$$\text{Base Capacity} = \frac{50\% \times \text{Base Revenue Requirement}}{\text{Firm Billing Capacity}} = \$3.21/\text{kW month}$$

$$\text{Base Energy} = \frac{50\% \times \text{Base Revenue Requirement}}{\text{Annual Energy}} = 12.23\ \text{mills/kWh}$$

Drought Adder: A formula-based revenue requirement that includes future purchase power expense excluding timing power purchases, previous purchase power drought deficits, and interest on the purchase power drought deficits. For the period beginning on or after the first day of the first full billing period beginning on or after February 1, 2009, the Drought Adder revenue requirement is $26 million.

$$\text{Drought Adder Capacity} = \frac{50\% \times \text{Drought Adder Revenue Requirement}}{\text{Firm Billing Capacity}} = \$1.67/\text{kW month}$$

$$\text{Drought Adder Energy} = \frac{50\% \times \text{Drought Adder Revenue Requirement}}{\text{Annual Energy}} = \$6.39\ \text{mills/kWh}$$

Process: Any proposed change to the Base component will require a public process. The Drought Adder may be adjusted annually using the above formula for any costs attributed to drought of less than or equal to the equivalent of 2 mills/kWh to the LAP composite rate. Any planned incremental adjustment to the Drought Adder component greater than the equivalent of 2 mills/kWh to the LAP composite rate will require a public process.

Adjustments:

For Drought Adder: Adjustments pursuant to the Drought Adder component will be documented in a revision to this rate schedule.

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

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

[FR Doc. E9–897 Filed 1–15–09; 8:45 am]

BILLING CODE 6450–01–P

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 Order Concerning Firm Power Rates.

SUMMARY: The Acting Deputy Secretary of Energy confirmed and approved Rate Order No. WAPA–140 and Rate Schedules P–SED–F10 and P–SED–FP10, placing firm power and firm peaking power rates from the Pick-Sloan Missouri Basin Program—Eastern Division (P–SMBP—ED) of the Western Area Power Administration (Western) into effect on an interim basis. The provisional rates will be in effect until the Federal Energy Regulatory Commission (FERC) confirms, approves, and places them into effect on a final basis or until they are replaced by other rates. The provisional rates will provide sufficient revenue to pay all annual costs, including interest expense, and repayment of power investment and irrigation aid within the allowable periods.

DATES: Rate Schedules P–SED–F10 and P–SED–FP10 will be placed into effect on an interim basis on the first day of the first full billing period beginning on or after February 1, 2009, and will remain in effect until FERC confirms, approves, and places the rate schedules in effect on a final basis ending December 31, 2013, or until the rate schedules are superseded.

FOR FURTHER INFORMATION CONTACT: Mr. Robert J. Harris, Regional Manager, Upper Great Plains Region, Western Area Power Administration, 2900 4th Avenue North, Billings, MT 59101–1266, telephone (406) 247–7405, e-mail *rharris@wapa.gov*, or Ms. Linda Cady-Hoffman, Rates Manager, Upper Great Plains Region, Western Area Power Administration, 2900 4th Avenue North, Billings, MT 59101–1266, (406) 247–7439, e-mail *cady@wapa.gov*.

SUPPLEMENTARY INFORMATION: The Deputy Secretary of Energy approved existing Rate Schedules P–SED–F9 and P–SED–FP9 for P–SMBP—ED firm and firm peaking electric service, respectively, on an interim basis on November 1, 2007 (72 FR 68,64,067 November 14, 2007), for a 5-year period beginning on January 1, 2008, and ending December 31, 2012.[1]

Under Rate Schedule P–SED–F9, 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). Under Rate Schedule P–SED–FP9, the firm peaking capacity rate is $5.10/kWmonth. These Rate Schedules are formula based with Base and Drought Adder components and provide for an up to 2 mills/kWh increase in the Drought Adder rate component.

The current rate adjustment reflects a rate increase based on the P–SMBP Final Fiscal Year 2007 Power Repayment Study (PRS). The PRS sets the total annual P–SMBP—ED revenue requirement for 2009 for firm and firm peaking electric service at $283.0 million, or a 19.9 percent increase. The current rates, including the 2 mills/kWh increase provided for under the Drought Adder formula rate component, are not sufficient to meet the P–SMBP—ED revenue requirements.

