

Reclamation Manual

Directives and Standards

UNITED STATES DEPARTMENT OF THE INTERIOR BUREAU OF RECLAMATION

GENERAL POWER CONTRACT PROVISIONS

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GENERAL POWER CONTRACT PROVISIONS

A. Applicability.

These General Power Contract Provisions (Provisions) shall be a part of the Contract to which they are attached. In the event these Provisions differ from requirements of the Contract, specific terms set forth in the Contract shall prevail.

B. Character of Service.

Electric energy supplied under the Contract will be three-phase, alternating current, at a nominal frequency of 60 hertz.

C. Use of Capacity and/or Energy in Excess of Contract Obligation.

The Contractor is not entitled to use capacity and/or energy, in amounts greater than the Contract delivery obligation in effect for each type of service provided for in this Contract except with the specific approval of Reclamation. Unauthorized overruns of Contract delivery obligations shall be subject to charges specified in the Contract or the applicable rate schedules. Overruns shall not establish any continuing right thereto and the Contractor shall cease any overruns when requested by Reclamation, or in the case of authorized overruns, when the approval expires, whichever occurs first. Nothing in the Contract shall obligate Reclamation to increase any delivery obligation. If additional capacity and/or energy is not available from Reclamation, the responsibility for securing additional capacity and/or energy shall rest wholly with the Contractor.

D. Continuity of Electric Service.

Electric service, unless otherwise specified, will be furnished continuously except for: (1) fluctuations, interruptions, or reductions due to uncontrollable forces, as defined in Provision F (Uncontrollable Forces) herein; (2) fluctuations, interruptions, or reductions due to operation of devices installed for power system protection; and (3) temporary fluctuations, interruptions, or reductions, which, in the opinion of Reclamation, are necessary or desirable for the purposes of maintenance, repairs, replacements, installation of equipment, or investigation and inspection. Reclamation, except in case of emergency as determined by Reclamation, will give the Contractor reasonable advance notice of such temporary interruptions or reductions and will remove the cause thereof with diligence.

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E. Multiple Points of Delivery.

When electric service is supplied at two or more points of delivery under the same rate schedule, said rate schedule shall apply separately to the service supplied at each point of delivery; Provided, That where the meter readings are considered separately; and during abnormal conditions, the Contractor's system is interconnected between points of delivery such that duplication of metered power is possible, the meter readings at each affected point of delivery will be adjusted to compensate for duplication of power demand recorded by meters at alternate points of delivery due to abnormal conditions which are beyond the Contractor's control or temporary conditions caused by scheduled outages.

F. Uncontrollable Forces.

Neither party shall be considered to be in default in respect to any obligation hereunder, if prevented from fulfilling such obligation by reason of uncontrollable forces, the term uncontrollable forces being deemed for the purpose of this Contract to mean any cause beyond the control of the party affected, including, but not limited to, failure of facilities, flood, earthquake, storm, lightning, fire, epidemic, war, riot, civil disturbance, labor disturbance, labor or material shortage, sabotage, restraint by court or public authority, and action or nonaction by any governmental agency or authority which by exercise of due diligence and foresight such party could not reasonably have been expected to avoid. Either party rendered unable to fulfill any obligation by reason of uncontrollable forces shall exercise due diligence to remove such inability with all reasonable dispatch.

G. Modification and/or Adjustment of Rates.

(a) The authority to make changes to the rates that effect a change to the methodology to establish power rates has been reserved by the Assistant Secretary for Water and Science, pursuant to Department Manual 255 CM 1.2.I. The rate schedule specified in this Contract shall be subject to successive modification by the Assistant Secretary for Water and Science through the promulgation of superseding rate schedules. If at any time the Assistant Secretary for Water and Science promulgates a rate schedule superseding the rate schedule then in effect under this Contract, it will promptly notify the Contractor thereof. Rates shall become effective as to the Contract as of the effective date of such rate. The Contractor, by written notice to Reclamation within one hundred and eighty (180) days after the effective date of a rate modification, may elect to terminate this Contract. Said termination shall be effective on the last day of the billing period requested by the Contractor not later than three (3) years after the effective date of the new rate. Service provided by the United States shall be paid for at the new rate regardless of whether the Contractor exercises the option to terminate service.

(b) Adjustments to the rate may be approved by the Regional Director pursuant to Paragraph 6.O.(1)(c) of RM Delegations of Authority, dated July 9, 2015, within the confines of a methodology to establish power rates that has been approved by the Assistant Secretary for Water and Science as stated above.

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H. Billings and Payments.

