

date set by the Deputy Secretary for the Provisional Rates.

(d) Provisional Rates shall remain in effect on an interim basis until: (1) They are confirmed and approved on a final basis by the FERC; (2) they are disapproved and the rates last previously confirmed and approved on a final basis become effective; (3) they are disapproved and higher Substitute Rates are confirmed and approved on a final basis and placed in effect by the FERC; (4) they are disapproved and lower Substitute Rates are confirmed and approved on a final basis by the FERC; or (5) they are superseded by other Provisional Rates placed in effect by the Deputy Secretary, whichever occurs first.

§ 903.22 Final rate approval.

(a) Any rate submitted to the FERC for confirmation and approval on a final basis shall be accompanied with such supporting data, studies, and documents as the FERC may require, and also with the transcripts of forums, written answers to questions, written comments, the Administrator's certification, and the statement of principal factors leading to the decision. The FERC shall also be furnished a listing of those customers and other participants in the rate proceeding who have requested they be informed of FERC action concerning the rates.

(b) If the FERC confirms and approves Provisional Rates on a final basis, such confirmation and approval shall be effective as of the date such rates were placed in effect by the Deputy Secretary, as such date may have been adjusted by the Administrator. If the FERC confirms and approves on a final basis rates submitted by the Administrator without interim approval, such confirmation and approval shall be effective on a date set by the FERC.

(c) If the FERC disapproves Provisional Rates or other submitted rates, the Administrator shall develop Substitute Rates which take into consideration the reasons given by the FERC for its disapproval. If, in the Administrator's judgment, public comment should be invited upon proposed Substitute Rates, the Administrator may provide for a public consultation and comment period before submitting the

Substitute Rates. Whether or not such public consultation and comment periods are provided, the Administrator will, upon request, provide customers of the power system and other interested persons with copies of the principal documents used in the development of the Substitute Rates. Within 120 days of the date of FERC disapproval of submitted rates, including Substitute Rates, or such additional time periods as the FERC may provide, the Administrator will submit the Substitute Rates to the FERC. A statement explaining the Administrator's decision shall accompany the submission.

(d) A Provisional Rate that is disapproved by the FERC shall remain in effect until higher or lower rates are confirmed and approved by the FERC on a final basis or are superseded by other rates placed into effect by the Deputy Secretary on an interim basis: Provided, That if the Administrator does not file a Substitute Rate within 120 days of the disapproval or such greater time as the FERC may provide, and if the rate has been disapproved because the FERC determined that it would result in total revenues in excess of those required by law, the rate last previously confirmed and approved on a final basis will become effective on a date and for a period determined by the FERC and revenues collected in excess of such rate during such period will be refunded in accordance with paragraph (g) of this section.

(e) If a Substitute Rate confirmed and approved on a final basis by the FERC is higher than the provisional rate which was disapproved, the Substitute Rate shall become effective on a subsequent date set by the FERC, unless a subsequent Provisional Rate even higher than the Substitute Rate has been put into effect. FERC confirmation and approval of the higher Substitute Rate shall constitute final confirmation and approval of the lower disapproved Provisional Rate during the interim period that it was in effect.

(f) If a Substitute Rate confirmed and approved by the FERC on a final basis is lower than the disapproved provisional rate, such lower rate shall be effective as of the date the higher disapproved rate was placed in effect.

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(g) Any overpayment shall be refunded with interest unless the FERC determines that the administrative cost of a refund would exceed the amount to be refunded, in which case no refund will be required. The interest rate applicable to any refund will be determined by the FERC.

(h) A rate confirmed and approved by the FERC on a final basis shall remain in effect for such period or periods as the FERC may provide or until a different rate is confirmed, approved and placed in effect on an interim or final basis: *Provided*, That the Deputy Secretary may extend a rate on an interim basis beyond the period specified by the FERC.

§ 903.23 Rate extensions.

(a) The following regulations shall apply to the extension of rates which were previously confirmed and approved by the FERC or the Federal Power Commission, or established by the Secretary of the Interior, and for which no adjustment is contemplated:

(1) The Administrator shall give Notice of the proposed extension at least 30 days before the expiration of the prior confirmation and approval, except that such period may be shortened for good cause shown.

(2) The Administrator may allow for consultation and comment, as provided in these procedures, for such period as the Administrator may provide. One or more public information and comment forums may be held, as provided in these procedures, at such times and locations and with such advance Notice as the Administrator may provide.

(3) Following notice of the proposed extension and the conclusion of any consultation and comment period, the Deputy Secretary may extend the rates on an interim basis.

(b) Provisional Rates and other existing rates may be extended on a temporary basis by the Deputy Secretary without advance notice or comment pending further action pursuant to these regulations or by the FERC. The Deputy Secretary shall publish notice in the FEDERAL REGISTER of such extension and shall promptly advise the FERC of the extension.

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PART 904—GENERAL REGULATIONS FOR THE CHARGES FOR THE SALE OF POWER FROM THE BOULDER CANYON PROJECT

Subpart A—Power Marketing

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AUTHORITY: Reclamation Act of 1902 (32 Stat. 388); Boulder Canyon Project Act of 1928 (43 U.S.C. 617 *et seq.*); Boulder Canyon Project Adjustment Act of 1940 (43 U.S.C. 618 *et seq.*); Department of Energy Organization Act (42 U.S.C. 7101 *et seq.*); Colorado River Storage Project Act of 1956 (43 U.S.C. 620 *et seq.*); Colorado River Basin Project Act of 1968 (43 U.S.C. 1501 *et seq.*); and Hoover Power Plant Act of 1984 (98 Stat. 1333 (43 U.S.C. 619 *et seq.*)).

SOURCE: 51 FR 43154, Nov. 28, 1986, unless otherwise noted.

Subpart A—Power Marketing

§ 904.1 Purpose.

(a) The Secretary of Energy, acting by and through the Administrator of the Western Area Power Administration (Administrator), is authorized and directed to promulgate charges for the sale of power generated at the Boulder Canyon Project powerplant, and also to promulgate such general regulations as the Secretary finds necessary and appropriate in accordance with the power marketing authorities in the Reclamation Act of 1902 (32 Stat. 388) and all acts amendatory thereof and supplementary thereto, and the Department of Energy Organization Act (42 U.S.C. 7101 *et seq.*).

(b) In accordance with the Boulder Canyon Project Act of 1928 (43 U.S.C. 617 *et seq.*), as amended and supplemented (Project Act); the Boulder Canyon Project Adjustment Act of 1940 (43