The P–SMBP—ED revenue requirement increase is mainly attributed to the economic impacts of the drought. A decrease in hydro-power generation has caused purchase power expense to increase and revenue from

[1] FERC confirmed and approved Rate Order No. WAPA–135 on April 14, 2008, in Docket No. EF08–5031–000. See *United States Department of Energy, Western Area Power Administration, Pick-Sloan Missouri Basin Program*, 123 FERC ¶ 62048 (April 14, 2008).

non-firm energy sales to decrease. There has been an increase in both the price and volume of purchase power needed to meet contractual commitments to Western's customers. The purchase price of power is set by supply and demand on the open market.

The existing firm electric service Rate Schedules P–SED–F9 and P–SED–FP9 are being superseded by Rate Schedules P–SED–F10 and P–SED–FP10, respectively. Under Rate Schedule P–SED–F10, the provisional rates for firm electric services will result in a combined composite rate of 29.34 mills/kWh. The energy rate will be 16.71 mills/kWh (a Base component of 9.27 mills/kWh and a Drought Adder component of 7.44 mills/kWh), and the capacity rate will be $6.80/kWmonth (a Base component of $3.80/kWmonth and a Drought Adder component of $3.00/kWmonth). Under Rate Schedule P–SED–FP10, the provisional rates for firm peaking electric services consist of a capacity charge of $6.20/kWmonth (a Base component of $3.40/kWmonth and a Drought Adder component of $2.80/kWmonth) and an energy charge of 16.71 mills/kWh.

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 the Administrator of Western; (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 FERC. Existing Department of Energy 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 00–001.00C, 10 CFR part 903, and 18 CFR part 300, I hereby confirm, approve, and place Rate Order No. WAPA–140, the proposed P–SMBP—ED firm power, and firm peaking power rates into effect on an interim basis.

The new Rate Schedules P–SED–F10 and P–SED–FP10 will be promptly submitted to FERC for confirmation and approval on a final basis.

Dated: January 8, 2009.

Jeffrey F. Kupfer,

Acting Deputy Secretary.

Department of Energy

Deputy Secretary

In the matter of:

Western Area Power Administration Rate Adjustment for the Pick-Sloan Missouri Basin Program—Eastern Division; Rate Order No. WAPA–140;

Order Confirming, Approving, and Placing the Pick-Sloan Missouri Basin Program—Eastern Division Firm Power and Firm Peaking Power Service Rates Into Effect on an Interim Basis

The firm and firm peaking electric service rates for the Pick-Sloan Missouri Basin Program—Eastern Division were established in accordance with section 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 section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s) 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 the Administrator of Western; (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 Federal Energy Regulatory 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.

Base: Revenue requirement component of the power rate including annual operation and maintenance expenses, investment repayment and associated interest, normal timing power purchases, and transmission costs.

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

Capacity Charge: The rate which sets forth the charges for capacity. It is expressed in dollars per kilowattmonth.

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

Corps: The United States Army Corps of Engineers.

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

Customer: An entity with a contract that is receiving service from Western's Upper Great Plains Region.

Deficits: Deferred or unrecovered annual and/or interest expenses.

DOE: United States Department of Energy.

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

Drought Adder: Formula-based revenue requirement component including costs associated with the drought.

Energy: Measured in terms of the work it is capable of doing over a period of time. It is expressed in kilowatthours.

Energy Charge: The rate which sets forth the charges for energy. It is expressed in mills per kilowatthour and applied to each kilowatthour delivered to each customer.

FERC: Federal Energy Regulatory Commission.

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

FRN: **Federal Register** notice.

Fry-Ark: Fryingpan-Arkansas Project.

FY: Fiscal Year; October 1 to September 30.

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.

LAP: Loveland Area Projects.

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

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

MISO: Midwest Independent Transmission System Operator.

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.*).

Non-timing Power Purchases: Power purchases that are not related to operational constraints such as management of endangered species, species habitat, water quality, navigation, control area purposes, etc.

O&M: Operation and Maintenance.

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

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

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

Power: Capacity and energy.

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

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 (43 U.S.C. 485h(c)) 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.

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.

Rate Brochure: An August 2008 document explaining the rationale and background for the rate proposal contained in this Rate Order.

Reclamation: The 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, and deferred expenses) and repay Federal investments and other assigned costs.

