

Trinity Public Utility District (California).

Below are the paraphrased comments Western received and Western's responses to those comments. Specific comments are used for clarification when necessary.

A. Definition and Usage of the Terms

Comment: There was some confusion with respect to the definition and usage of the term "Total Power Restoration Fund Payment Obligation" as articulated in the proposed procedures. The definition intended to describe the payments collected from both Water and Power Contractors and yet the definition title only included power. Further, the use of this term confuses the meaning of the first section of the proposed procedures as to when Western is referring to the Water and Power contractors. The commentor requested clarification on the use of this term.

Response: Western evaluated the use of this term throughout the proposed procedures. The definition, as well as the usage of this term, was changed to clarify its usage and is reflected in the final procedures.

Comment: The commentor requested the inclusion of the ancillary service, regulation, in the definition of the Base Resource. Western should consider defining the Base Resource as only those resources that produce power from CVP and Washoe operations, as well as the Enron contract, and that no other products will be considered as part of the 2004 Power Marketing Plan Base Resource.

Response: The 2004 Marketing Plan (64 FR 34417) as well as the Base Resource Contracts have consistently defined the Base Resource " * * * as the CVP and Washoe Project power output and any additional purchases (as determined by Western) to be available for marketing after meeting the requirements of Project Use and First Preference customers and any other adjustments required for maintenance, reserves, transformation losses and [certain] ancillary services." While the Base Resource contracts do include the term "regulation" in this definition, Western believes that this service is covered by the 2004 Marketing Plan's definition under " * * * certain ancillary services." Western proposes to change the method for Restoration Fund collections due to the publication of the 2004 Marketing Plan. Western wishes to maintain definition consistency and, therefore, intends to use the same definition for Base Resource as indicated in the 2004 Marketing Plan and the Base Resource Contracts.

B. Inclusion of the PRPO in Western's Power Rate

Comment: Western should consider including the PRPO as part of the CVP revenue requirement and include it in the power rates.

Response: The Secretary of the Interior, through Reclamation, is responsible for assessing and collecting the mitigation and restoration payments from CVP Power and Water contractors. Since Reclamation does not have a formal business relationship with CVP Power Contractors, Western entered into a written agreement with Reclamation that establishes procedures to deposit the Restoration Fund Payments collected from CVP Power Contractors into the Restoration Fund. With regard to Restoration Fund collections, Western acts only as a billing agent on behalf of Reclamation. However, Western does not assume any financial liability for balances which are not collected from the CVP Power Contractors. All legal actions for the collection of Restoration Payments owed by Power Contractors will be initiated by Reclamation in cooperation with Western. Therefore, Western believes it is inappropriate to include the PRPO in the CVP power rate.

C. Allocating the PRPO

Comment: The 2004 Marketing Plan allocates power to the Power Contractors as the Base Resource only after meeting the requirements of Project Use and the First Preference Customers and any adjustments for maintenance, reserves, transformation losses, and certain ancillary services. Depending on reservoir levels, hydrology and water conditions, and Reclamation's water deliveries, there could be times when the Power Contractors receive little or no power benefit from CVP. The commentor stated that during these times, the only beneficiaries of CVP power are the water contractors, and they should pay the full burden of the Restoration Fund. The commentor suggested that instead of using the Power Contractor's Base Resource Percentage as the determinant for assessing an individual Power Contractor, Western should use the actual energy used by the Power Contractor.

Response: The PRPO due from the Power Contractors each year is assessed by Reclamation. Through the Letter of Agreement, Western has agreed to collect the PRPO from the Power Contractors regardless of the amount of power received from CVP resources. Therefore, even if Western were to base a Power Contractor's PRPO obligation

on power deliveries, which is similar to the methodology used by Western in the 1998 procedures, Western would have to reduce the billing determinants and increase the Restoration Fund multipliers in order to collect the full PRPO. The end result would be the same. As a billing agent for Reclamation, this role does not afford Western the authority, nor the right, to change the amount assessed to CVP Water customers from the Total Restoration Fund Payment Obligation. Given these circumstances and in an effort to stabilize the Power Contractors' payments, Western proposed a method of calculation based on the Power Contractor's individual Base Resource percentages multiplied by the PRPO.

Comment: Several commentors advocated support of the proposed methodology to use a Power Contractor's Base Resource percentage as the basis for Restoration Fund payments.

Response: Western considered the comments provided on the allocation methodology and agrees with using the Base Resource percentage in the final procedures.

D. Year-end Reconciliation Process

Comment: Western should provide further clarification on the program year and billing months for the year-end reconciliation process as it relates to the Exchange Program. One commentor suggested changing the computation to include exchanges for all 12 months of the fiscal year, rather than exchanges that occur from October through July.

Response: Western intends the year-end reconciliation process to assist in rectifying underpayment made by recipients of exchange energy and overpayments by other Power Contractors. Throughout the year, after Western prepares the monthly power bills, Western will track the amount of exchange energy used and given up by respective Power Contractors. In a typical year, this tracking system will begin with power deliveries for a 12-month period from the July to June service months. In the first year of implementation, the transition year, the tracking system will capture exchange energy associated with power deliveries during the January 1, 2005, through the June 2005 service period. This tracking system will culminate in a year-end reconciliation process that will result in a true-up on August's Restoration Fund bills. Depending on a Power Contractor's net usage of the Exchange Program, there will be either an additional charge or a credit applied to August's Restoration Fund bill. Western considered conducting a monthly