(a) The United States will submit bills to the Contractor on or before the tenth (10) day of each month for electric service furnished during the preceding month, and payments will be due and payable by the Contractor and post-marked on or before the first day of the month immediately succeeding the date each bill is submitted.

(b) If the United States is unable to issue a timely monthly bill, it may elect to render an estimated bill for that month to be followed by the final bill. Such estimated bill shall be subject to the same payment provisions as a final bill.

I. Charges for Delinquent Payments.

(a) The Contractor shall be subject to interest, administrative, and penalty charges on delinquent payments. If a payment is not received by the due date, the Contractor shall pay an interest charge on the delinquent payment for each day the payment is delinquent beyond the due date. If a payment becomes 60 days delinquent, the Contractor shall pay, in addition to the interest charge, an administrative charge to cover additional costs of billing and processing the delinquent payment. If a payment is delinquent 90 days or more, the Contractor shall pay, in addition to the interest and administrative charges, a penalty charge for each day the payment is delinquent beyond the due date, based on the remaining balance of the payment due at the rate of 6 percent per year. The Contractor shall also pay any fees incurred for debt collection services associated with a delinquent payment.

(b) The interest rate charge shall be the greater of either the rate prescribed quarterly in the Federal Register by the Department of the Treasury for application to overdue payments or the interest rate of 0.5 percent per month. The interest charge rate will be determined as of the due date and remain fixed for the duration of the delinquent period.

(c) When a partial payment on a delinquent account is received, the amount received shall be applied first to the penalty charges, second to the administrative charges, third to the accrued interest, and finally to the overdue payment.

(d) Reclamation shall have the right upon not less than fifteen (15) days advance written notice to discontinue furnishing electric service to the Contractor for nonpayment of bills and to refuse to resume same so long as any part of the amount due remains unpaid. Such a discontinuance of electric service will not relieve the Contractor of liability for the minimum charge, if applicable, during the time electric service is so discontinued. The rights reserved to the United States herein shall be in addition to all other remedies available to the United States, either by law or in equity, for the breach of any of the terms hereof.

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J. Adjustments for Fractional Billing Period.

(a) For a fractional part of a billing period at the beginning or end of electric service, and for fractional periods due to withdrawals of electric service, the energy charge, the demand or capacity charge, and the minimum charge, if applicable, shall each be proportionately adjusted in the ratio that the number of hours that electric service is furnished to the Contractor in such fractional billing period bears to the total number of hours in the billing period involved.

(b) Whenever irrigation and/or drainage pumping service is supplied under this Contract, adjustments in the energy charge, in the demand or capacity charge, and in the minimum charge, if applicable, of the rate schedule under which service is supplied, shall be made for the fractional part of the billing period at the beginning and end of pumping service in each year in the same manner as provided in Paragraph (a) above. If pumping service is supplied in conjunction with service for other purposes and is not metered separately, the billing demand for pumping service shall be considered to be the difference between the highest 30-minute integrated demand measured during the billing period and the contract rate of delivery for firm power.

K. Adjustments for Curtailments to Service.

(a) Unless curtailment of service is due to a request by the Contractor, billing adjustments will be made if the delivery of electric energy is curtailed because of conditions on the power system of the United States, which system for the purpose of such adjustments hereunder shall include transmission facilities utilized but not owned by the United States, for periods of 1 hour or longer in duration each. The total number of hours of curtailed service in any billing period shall be determined by adding (1) the sum of the number of hours of interrupted service to (2) the product of: the number of hours of reduced service multiplied by the percentage of said reduction below the lesser of (a) the contract rate of delivery, or (b) the rate of delivery required by the Contractor at the time of such reduction. The demand or capacity charge, the energy charge, and the minimum charge, if applicable, shall each be proportionately adjusted in the ratio that the total number of hours of such curtailed service as herein determined bears to the total number of hours in the billing period involved.

(b) The Contractor shall make written claim within thirty (30) days after receiving the monthly bill, for adjustment on account of any curtailment to service, for periods of 1 hour or longer in duration each, alleged to have occurred and which is not reflected in such bill. Failure to make such written claim, within said thirty-day (30-day) period, shall constitute a waiver of said claim. All curtailments of electric service, which are due to conditions on the power system of the United States, shall be subject to the terms of this Provision: Provided, That withdrawal of power and energy under Contract provisions shall not be considered a curtailment of electric service.

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L. Metering.