RMR: The Rocky Mountain Customer Service Region of the Western Area Power Administration.

SPP: Southwest Power Pool.

Timing Power Purchases: Power purchases that are due to operational constraints (e.g. management of endangered species, species habitat, water quality, navigation, control area purposes, etc.) and not associated with the drought.

UGPR: The Upper Great Plains Customer Service Region of the Western Area Power Administration.

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

Effective Date

The new provisional rates will take effect on the first day of the first full billing period beginning on or after February 1, 2009, and will remain in effect until December 31, 2013, pending approval by FERC 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. The proposed rate adjustment process began April 9, 2008, when Western's UGPR mailed a notice announcing informal customer meetings to all P–SMBP—ED preference customers and interested parties. The informal meetings were held on April 29, 2008, in Denver, Colorado, and on April 30, 2008, in Sioux Falls, South Dakota. At these informal meetings, Western explained the rationale for the rate adjustment, presented rate designs and methodologies, and answered questions.

2. A **Federal Register** notice, published on August 15, 2008 (73 FR 47945) announced the proposed rates for P–SMBP—ED, began a public consultation and comment period and announced the public information and public comment forums.

3. On August 18, 2008, Western mailed letters to all P–SMBP—ED preference customers and interested parties transmitting the FRN published on August 15, 2008.

4. On August 29, 2008, a letter was mailed to preference customers and interested parties informing them of a $400,000 misstatement in the FRN published revenue requirement.

5. On September 9, 2008, at 9 a.m. (MDT), Western held a public information forum at the Ramada Plaza Hotel in Northglenn, Colorado. Western provided updates to the proposed firm power rates for the P–SMBP, which encompasses the P–SMBP—ED and LAP rates. Western also answered questions and gave notice that more information was available in the rate brochure.

6. On September 9, 2008, at 11:30 a.m. (MDT), following the public information forum, and at the same location, a public comment forum was held. The comment forum gave the public an opportunity to comment for the record. No oral or written comments were received at this forum.

7. On September 10, 2008, at 8 a.m. (CDT), Western held a public information forum at the Holiday Inn in Sioux Falls, South Dakota. Western provided updates to the proposed firm power rates for the P–SMBP, which encompasses the P–SMBP—ED and LAP rates. Western also answered questions and gave notice that more information was available in the rate brochure.

8. On September 10, 2008, at 10:30 a.m. (CDT), following the public information forum, and at the same location, a public comment forum was held. The comment forum gave the public an opportunity to comment for the record. One oral comment was received at this forum.

9. Western provided a Web site which contains all of the letters, time frames, dates, and locations of forums, documents discussed at the information meetings, FRNs, rate brochure, and all other information about this rate process for easy customer access. The Web site is located at *http://www.wapa.gov/ugp/rates/2009FirmRateAdjust*.

10. During the consultation and comment period, which ended November 13, 2008, Western received 17 comment letters. One comment letter was rescinded. Western also received an oral comment. All formally submitted comments have been considered in preparing this Rate Order.

Comments

Written comments were received from the following organizations:

City of Blue Hill, Nebraska.
City of Burwell, Nebraska (2).
City of Fort Morgan, Colorado.
City of Sargent, Nebraska.
City of Wall Lake, Iowa.
City of West Point, Nebraska.
City of Wisner, Nebraska.
City of Wood River, Nebraska.
Corn Belt Power Cooperative, Iowa.
Mid-West Electric Consumers Association, Colorado.
North Iowa Municipal Electric Cooperative Association, Iowa.
Spencer Municipal Utilities, Iowa.
Village of Oxford, Nebraska.
Village of Shickley, Nebraska.
Village of Spencer, Nebraska.
Village of Stuart, Nebraska.

A representative of the following organization made an oral comment:

Minnesota Municipal Utilities, Minnesota.

Project Description

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

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

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

The P–SMBP is administered by two regions. The UGPR, with a regional office in Billings, Montana, markets power from the Eastern Division of P–SMBP, and the RMR, with a regional office in Loveland, Colorado, markets the Western Division power of P–SMBP. The UGPR markets power in western Iowa, western Minnesota, Montana east of the Continental Divide, North Dakota, South Dakota, and the eastern two-thirds of Nebraska. The RMR markets P–SMBP—WD power, which in combination with Fry-Ark power is known as LAP power, in northeastern Colorado, east of the Continental Divide in Wyoming, west of the 101st meridian in Nebraska, and most of Kansas. The P–SMBP power is marketed to approximately 300 firm power customers by the UGPR and approximately 60 firm power customers by the RMR.

