

would significantly affect power costs while adding very little to the resource pool. These commenters suggested exempting small customers from an allocation reduction.

Western considered special provisions for small contractors during the PMI's development in the early 1990s. The initial PMI proposal (56 FR 16093, April 19, 1991) called for exempting contractors with allocations under 1 MW. However, Western ultimately rejected the idea based on fairness and equity. Such an exemption is also inconsistent with other contract provisions, which do not exempt small contractors from resource withdrawals for project use power or due to changes in operations and hydrology. Small customers will, however, benefit from a much smaller reduction of their P-DP resources due to the increase in marketed project capacity. While allocations of less than 2 MW will be rounded up, Western is taking that action to mitigate its exposure to purchase capacity when the sum of contractors' bulk schedules exceeds the total project CROD, particularly during summer peak usage months.

Withdrawable and Nonwithdrawable Power

Background: P-DP allocations consist of two types of firm power: withdrawable and nonwithdrawable. Power designated "withdrawable" may be taken from contractors should the Bureau of Reclamation, U.S. Department of the Interior, determine a need for additional project use power. The Consolidated Marketing Criteria (49 FR 50582, 50586, December 28, 1984) states,

Power that is reserved for United States priority use, but not presently needed, is marketed to some of the Parker-Davis Project contractors as withdrawable power.

Reclamation may request priority use withdrawals upon 2 years' notice. Western will then substantiate the request. Some contractors' allocations contain only nonwithdrawable power; others contain both withdrawable and nonwithdrawable. Determining the mix of resources in the pool will affect both new and existing P-DP contractors.

Comments and discussion: Several commenters suggested creating the resource pool using only the nonwithdrawable part of the project's generation. Several others asked Western to only use withdrawable power whenever possible. Still others said Western should use withdrawable energy for the pool wherever possible and redesignate it as nonwithdrawable. Some commenters said no withdrawals

have been made for at least 15 years, and that it is doubtful future withdrawals will be necessary. However, priority use power recipients said they will need both current and future project use withdrawals for the Yuma area. Another commenter contended that all P-DP power is withdrawable.

The Bureau of Reclamation is responsible for defining priority use requirements and for determining the amount of withdrawable power for the P-DP. When priority use power is requested, Western substantiates the requirements and makes the withdrawals. In its letter responding to Western's proposal to apply the PMI to P-DP (dated November 19, 2002), Reclamation stated,

Reclamation today is unable to precisely identify the electric requirements of pumping that may be required Post 2008. There are prospective Reclamation plans which, consistent with the Gila Project Act and Yuma Project Act and the other Acts affecting the responsibility of Reclamation under the law, may require additional project pumping.

When reducing existing allocations for the post-2008 marketing period, Western will first take energy from contractors' withdrawable allocations up to the total reduction, when available. The remaining reductions will come from nonwithdrawable energy. This approach will create a resource pool with 5.11 percent withdrawable energy in summer. Using this procedure to reduce existing allocations, withdrawable energy in summer will make up 6.26 percent of the total allocation to Western's existing contractors. Western believes that reducing existing contractors' withdrawable energy first will result in a more equitable distribution of withdrawable and nonwithdrawable energy among current and new contractors. Using this process, the amount of withdrawable energy in the resource pool will more closely reflect the percentage of withdrawable and nonwithdrawable power in existing allocations.

Undepreciated Replacement Advances

Background: In the August 8, 2002, FRN (67 FR 51580), Western proposed that as provided in the current P-DP Advancement of Funds (AOF) contract, new customers will be required to reimburse existing customers for undepreciated replacement advances, to the extent existing customers' allocations are reduced as a result of creating the resource pool.

Comments and discussion: Several commenters asked Western to apportion the required advanced funding

payments for undepreciated replacement expenses over time to avoid a financial burden for new customers. Western's Advancement of Funds contract (98-DSR-10870) already includes this provision in section 15.7. The contract states that Western will collect AOF payments from new contractors incrementally until the surcharge obligation has been satisfied. The collection begins 120 days after the effective date of the contract that carries out the withdrawal or reallocation of power. Western then pays the contractors that advanced the funds in five annual payments, beginning on the first anniversary of the withdrawal or reallocation.

Advance Funding

Background: In the August 8, 2002, FRN (67 FR 51580), Western proposed that customers who receive an allocation will also be required to participate in advance funding of Western's and the Bureau of Reclamation's operation and maintenance expenses.

Comments and discussion: Western received no comments on this requirement, so advance funding will be included as a requirement in the contracts.

Imperial Irrigation District's Allocation

Background: Several commenters have argued that Imperial Irrigation District (IID) should forfeit 15 MW of its P-DP allocation based on the Bureau of Reclamation's 1948 allocation of Davis Dam power that potentially subjected half of IID's 30-MW allocation to recapture when Pilot Knob Powerplant became operational. However, in 1954 the Bureau of Reclamation determined that the recapture of the 15 MW was not warranted. IID has been allocated at least 30 MW in all subsequent P-DP marketing actions.

Comments and discussion: Western received several requests to reduce Imperial Irrigation District's (IID) allocation by 15 MW. Western has reviewed the issue and has determined that there was, and is, no legal requirement for the Bureau of Reclamation or Western to reduce IID's allocation. IID's contract will be extended on the same basis as all other P-DP contracts.

Colorado River Commission's Allocation

Background: The Colorado River Commission (CRC) resells P-DP power to five manufacturing companies. This action has led to allegations that CRC is violating long-standing provisions of Reclamation Law by reselling its P-DP