(a) The total electric power and energy delivered to the Contractor will be measured by metering equipment to be furnished and maintained by the United States or by its designated representative. Meters shall be sealed and the seals shall be broken only upon occasions when the meters are to be inspected, tested, or adjusted, and representatives of the Contractor shall be afforded reasonable opportunity to be present upon such occasions. Metering equipment shall be inspected and/or tested in accordance with established policies and guidelines by either the United States or by its designated representative and at any reasonable time upon request therefore by either party. Any metering equipment found to be damaged, defective, or inaccurate shall be repaired and readjusted or replaced as soon as practicable. Should any meter fail to register, the electric power and energy delivered during such period of failure to register shall, for billing purposes, be estimated by Reclamation from the best available information. Meters found with security breaches shall be tested for tampering and, if appropriate, meter readings shall be adjusted by the United States in accordance with paragraph (b) below.

(b) If any of the inspections and/or tests provided for herein disclose an error exceeding two percent (2%), correction based upon the inaccuracy found shall be made of the records of electric service furnished during the period that such inaccuracy has existed as determined by Reclamation; Provided, That if such period of inaccuracy cannot be determined, correction shall be made for the period beginning with the monthly billing period immediately preceding the billing period during which the test was made. Any correction in billing resulting from correction in meter records shall normally be made in the next monthly bill rendered by the United States to the Contractor. Payment of such bill shall constitute full adjustment of any claim between the parties hereto arising out of inaccurate metering equipment.

M. Resale of Electric Energy.

The Contractor shall not resell any of the electric energy allocated to it hereunder.

N. Power Factor.

The Contractor normally will be required to maintain at the point of delivery a power factor of not less than ninety-five percent (95%) lagging or leading; Provided, That the Contractor will be permitted to operate at a lower factor when conditions are such, as determined by the United States, that a lower power factor will be mutually advantageous to the Contractor and to the United States.

O. Cooperation of Contracting Parties.

If, in the operation or maintenance of their respective power systems or electrical equipment and the utilization thereof for the purposes of the Contract, it becomes necessary by reason of any emergency or extraordinary condition for either party to request the other to furnish personnel, materials, tools, and equipment for the accomplishment thereof, the party so

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requested shall cooperate with the other and render such assistance as the party so requested may determine to be available. The party making such request, upon receipt of properly itemized bills from the other party, shall reimburse the party rendering such assistance for all costs properly and reasonably incurred by it in such performance, including administrative and general expenses, such costs to be determined on the basis of current charges or rates used in its own operations by the party rendering assistance.

P. Provisions Relative to Employment.

(a) The Contract, to the extent that it is of a character specified in Section 103 of the Contract Work Hours and Safety Standards Act (Act), 40 U.S.C. [329 (1986)] as amended or supplemented, is subject to the provisions of the Act, 40 U.S.C. [327-333 (1986)], and to regulations promulgated by the Secretary of Labor pursuant to the Act.

(b) Section 202 of Executive Order No. 11246, 30 Fed. Reg. 12319 (1965) as amended by Executive Order No. 12086, 43 Fed. Reg. 46501 (1978), as amended or supplemented, which provides, among other things, that the Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, age, disability, or sexual orientation, is incorporated by reference in the Contract.

(c) The Contractor agrees not to employ any person undergoing sentence of imprisonment in performing the Contract except as provided by 18 U.S.C. 4082 (c)(2) and Executive Order No. 11755, December 29, 1973.

Q. Waivers.

Any waivers at any time by either party to the Contract of its rights with respect to a default or any other matter arising under or in connection with the Contract shall not be deemed to be a waiver with respect to any subsequent default or matter.

R. Notices.

Any notice, demand, or request authorized or required by this Contract shall be deemed to have been given, on behalf of the Contractor, when mailed, postage prepaid, or delivered to the Regional Director, _____ Region, Bureau of Reclamation, _____, _____, and on behalf of the United States, when mailed, postage prepaid, or delivered to the _____, of the Contractor, _____, _____. The designation of the addressee or the address may be changed by notice given in the same manner as provided in this article for other notices.

Note: Other Reclamation officials may be designated when appropriate. Minor editorial changes to accommodate the name and address of the contracting entity are also acceptable.

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S. Contingent Upon Appropriations or Allotment of Funds.

The expenditure or advance of any money or the performance of any obligation of the United States under this Contract shall be contingent upon appropriation or allotment of funds. Absence of appropriation or allotment of funds shall not relieve the Contractor from any obligations under this Contract. No liability shall accrue to the United States in case funds are not appropriated or allotted.

Note: Any agreement committing any Federal resources must contain this article.

T. Officials Not to Benefit.

No Member of or Delegate to the Congress, Resident Commissioner, or official of the Contractor shall benefit from this Contract other than as a water user or landowner in the same manner as other water users or landowners.