Power Repayment Study—Firm Power Rate

Western prepares a PRS each FY to determine if revenues will be sufficient to repay, within the required time, all costs assigned to the P–SMBP. Repayment criteria are based on law, policies including DOE Order RA 6120.2, and authorizing legislation. To meet Cost Recovery Criteria outlined in DOE Order RA 6120.2, a revised study and rate adjustment has been developed to demonstrate that sufficient revenues will be collected under proposed rates to meet future obligations.

Existing and Provisional Rates

Eastern Division

Under Rate Schedule P–SED–F9, the composite rate is 24.49 mills/kWh, the firm energy rate is 13.99 mills/kWh, and the firm capacity rate is $5.65/kWmonth. For Rate Schedule P–SED–FP9 the firm peaking capacity rate is $5.10/kWmonth. These Rate Schedules are formula based with Base and Drought Adder components and provide for an up to a 2 mills/kWh increase in the Drought Adder rate component.

The current rate adjustment reflects a rate increase based on the P–SMBP Fiscal Year 2007 PRS. The PRS sets the total annual P–SMBP—ED revenue requirement for 2009 for firm and firm peaking electric service at $283.0 million, or a 19.9 percent increase.

A comparison of the existing and provisional firm power and firm peaking power rates follow:

TABLE 1—COMPARISON OF EXISTING AND PROVISIONAL RATES PICK-SLOAN MISSOURI BASIN PROGRAM—EASTERN DIVISION

Firm electric service	Current rates	Provisional rates	Percent change
Rate Schedules	P–SED–F9/P–SED–FP9	P–SED–F10/P–SED–FP10	
Firm and Firm Peaking Revenue Requirement (million)	$235.9	$283.0	19.9
Composite Rate (mills/kWh)	24.49	29.34	19.8
Firm Capacity Rate (/kWmonth)	$5.65	$6.80	20.4
Firm Energy Rate (mills/kWh)	13.99	16.71	19.4
Firm Peaking Capacity Rate (/kWmonth)	$5.10	$6.20	21.6
Firm Peaking Energy Rate (mills/kWh)[1]	13.99	16.71	19.4

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

Western Division

The LAP rate is designed to recover the P–SMBP—WD revenue requirement for the P–SMBP and the revenue requirement for Fry-Ark. The adjustment to the LAP rate is a separate formal rate process which is documented in Rate Order No. WAPA–142. Rate Order No. WAPA–142 is scheduled to go into effect on the first day of the first full billing period after the Acting Deputy Secretary of Energy approves the rate.

Certification of Rates

Western's Administrator certified that the Provisional Rates for P–SMBP—ED firm power and firm peaking power rates are the lowest possible rates consistent with sound business principles. The Provisional Rates were developed following administrative policies and applicable laws.

P–SMBP—ED Firm Power Rate Discussion

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

The P–SMBP—ED firm power and firm peaking power rates must be increased due to the economic impact of the drought, increased annual expenses, increased investments, and increased interest expense associated with deficits.

Under Rate Schedule P–SED–F10, Western will continue identifying its firm electric service revenue requirement using Base and Drought Adder rate components. 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 Base component cannot be adjusted by Western without a public process.

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 power purchases to meet firm power contractual 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 deficit. The Drought Adder rate component is designed to repay Western's drought deficit within 10 years from the time the debt was incurred, using balloon-payment methodology. For example, the drought deficit 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 Provisional Rate, effective February 1, 2009, the P–SMBP—ED annual revenue requirement equals $294.1 million and is comprised of a Base revenue requirement of $163.5 million plus a Drought Adder revenue requirement of $130.6 million. Both the Base and Drought Adder rate components recover portions of the firm power revenue requirement, firm peaking power, and associated 5 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 P–SED–F9/P–SED–FP9			Provisional rates P–SED–F10/ P–SED–FP10		
	Base component	Drought adder component	Total	Base component	Drought adder 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.

