

F. Energy provided with firm power will be based upon the customer's monthly system load pattern.

G. Any electric service contract offered to a new customer will be executed by the customer within 6 months of a contract offer by Western, unless otherwise agreed to in writing by Western.

H. The resource pool will be dissolved subsequent to the closing date of the last qualified applicant to execute their respective firm power contract. Firm power not under contract will be used in accordance with the Program.

I. The minimum allocation will be 100 kilowatts (kW).

J. The maximum allocation for qualified utility and non-utility applicants will be 5,000 kW.

K. Contract rates of delivery will be subject to adjustment in the future as provided for in the Program.

L. If unanticipated obstacles arise to delivering hydropower benefits to Native American tribes, Western retains the right to provide the economic benefits of its resources directly to these tribes.

IV. General Contract Principles

Western will apply the following general contract principles to all applicants receiving an allocation of firm power under the Post-2005 Resource Pool Allocation Procedures.

A. Western will reserve the right to reduce a customer's summer season contract rate of delivery by up to 5 percent for new project pumping requirements, by giving a minimum of 5 years' written notice in advance of such action.

B. Western, at its discretion and sole determination, reserves the right to adjust the contract rate of delivery on 5 years' written notice in response to changes in hydrology and river operations. Any such adjustments will only take place after a public process by Western.

C. Each allottee is ultimately responsible for obtaining its own third-party delivery arrangements, if necessary. Western may assist allottees in obtaining third-party transmission arrangements for delivering firm power allocated under these procedures to new customers.

D. Contracts entered into under the Post-2005 Resource Pool Allocation Procedures provide for Western to furnish firm electric service effective from January 1, 2006, through December 31, 2020.

E. Contracts entered into as a result of these procedures will incorporate Western's standard provisions for power sales contracts, integrated resource

planning and the general power contract provisions.

F. Contracts entered into will include provisions for a reduction of up to 1 percent of the current contracted rate of delivery effective January 1, 2011, in accordance with the Program.

V. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act, 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 this action does not require a regulatory flexibility analysis since it is a rulemaking about rates or services for public property.

VI. Small Business Regulatory Enforcement Fairness Act

Western determined this rule is exempt from congressional notification requirements under 5 U.S.C. 801 because the action is a rulemaking of particular applicability relating to rates or services and involves matters of procedure.

VII. Determination Under Executive Order 12866

DOE has determined this is not a significant regulatory action because it does not meet the criteria of Executive Order 12866, 58 FR 51735. Western has an exemption from centralized regulatory review under Executive Order 12866; so, this notice requires no clearance by the Office of Management and Budget.

Dated: November 17, 2003.

Michael S. Hacsakaylo,

Administrator.

[FR Doc. 03-29986 Filed 12-1-03; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY

Western Area Power Administration

Operational Alternative for Post-2004 Operations

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of proposed decision.

SUMMARY: The Western Area Power Administration (Western), a Federal power marketing administration within the Department of Energy (DOE), markets Federal power from the Central Valley and Washoe projects through the

Sierra Nevada Region (SNR). Western published its Notice of Intent announcing the operational alternatives it was considering for post-2004 operations in the **Federal Register** on June 24, 2003. Western held public meetings in July 2003 and accepted comments through August 8, 2003. Western reviewed the comments and assessed the feasibility of implementing each alternative to reach its proposed decision. Western's proposed decision is to implement a contract-based sub-control area. Western will approach the California Independent System Operator (ISO) and the Sacramento Municipal Utility District (SMUD) to collect data and initiate discussions to develop a contract.

DATES: To ensure they are considered, written comments from entities interested in commenting on this Notice of Proposed Decision must be received no later than 4 p.m., January 2, 2004. Western will accept written comments received via regular mail through the U.S. Postal Service if they are postmarked at least 3 days before such date. Entities are encouraged to hand deliver, use certified mail, or e-mail to deliver comments.

ADDRESSES: Written comments should be sent to Tom Carter, Power Operations Manager, Sierra Nevada Region, Western Area Power Administration, 114 Parkshore Drive, Folsom, CA 95630-4710, or by e-mail to tcarter@wapa.gov.

SUPPLEMENTARY INFORMATION:

Authorities

The selection of an alternative for post-2004 operations is made under the authorities contained in the Department of Energy Organization Act (42 U.S.C. 7101-7352); the Reclamation Act of June 17, 1902 (ch. 1093, 32 Stat. 388) as amended and supplemented by subsequent enactments, particularly section 9(c) of the Reclamation Act of 1939 (43 U.S.C. 485h(c)); and other acts specifically applicable to the projects involved.

Public Process

Western published its Notice of Intent to consider certain post-2004 operational alternatives in the **Federal Register** (68 FR 37484) on June 24, 2003. The notice described each alternative and the factors Western would use in making a decision on which alternative to select. On July 9, 2003, Western held a Public Information Forum where each alternative was described, and the evaluation factors that would be used by Western when making its proposed decision were presented. Navigant