Note: Any agreement involving any Federal resources must contain this article.

U. Environmental Compliance.

Facilities installed or modified under the Contract by any party shall be constructed, operated, maintained, replaced, and removed subject to compliance with laws, executive orders, and regulations applicable to that party, including the National Environmental Policy Act of 1969 (NEPA), as amended, 36 CFR 800, and the Archeological Resources Protection Act of 1979. For those facilities to be constructed or modified by the Contractor, the Contractor shall prepare all required NEPA documentation in accordance with the standards of the Bureau of Reclamation.

V. Contract Subject to Colorado River Compact.

Where the energy sold under the Contract is generated from waters of the Colorado River system, the Contract is made upon the express condition and with the express covenant that all rights under the Contract shall be subject to and controlled by the Colorado River Compact approved by section 13(a) of the Boulder Canyon Project Act of December 21, 1928 (45 Stat. 1057) and the parties to the Contract shall observe and be subject to and controlled by said Colorado River Compact.

W. Construction and Safety Procedures.

(a) The Contractor hereby acknowledges that it is aware of the hazards inherent in high-voltage electric lines and substations, and hereby assumes full responsibility at all times for the adoption and use of necessary safety measures required to prevent accidental harm to personnel engaged in the construction, inspection, testing, operation, maintenance, replacement, or removal activities of the Contractor pursuant to the Contract. The Contractor and the authorized

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employees, agents, and subcontractors of the Contractor shall comply with all applicable safety laws and building and construction codes, including the provisions of the Bureau of Reclamation's current "Reclamation Safety and Health Standards" and "FIST 1-1, Hazardous Energy Control Program" in effect upon the signing of the Contract; Except, That, in lieu of the safety program required herein, the Contractor may provide sufficient information to demonstrate that the Contractor's safety program is satisfactory to the United States.

(b) The Contractor and its authorized employees, agents, and subcontractors shall familiarize themselves with the location and character of all the transmission facilities of the United States and interconnections of others relating to the construction work performed by the Contractor under the Contract. Prior to starting any construction, installation, or removal work, the Contractor shall submit a plan of procedure to the United States which shall indicate the sequence and method of performing the work in a safe manner. No work shall be performed by the Contractor, its employees, agents, or subcontractors until written authorization to proceed is obtained from Reclamation.

(c) At all times when the Contractor, its employees, agents, or subcontractors are performing activities of any type pursuant to the Contract, such activities shall be under supervision of a qualified employee, agent, or subcontractor of the Contractor who shall be authorized to represent the Contractor in all matters pertaining to the activity being performed. The Contractor and the United States will keep each other informed of the names of their designated representatives at the site.

(d) Upon completion of its work, the Contractor shall remove from the vicinity of the right-of-way of the United States all buildings, rubbish, used materials, concrete forms, and other like material belonging to the Contractor or used under the Contractor's direction, and in the event of failure to do so the same may be removed by the United States at the expense of the Contractor.

(e) In the event the Contractor, its employees, agents, or subcontractors fail to comply with any obligation of this Provision, Reclamation may issue an order to stop all or any part of the work until such time as the Contractor demonstrates compliance with the obligation at issue. The Contractor, its employees, agents, or subcontractors shall make no claim for compensation or damages resulting from such work stoppage.

X. Operation and Maintenance of Transferred Works (+Hold Harmless).

(a) Upon substantial completion of the project works, or as otherwise determined by Reclamation, and following written notification, the care, operation, and maintenance of any or all of the project works may be transferred to the Contractor. Title to the transferred works will remain in the name of the United States, unless otherwise provided by the Congress of the United States.

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(b) The Contractor, without expense to the United States, shall care for, operate, and maintain the transferred works in full compliance with the terms of this Contract and in such a manner that the transferred works remain in good and efficient condition.

(c) Necessary repairs of the transferred works shall be made promptly by the Contractor. In case of unusual conditions or serious deficiencies in the care, operation, and maintenance of the transferred works threatening or causing interruption of water service, Reclamation may issue to the Contractor a special written notice of those necessary repairs. Except in the case of an emergency, the Contractor will be given 60 days to either make the necessary repairs or submit a plan for accomplishing the repairs acceptable to Reclamation. In the case of an emergency, or if the Contractor fails to either make the necessary repairs or submit a plan for accomplishing the repairs acceptable to Reclamation within 60 days of receipt of the notice, Reclamation may cause the repairs to be made, and the cost of those repairs shall be paid by the Contractor as directed by Reclamation.

