

the Malin-Round Mountain transmission line would continue to be coordinated between CAISO and BPA. Western recommends that under this alternative, the CAISO continue as the path operator for the COI, with full visibility for all the schedules and the ability to curtail schedules if reliability is threatened.

Other Considerations

In determining which alternative to implement, a major consideration for SNR and its customers is the cost of each alternative. Under the Participating TO alternative, customers would be subject to CAISO charges associated with deliveries of Federal power. Under the MSS alternative, certain CAISO charges would be avoided if a customer is included in the MSS. Under the control area alternative, certain CAISO charges would be avoided by customers within the control area and possibly imbalance charges can be avoided through the use of dynamic scheduling for off-system customers. The costs and benefits of each option are being assessed through a study being performed by a consultant for Reclamation. The results of this study are expected to be available by the time the Public Information Forum announced in this notice is held.

Implementing the MSS alternative would result in different cost-of-service rates for transmission service for entities directly connected to the Federal transmission system and those entities served from the CAISO-controlled grid. In some instances, the expected increase in costs, especially for Federal end use loads served on the CAISO-controlled grid, could be substantial. Since the CAISO levies charges based on the net load in its MSS option, there may be certain opportunities to use Federal hydropower resources of the CVP to meet load requirements of the MSS participants and, thus, mitigate any cost increases associated with the use of the CAISO-controlled grid. From the standpoint of the CAISO, implementation of this option would keep most of its existing operating procedures intact and would ensure that its costs are recovered from CVP users.

If the control area formation option is selected, there still could be impacts to others even though mitigation efforts are undertaken. Scheduling and operational complexity associated with management of the three-line COI system could result. SNR recommends that the CAISO continue to serve as the single Path Operator for the COI for operational continuity and to assure that impacts are minimized to the maximum extent possible.

Under the control area formation proposal, differential transmission rates could still accrue between customers directly connected to the Federal transmission system and those who are served by the CAISO-controlled grid. If cost-of-service rates to CAISO-controlled grid users are mitigated, this would result in cost shifts to others. Cost shifts could result to other users connected directly to the Federal transmission system or to entities seeking transmission service either on or through Western's transmission system to the CAISO-controlled grid. Finally, to the extent that a new control area is formed, fixed expenses associated with operation of the CAISO would have to be recovered from a smaller base and, consequently, average unit costs for the remaining participants in the CAISO could increase.

Representatives from SNR will describe the above alternatives and the results of the cost/benefit study at the Public Information Forum. Western will accept public comments on the alternatives presented at the Public Comment Forum. SNR will accept additional written comments until the end of the comment period.

Consistency with Federal Law

Western will evaluate how Federal law will impact each of the alternatives. Western is governed by numerous Federal laws such as the Federal Reclamation Law. The Federal Reclamation Law requires the sale of Federal power be sold to Preference customers. Western implements such sales through a Federal marketing plan under the Administrative Procedure Act. The sale of Federal power must not impair the primary purposes of the CVP. The marketing plans have the full force and effect of law. The alternatives must be consistent with Western's obligations under Federal law including Western's Marketing Plan. For instance, if Western were to become a Participating TO, it is conceivable that situations could arise where Western would be unable to deliver Federal Preference Power to Federal customers even where adequate Federal transmission capability was available to serve the Federal customer. While the CAISO Tariff provides a waiver for Federal entities if a provision of the Tariff conflicts with the Federal law, Western must still work out the specific details on a case-by-case basis whenever such conflicts arise.

Regulatory Procedure Requirements

Regulatory Flexibility Analysis

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601, *et seq.*) requires Federal

agencies to perform a regulatory flexibility analysis if a final rule is likely to have a significant economic impact on a substantial number of small entities and there is a legal requirement to issue a general notice of proposed rulemaking. Western has determined that this action does not require a regulatory flexibility analysis since it is a rulemaking of particular applicability involving services applicable to public property.

Environmental Compliance

Under the National Environmental Policy Act (NEPA) (42 U.S.C. 4321, *et seq.*), Council on Environmental Quality NEPA implementing regulations (40 CFR part 1500–1508), and DOE NEPA implementing regulations (10 CFR part 1021), Western completed an environmental impact statement (EIS) on its Energy Planning and Management Program. The Record of Decision was published in the **Federal Register** (60 FR 53181, October 12, 1995).

Western also completed the 2004 Power Marketing Program EIS (2004 EIS), and the Record of Decision was published in the **Federal Register** (62 FR 22934, April 28, 1997). The Marketing Plan falls within the range of alternatives considered in the 2004 EIS. This NEPA review identified and analyzed environmental effects related to the Marketing Plan. Available reservoir storage and water releases controlled by Reclamation influence marketable CVP and Washoe Project electrical capacity and energy. Reclamation completed a programmatic Environmental Impact Statement (PEIS) under the CVP Improvement Act of 1992 (Pub. L. 102–575, Title 34) on October 1999. Actions based on the PEIS may result in modifications to CVP facilities and operations that would affect timing and quantity of electric power generated by the CVP. Such changes may affect electric power products and services marketed by SNR. The Marketing Plan has the flexibility to accommodate these changes. Western was a cooperating agency in Reclamation's PEIS process.

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.

Small Business Regulatory Enforcement Fairness Act

Western has determined that this rule is exempt from congressional notification requirements under 5 U.S.C.