As set forth in Table 2 above, provisional Rate Schedule P–SED–F10 has a firm capacity rate of $6.80/ kWmonth and a firm energy rate of 16.71 mills/kWh. Under proposed Rate Schedule P–SED–FP10, the firm peaking capacity rate will increase to $6.20/ kWmonth, or a 21.6 percent increase. 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 presenting the effects of the drought within the P–SMBP, demonstrating repayment of the drought related costs, and allowing Western to be more responsive to changes in drought related expenses. Western will continue to charge and bill 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. If drought costs differ, Western will determine if an adjustment 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. Western will verify the final Drought Adder rate component adjustment by 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.

Western's current and Provisional Rate schedules provide 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 initiating a public process to recover costs attributable to the Drought Adder formula rate for any one-year cycle.

Statement of Revenue and Related Expenses

The following Table 3 provides a summary of projected revenue and expense data for the total P–SMBP, including both the Eastern and Western Divisions, firm electric service revenue requirement through the 5-year rate approval period.

The firm power rates for both divisions have been developed with the following revenues and expenses for the P–SMBP:

TABLE 3—TOTAL P–SMBP FIRM POWER COMPARISON OF 5-YEAR RATE PERIOD (FY 2009–2013) TOTAL REVENUES AND EXPENSES

	Current rate ($000)	Provisional rate ($000)	Difference ($000)
Total Revenues	2,124,002	2,417,497	293,495
Revenue Distribution			
Expenses:			
O&M	904,589	859,559	(45,030)
Purchased Power	155,654	431,180	275,526
Interest	528,272	639,356	111,084
Transmission	55,596	65,963	10,367
Total Expenses	1,644,111	1,996,058	351,947
Principal Payments:			
Capitalized Expenses (Deficits)[1]	150,549	351,517	200,968
Original Project and Additions[1]	263,052	1,546	(261,506)
Replacements[1]	3,314	2,704	(610)
Irrigation Aid	62,976	65,672	2,696
Total Principal Payments	479,891	421,439	(58,452)
Total Revenue Distribution	2,124,002	2,417,497	293,495

[1] Due to the deficit or near deficit conditions between 1999 and 2008, revenues generated in the cost evaluation period are applied toward repayment of deficits rather than repayment of project additions and replacements. All deficits are projected to be repaid by 2017.

Basis for Rate Development

The existing rates for P–SMBP—ED firm power in Rate Schedule P–SED–F9, which expire December 31, 2012, no longer provide sufficient revenues to pay all annual costs, including interest expense, and repay investment and irrigation aid within the allowable period. The adjusted rates reflect increases due to the economic impact of the drought, increased annual expenses, increased investments, and increased interest expense associated with investments and drought deficits. The Provisional Rates will provide sufficient revenue to pay all annual costs, including interest expense, and repay power investment and irrigation aid within the allowable periods. The Provisional Rates will take effect on February 1, 2009, and will remain in effect on an interim basis, pending FERC's confirmation and approval of them or substitute rates on a final basis, through December 31, 2013.

Emergency Fund Discussion

Due to continuing below-normal hydropower generation, 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 current repayment policy.[2]

Comments

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

The issues discussed are (1) Firm Power Rate and (2) MISO Markets.

1. Firm Power Rate

Comment: Western received numerous comments from customers stating that they understand the need for the rate increases and support the concept of the Drought Adder, which provides a set window during which drought-related expenses are repaid.

Response: Western appreciates the customer support received for the rate adjustment proposal. Western continues separation of the annual revenue requirement into Base and Drought Adder components.

Comment: Many comments were received from customers that showed appreciation for Western's commitment to keep power customers informed and involved throughout this rate process. Customers were grateful for past cost-cutting measures and encouraged Western's continued vigilance in keeping controllable costs as low as possible.

Response: Western is pleased with the level of customer interest and participation in the public meetings. Under the Flood Control Act of 1944, power is to be sold at the lowest possible rates consistent with sound business principles. Western is committed to keeping controllable costs as low as possible while continuing to deliver reliable cost-based hydroelectric power and related services.

Comment: Customers state that they are looking forward to working with Western's staff on the projected Base rate adjustments as they pertain to Western's draft Strategic Plan and Western's potential involvement in changes associated with MISO and SPP.

Response: Western's goal is to work closely with our customers throughout this rate, as well as any future rate adjustments. Changes to the Base Rate are made through a public process and allow for input.