(d) The Contractor shall not make any substantial changes in the transferred works without first obtaining written consent of Reclamation. The Contractor shall ensure that no unauthorized encroachment occurs on project land and rights-of-way.

(e) The Contractor agrees to indemnify the United States for, and hold the United States and all of its representatives harmless from, all damages resulting from suits, actions, or claims of any character brought on account of any injury to any person or property arising out of any act, omission, neglect, or misconduct in the manner or method of performing any construction, care, operation, maintenance, supervision, examination, inspection, or other duties of the Contractor or the United States on transferred works required under this Contract, regardless of who performs those duties. The Contractor does not agree to indemnify the United States for any damages arising from intentional torts or malicious actions committed by employees of the United States.

(f) In the event the Contractor is found to be operating the transferred works or any part thereof in violation of this Contract or the Contractor is found to be failing any financial commitments or other commitments to the United States under the terms and conditions of this Contract, then upon the election of Reclamation, the United States may take over from the Contractor the care, operation, and maintenance of the transferred works by giving written notice to the Contractor of such election and the effective date thereof. Thereafter, during the period of operation by the United States, upon notification by Reclamation the Contractor shall pay to the United States, annually in advance, the cost of operation and maintenance of the works as determined by Reclamation. Following written notification from Reclamation, the care, operation, and maintenance of the works may be transferred back to the Contractor.

(g) In addition to all other payments to be made by the Contractor under this Contract, the Contractor shall reimburse to the United States, following the receipt of a statement from Reclamation, all miscellaneous costs incurred by the United States for any work involved in the administration and supervision of this Contract.

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THE FOLLOWING PROVISIONS ARE APPLICABLE ONLY WHEN THE ELECTRIC SERVICE WILL BE FURNISHED BY RECLAMATION OVER THE FACILITIES OF A THIRD PARTY:

Y. Existence of Transmission Service Contract.

Inasmuch as the electric service hereunder is to be supplied over facilities not owned by the United States or owned by the United States and not under the control of the Bureau of Reclamation, the obligation of the United States to furnish electric service hereunder shall at all times be subject to and contingent upon the existence of a transmission service contract granting the United States rights to use such facilities. If the United States acquires or constructs facilities which would enable it to furnish direct service to the Contractor, the United States, at its option, may furnish the electric service over its own facilities.

Z. Conditions of Transmission Service.

Anything to the contrary in this Contract notwithstanding, when the electric service under this Contract is furnished by the United States over the facilities of others or over facilities of the United States not under the control of the Bureau of Reclamation by virtue of a transmission service arrangement, the electric service will be furnished at the voltage available and under the conditions which exist from time to time on the transmission system over which the service is supplied. The United States will endeavor to inform the Contractor from time to time of any changes contemplated on the system over which the service is supplied but the cost of any changes made necessary to the Contractor's system because of changes or conditions on the system over which the service is supplied shall not be a charge against or a liability of the United States; Provided; That if the Contractor, because of changes or conditions on the system over which service hereunder is supplied, is required to make changes on its system at its own expense in order to continue receiving service hereunder, then the Contractor may terminate this Contract on not less than sixty (60) days' written notice given to Reclamation at any time prior to the making of said changes on its system, but not thereafter; Provided further, That if the electric service requirements of the Contractor, to the extent that the United States is obligated or determines that it can become obligated to furnish such requirements, are not being met or the United States advises the Contractor that such requirements cannot be met because of an insufficiency of capacity available to the United States or to the Bureau of Reclamation under a transmission service arrangement in the facilities of others over which service hereunder is supplied, then the Contractor may terminate this Contract on not less than sixty (60) days' written notice given to Reclamation at any time prior to the date on which the needed capacity ceases to be available, but not thereafter.

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THE FOLLOWING PROVISION IS APPLICABLE ONLY WHEN ELECTRIC SERVICE INVOLVES MULTIPLE POINTS OF DELIVERY FROM BOTH DIRECT AND WHEELED POINTS:

AA. Multiple Points of Delivery Involving Direct and Transmission Required Deliveries.

When the United States has provided line and substation capacity under the terms of this Contract for the purpose of delivering electric service directly to the Contractor at specified direct points of delivery and also has agreed to absorb transmission contract allowances and/or discounts up to a specified maximum amount for deliveries of power over other system(s) to designated points of delivery and the Contractor shifts any of its loads served under the Contract from direct delivery to points requiring additional transmission contracts, the United States will not absorb the transmission costs on such shifted load until the unused capacity, as determined solely by Reclamation, available at the direct delivery point(s) affected is fully utilized.