

⁵ 18 C.F.R. § 385.214.

⁶ See Section 1.3 of Department of Energy Delegation Order No. 00-037.00B.

- the assumptions and projections used in developing the rate components that are subject to Commission review.⁷

The Commission is prohibited from reviewing policy judgments and interpretations of laws and regulations made by the power generating agencies.⁸ The Commission may reject the rate determinations of the Administrator only if it finds them to be arbitrary, capricious, in violation of the law, in violation of Department of Energy regulations (e.g., Order No. RA 6120.2 which prescribes Western's financial reporting policies, procedures, and methodologies), or in violation of agreements between the Administrator and the applicable power generating agency. The Commission considers its role as that of an appellate body that reviews the record developed by the Administrator. In other words, the Commission only affirms or remands the rates submitted to it for final review.⁹

Discussion:

Western states that on July 31, 2020 it published a notice in the *Federal Register*¹⁰ of proposed Rate Schedules CV-EIM1S, CV-EIM4S, CV-EIM9S, CV-SSP2, and proposed revisions to Rate Schedules CV-EID5 and CV-GID2. Western states that Rate Schedules CV-EIM1S, CV-EIM4S, and CV-EIM9S will be necessary for recovery of all imbalance costs. Western asserts that the three formula rates will allow Western to pass through administrative costs incurred when Western is participating in the CAISO's EIM and to the extent Western incurs associated settlements during market suspension or contingency. Western states that Rate Schedule CV-SSP2 will apply to the sale of

⁷ *Id.*

⁸ The power generating agencies include the Bureau of Reclamation, the Army Corps of Engineers, and the International Boundary and Water Commission. These agencies build and operate various projects. The power marketing administrations, such as Western, market the output of the projects.

⁹ *U.S. Dept. of Energy – Western Area Power Admin. (Boulder Canyon Project)*, 61 FERC ¶ 61,229, at 61,844 (1992), *aff'd in relevant respects sub nom. Overton Power District No. 5 v. Watkins*, 829 F. Supp. 1523 (D. Nevada 1993), *vacated and remanded with directions to dismiss sub nom. Overton Power District No. 5 v. O'Leary*, 73 F.3d 253 (1996); *U.S. Dept. of Energy – Western Area Power Admin. (Salt Lake City Area Integrated Projects)*, 59 FERC ¶ 61,058, at 61,240-41 & nn.17 & 20 (1992), *reh'g denied*, 60 FERC ¶ 61,002 (1992).

¹⁰ 85 Fed. Reg. 46,083 (2020).

surplus energy and capacity products thereby making Western's Serra Nevada Customer Service Region consistent with other Western regions. Western states that the revised formula rates, Rate Schedules CV-EID5 and CV-GID2, will supersede Rate Schedules CV-EID4 and CV-GID1, which were confirmed and approved in Docket No. EF19-4-000 on a final basis through September 30, 2024. Western states that the rates, resulting from approved formula rate methodologies, will include an annual update to the data in the rate formulas.

Western states that EIM costs will be recovered through the Central Valley Project Power Revenue Requirement, including startup costs and EIM load costs for those customers with loads too small to identify. Western states that any potential EIM benefits will also pass through to the Central Valley Project Power Revenue Requirement. Western contends that the proposed new and revised formula rates provide Western with sufficient revenue to repay all annual expenses, including interest expense, and to repay capital investments within allowable time, thus ensuring repayment within the cost recovery criteria set forth in Department of Energy Order No. RA 6120.2.

By statute,¹¹ Western must repay the federal investment from power revenues within a reasonable period of time, which as a general practice is 50 years. Our review indicates that the revenues collected under the existing rates will continue to be sufficient to recover Western's costs, including recovery of the remaining federal investment, with interest, over the remaining repayment period. Moreover, since the revenues generated by the rates recover no more than Western's annual costs and the remaining federal investment, the rates are the lowest possible to customers.

The Commission's review indicates that Western's proposed rates are consistent with the standards by which they must be judged per standards of review delegated to the Commission by the Secretary of Energy. Therefore, they merit final confirmation and approval. In addition, Western's request for waiver of the requirement in sections 300.11, 300.12(b), and 300.12(c) of the Commission's regulations to file Statements A through F is granted.¹²

The Director:

Confirms and approves on a final basis Western's Rate Schedules CV-EIM1S, CV-EIM4S, CV-EIM9S, CV-SSP2, CV-EID5, and CV-GID2 for the period March 25,

¹¹ 16 U.S.C. § 825s.

¹² 18 C.F.R. §§ 300.11, 300.12(b), 300.12(c).

2021 through December 31, 2024, and grants the requested waiver of the requirement to file Statements A through F.

Authorities:

This action is taken pursuant to the authority delegated to the Director, Division of Electric Power Regulation – Central, under section 375.307 of the Commission’s regulations.¹³ This order constitutes final agency action. Requests for rehearing by the Commission may be filed within 30 days of the date of issuance of this order, pursuant to section 385.713 of the Commission’s regulations.¹⁴

Sincerely,

Penny S. Murrell, Director
Division of Electric Power
Regulation – Central

¹³ 18 C.F.R. § 375.307.

¹⁴ 18 C.F.R. § 385.713.