Comment: Two customers were opposed to the firm peaking rate and questioned whether it reflects the costs associated with the drought and delivery of peaking power. It was noted that the firm peaking rate is being increased at approximately the same percentage rate as the firm power rate, which the commenting customers felt may not be fair and equitable. These customers wanted additional information regarding the firm peaking contracts so the impact on the rates can be better understood and evaluated. It was understood that Western allows peaking energy to be returned. They questioned under what terms and

[2] Western's Continuing Fund (Emergency Fund) Policy can be found at *http://www.wapa.gov/powerm/pdf/repaypolicy.pdf.*

conditions peaking customers are allowed to return energy and whether peaking energy is allowed to be returned off-peak. Customers asked if Western makes market purchases to fulfill Western's peaking contracts. The customers asked for assurance from Western that the firm peaking rate is fairly priced based on the nature of the product and its historical and future contributions to the bottom line.

Response: Western separated the firm and firm peaking rates and developed rate designs for both firm power and firm peaking power in the FRN published November 14, 2007 (72 FR ¶ 64067). In development of this firm peaking rate design, Western analyzed historical peaking data and concluded that this rate reflects the firm peaking customer's historical usage and their impact on the drought costs. During the current rate adjustment process, Western concluded that there has not been substantial change to the firm peaking usage or power markets since the introduction of the new firm peaking rate design that would support revisiting the rate design at this time. Western believes that both the firm and firm peaking customers are being treated equitably with the current rate designs. The firm peaking rate design accurately reflects the value and restrictions of the peaking product.

Comment: One customer would like to evaluate the voltage discount and was concerned that it may be too high in light of the recent drought-related increases. The concern was that billing amounts have grown since the voltage discount was put into place and now the discount may be too much in comparison to the actual cost.

Response: Historically, Western has provided a 5-percent voltage discount as a provision to the firm power rate schedule. The purpose of the discount is to provide the discount on firm power sales to customers who receive deliveries at higher transmission voltage and relieve Western of substation delivery costs. Reclamation began, and Western continues, the 5-percent voltage discount to customers meeting the criteria. Up to this time, Western has not been formally asked to change the discount percentage and has not evaluated the impacts of such a change on the firm power customers. Western is open to discussion among our customers and exploring options regarding the 5-percent voltage discount; but until additional customers request a review or modification of this provision, Western will continue applying the discount.

Comment: One customer recognized the impacts that the extended drought has had on the current financial status of the P–SMBP and expressed support for the proposed firm power rate increases. The customer also stated that the repayment of Federal investment through Federal power rates is taken very seriously. In the future, the Drought Adder will help to avoid a repetition of the financial impacts that are seen today.

Response: Western acknowledges the extended drought, its financial impacts, and the need for a firm power rate increase as well. The Drought Adder will allow Western to be more responsive to the changing hydrological conditions.

Comment: A customer representative acknowledged the financial challenges of this drought and made note of the difficulties Federal power customers are confronted with in fulfilling their financial responsibilities to the Federal government. They noted the good water years in the 1990s generated significant revenue surplus to P–SMBP financial requirements. Also noted was Western's administration of repayment according to repayment policies and the repayment of a significant amount of capital investment ahead of schedule. This early repayment benefitted both P–SMBP customers and the Federal government but left no financial resources to deal with drought. Thus, the current repayment practices and policies exacerbate the impacts of the natural swings in hydrology. When the drought deficit is repaid, there will still be a substantial amount of paid-ahead investments for the P–SMBP. The customer would like to work with Western to address this issue.

Response: Western acknowledges the financial impacts of the current drought and believes the ratemaking policy of identifying the Base and Drought Adder components will make the rates more responsive to hydrological changes caused by both drought and flush water years. The Drought Adder component may be adjusted annually up to 2 mills/kWh without a public process to quickly address drought impacts, and the Base Rate component can only be adjusted through a public process. This practice will lower interest expense due to drought deficits and demonstrate responsible deficit management. Western acknowledges the customer group statements regarding Western's adherence to repayment policies and the associated repayment of a significant amount of capital investment ahead of schedule in the 1990s. Prepayment is an integral part of the long-term plan for P–SMBP and has provided rate stability for consumers while meeting Federal repayment obligations. The ability to reduce the Drought Adder rate component when normal hydrological conditions return to P–SMBP will allow appropriate recognition of repayment obligations. Western appreciates the customers' support and willingness to work with Western and will continue to discuss issues, impacts, and possible solutions with the customers.

2. MISO Markets

Comment: Western has received numerous comments concerning the issue of whether to join MISO and its Day Two Markets. The comments support a thorough review of costs and benefits to all of Western's customers before a change is made. Comments suggest that administrative costs associated with the Day Two Markets may impose a significant burden, especially on smaller customers. There were concerns that if Western joins MISO and other area transmission owners that serve the customers join SPP there could be significant cost issues associated with the delivery of Western's allocation to Preference customer loads. Comments stated that if there are benefits to participating in the Day Two Market those benefits should flow to all of Western's customers, not just those that participate in joint dispatching arrangements inside the Integrated System. Concerns are that costs associated to deliver Western's allocations to the edge of the system should be recovered as part of the total system transmission rate recovery, as it has been done in the past.

Response: This comment is not directly related to the proposed rate action. However, Western is actively addressing these issues as well as other options and evaluating them based on costs and benefits to Western's customers.

Comment: A commenter noted that MISO intends to start an ancillary service market; and when that occurs, Western has preference power customers that are served in the MISO footprint. The question was asked does Western have avoided costs due to the MISO market providing those ancillary services; specifically, are there avoided costs in Schedule 3, Regulation and Frequency Response; Schedule 5, Operating Reserves Spinning; and Schedule 6, Operating Reserves Supplemental.

Response: This comment is not directly related to the proposed rate action. Western is actively evaluating its obligations to customers in the MISO Ancillary Services Market footprint. As Western moves forward in evaluating the impacts on market participation and changes for customers, Western will seek input from customers and will continue to keep customers informed of decisions regarding these matters.

Availability of Information

Information about this rate adjustment, including the PRS, comments, letters, memorandums, and other supporting materials that was used to develop the Provisional Rates is available for public review in the Upper Great Plains Regional Office, Western Area Power Administration, 2900 4th Avenue North, Billings, Montana.

Ratemaking Procedure Requirements

Environmental Compliance

In compliance with the National Environmental Policy Act (NEPA) of 1969, 42 U.S.C. 4321–4347; 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 of an environmental assessment or an environmental impact statement.

Determination Under Executive Order 12866

Western has an exemption from centralized regulatory review under Executive Order 12866; accordingly, no clearance of this notice by the Office of Management and Budget is required.

Submission to the Federal Energy Regulatory Commission

The Provisional Rates herein confirmed, approved, and placed into effect, together with supporting documents, will be submitted to FERC 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 February 1, 2009, Rate Schedules P–SED–F10 and P–SED–FP10 for the Pick-Sloan Missouri Basin Program—Eastern Division Project of the Western Area Power Administration. These rate schedules shall remain in effect on an interim basis, pending FERC's confirmation and approval of them or substitute rates on a final basis through December 31, 2013.

Dated: January 8, 2009.

Jeffrey F. Kupfer,

Acting Deputy Secretary.

Rate Schedule P–SED–F10
(Supersedes Schedule P–SED–F9)
Effective February 1, 2009

United States Department of Energy, Western Area Power Administration

Pick-Sloan Missouri Basin Program—Eastern Division Montana, North Dakota, South Dakota, Minnesota, Iowa, Nebraska

Schedule of Rates for Firm Power Service

(Approved Under Rate Order No. WAPA–140)

Effective: The first day of the first full billing period beginning on or after February 1, 2009, through December 31, 2013.

Available: Within the marketing area served by the Eastern Division of the Pick-Sloan Missouri Basin Program.

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

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

Monthly Rates

Demand Charge: $6.80 for each kilowatt per month (kWmonth) of billing demand.

Energy Charge: 16.71 mills per kilowatthour (kWh) for all energy delivered as firm power service.

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

Charge Components

Base: A fixed revenue requirement that includes operation and maintenance expense, investments and replacements, interest on investments and replacements, normal timing purchase power costs (purchases due to operational constraints, not associated with drought), and transmission costs. The Base revenue requirement is $163.5 million.

$$\text{Base Demand} = \frac{50\% \times \text{Base Revenue Requirement}}{\text{Firm Metered Billing Units}} = \$3.80/\text{kW month}$$

$$\text{Base Energy} = \frac{50\% \times \text{Base Revenue Requirement}}{\text{Annual Energy}} = \$9.27 \text{ mills/kWh}$$

Drought Adder: A formula-based revenue requirement that includes future purchase power expense excluding timing purchases, previous purchase power drought deficits, and interest on the purchase power drought deficits. For the period beginning February 1, 2009, the Drought Adder revenue requirement is $130.6 million.

$$\text{Drought Adder Demand} = \frac{50\% \times \text{Drought Adder Revenue Requirement}}{\text{Firm Metered Billing Units}} = \$3.00/\text{kW month}$$

$$\text{Drought Adder Energy} = \frac{50\% \times \text{Drought Adder Revenue Requirement}}{\text{Annual Energy}} = \$7.44 \text{ mills/kWh}$$

Process: Any proposed change to the Base component will require a public process. The Drought Adder component may be adjusted annually using the above formula for any costs attributed to drought of less than or equal to the equivalent of 2 mills/kWh to the Power Repayment Study (PRS) composite rate. Any planned incremental adjustment to the Drought Adder component greater than the equivalent of 2 mills/kWh to the PRS composite rate will require a public process.

Adjustments

For Drought Adder: Adjustments pursuant to the Drought Adder component will be documented in a revision to this rate schedule.

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

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

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

Rate Schedule P–SED–FP10

(Supersedes Schedule P–SED–FP9)
Effective February 1, 2009

United States Department of Energy, Western Area Power Administration

Pick-Sloan Missouri Basin Program—Eastern Division Montana, North Dakota, South Dakota, Minnesota, Iowa, Nebraska;

Schedule of Rates for Firm Peaking Power Service

(Approved Under Rate Order No. WAPA–140)

Effective: The first day of the first full billing period beginning on or after February 1, 2009, through December 31, 2013.

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

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

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

Monthly Rates

Demand Charge: $6.20 for each kilowatt per month (kWmonth) of the effective contract rate of delivery for peaking power or the maximum amount scheduled, whichever is greater.

Energy Charge: 16.71 mills for each kilowatthour (kWh) for all energy scheduled for delivery without return.

Charge Components

Base: A fixed revenue requirement that includes operation and maintenance expense, investment and replacements, normal timing purchase power costs (purchases due to operational constraints, not associated with drought), and transmission costs. The Base peaking revenue requirement is $14.5 million.

$$\text{Base Demand} = \frac{\text{Base Peaking Demand Revenue Requirement}}{\text{Peaking CROD Billing Units}} = \$3.40/\text{kW month}$$

Energy [1] = 9.27 mills/kWh

Drought Adder: A formula-based revenue requirement that includes future purchase power above timing purchases, previous purchase power drought deficits, and interest on the purchase power drought deficits. For the period beginning February 1, 2009, the Drought Adder peaking revenue requirement is $12.0 million.

$$\text{Drought Adder Demand} = \frac{\text{Drought Adder Peaking Demand Revenue Requirement}}{\text{Peaking CROD Billing Units}} = \$2.80/\text{kW month}$$

Energy [1] = 7.44 mills/kWh

Process:

Any proposed change to the Base component will require a public process. The Drought Adder component may be adjusted annually using the above formula for any costs attributed to drought of less than or equal to the equivalent of 2 mills/kWh to the Power Repayment Study (PRS) composite rate. Any planned incremental adjustment to the Drought Adder component greater than the equivalent of 2 mills/kWh to the PRS composite rate will require a public process.

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

Adjustments

For Drought Adder: Adjustments pursuant to the Drought Adder component will be documented in a revision to this rate schedule.

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

[FR Doc. E9–892 Filed 1–15–09; 8:45 am]

BILLING CODE 6450–01–P

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

ENVIRONMENTAL PROTECTION AGENCY

[AMS–FRL–8762–9]

California State Nonroad Engine and Vehicle Pollution Control Standards; Authorization of Transport Refrigeration Unit Engine Standards, Notice of Decision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Decision for Authorization of California Transport Refrigeration Unit In-use Engine Emission Standards.

SUMMARY: EPA today, pursuant to section 209(e) of the Clean Air Act (Act), 42 U.S.C. 7543(e), is granting California its request for authorization to enforce its Airborne Toxic Control measure (ATCM) establishing in-use emission performance standards for engines in