

## Attachment 3 – Capacity Fee

The Bureau of Land Management (BLM) determines the capacity fee by multiplying the annual power generated on the right-of-way (ROW), rounded up to the nearest tenth, by the megawatt hour (MWh) rate from the MWh rate schedule in effect at the time a grant or lease is issued. ROWs issued prior to July 1, 2024, must request to convert to these rates before July 1, 2026, per 43 CFR 2806.51(c). The capacity fee will be collected when it exceeds the acreage rent for the solar or wind energy development.

The formula for calculating the annual capacity fee for a solar or wind energy development ROW is:

$$A \times B \times C \times D \times [(1 + E)^F] \times G \times H$$

Component	Explanation of Component	Input for Calculation
A	is the <i>MWh rate</i> or the <i>alternative MWh rate</i> for the year of ROW issuance from the MWh Rate Schedule.	MWh rate from Schedule  Alternative MWh rate may be conditionally approved.
B	is the <i>MWh rate reduction</i> applied to all new and re-issued ROWs. Does not require qualification.	“0.2” through 2035 “0.4” for 2036 “0.6” for 2037 “0.8” for 2038 and beyond
C	is the elective <i>Domestic Content reduction</i> that must be qualified for in order to receive.	“1” for unqualified or conditionally approved.  “0.8” once qualified.
D	is the elective <i>Project Labor Agreement reduction</i> that must be qualified for in order to receive.	“1” for unqualified or conditionally approved.  “0.8” once qualified.
E	is the <i>annual adjustment factor</i> .	<b>0.03</b>
F	is the number of years after the year the ROW is issued (partial year if any).	“0” for first year (whether partial or full).  “1” for second year and so on.
G	is the <i>rate of return</i> .	<b>0.07</b>
H	Is the annual energy generated	Provided in annual certified statement.

### Explanation of Calculation Component

The calculation components do not change for the remainder of the ROW term once the ROW is issued or re-issued per 43 CFR 2806.51(c), except for those ROWs which a holder receives a conditional approval (see *Request for Conditional Approval*). When conditionally approved, the component may be changed later, but only as provided in 2806.52(b)(v). Qualifying for a reduction is based on the energy development meeting the criteria for the reduction (e.g., the date of issuance for the MWh rate reduction), not whether the holder meets certain qualifications, and

## Attachment 3 – Capacity Fee

will therefore continue with the ROW even when that ROW is assigned in whole or part to another holder.

Component A is the *MWh rate* or the *alternative MWh rate* – 2806.52(b)(1)(i)

You may use either the MWh rate from the MWh rate schedule, or—if approved by the BLM—the alternative MWh rate when calculating the capacity fee. Once set, the rate schedule does not change for the term of the ROW. The alternative MWh rate may be conditionally approved (see below, *Request for conditional approval*).

- **MWh Rate:** The standard rate from the MWh rate schedule used for calculating the capacity fee.
- **Alternative MWh Rate:** This alternative rate may be used in-lieu of the MWh rate when an applicant or ROW holder enters into a power purchase agreement (PPA) at a price per MWh that is lower than the MWh rate in the BLM’s schedule. The BLM must determine if the alternative MWh rate is appropriate for use instead of the MWh rate schedule. An example for when an alternative MWh rate may not be appropriate is if a utility issues itself a PPA for their project.

Component B is the *MWh rate reduction* – 2806.52(b)(1)(ii)

The MWh rate reduction is applied to all ROWs and is determined based on the year of ROW is issued or re-issued and does not change during the term of the ROW. The MWh rate reduction is 80 percent through 2035. Starting in 2036, the reduction will change over the next three years for new ROWs. This reduction will remain at 20 percent in 2038 and beyond. Once set, the MWh rate will not change for the term of the ROW. The MWh rate reduction is as follows:

<b>Calendar Year</b>	<b>MWh rate reduction</b>	<b>B – calculation multiplier</b>
2035	80%	20%
2036	60%	40%
2037	40%	60%
2038 and beyond	20%	80%

Component C is the *Domestic Content reduction* – 2806.52(b)(1)(iii)

A holder may seek to obtain and qualify for the Domestic Content reduction (20 percent) based on the criteria set forth in 2 CFR 184, which is the Office of Management and Budget’s guidance for the implementation of the Build America, Buy America Act, Public Law 117–58, 135 Stat. 429, §§ 70901–70927 (Nov. 15, 2021). The BLM may conditionally approve this reduction (see below, *Request for conditional approval*). Once an energy generation facility qualifies for a Domestic Content reduction, the facility will continue to receive the reduction for the term of the grant or lease.

To qualify for the Domestic Content reduction, a holder must demonstrate the items and materials associated with the construction of a solar or wind energy development on public lands meet the domestic content preference found at 2 CFR Part 184. Qualifying

## Attachment 3 – Capacity Fee

items and costs do not include facilities outside of the ROW, and do not include labor costs. Generally, this would mean that:

- (1) All manufacturing processes for iron or steel products used as a component of the energy development occurred in the United States;
- (2) Manufactured products:
  - a. Were manufactured in the United States, and
  - b. The cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of the manufactured product, as determined in 2 CFR 184.5; and
- (3) All manufacturing processes for construction materials occurred in the United States, as defined in 2 CFR 184.6.

The Domestic Content reduction is 20 percent for facilities qualifying for the domestic content preference defined in 2 CFR Part 184.

To qualify for this capacity fee reduction, the percent of the energy generation facility's total cost that consists of items qualifying for the domestic content preference would have to meet or exceed the "Produced in the United States" requirements in 2 CFR 184.3, which is currently 55 percent of the costs. The holder would have to provide sufficient documentation (e.g., purchase orders for end products, materials, and supplies of the facility as-built or construction plans) to demonstrate that the products used in the energy generation facility meet the thresholds identified in 2 CFR Part 184. See example summary qualification cost sheet (enclosure to this attachment) to demonstrate how one may qualify for the reduction.

Component D is the *Project Labor Agreement reduction* – 2806.52(b)(1)(iv)

To qualify for the Project Labor Agreement (PLA) reduction (20 percent), a holder is required to provide documentation of a labor agreement (e.g., signed PLA) for the development and construction period of the solar or wind energy development.

A PLA is a pre-hire collective bargaining agreement negotiated between one or more construction unions and one or more construction employers, and it establishes the terms and conditions of employment for a specific construction project, consistent with 29 U.S.C. 158(f).

Component E is the *annual adjustment factor* – 2806.52(b)(2)

The annual adjustment factor is a compounding rate set at three percent by regulation. This factor provides a standard rate of annual change the MWh rate for the ROW from the time that the MWh rate or the alternative MWh rate are set. The annual adjustment factor is applied each year when calculating the capacity fee.

Component F is the *year of the grant or lease term* – 2806.52(b)(3)

Entering the year of the ROW grant or lease will be "0" for the first year (whether partial or full year) and then would be "1" for the second year, "2" for the third year, and so on, when entered into the calculation for the capacity fee. The first year (whether partial or

## Attachment 3 – Capacity Fee

full) must be “0” as the MWh rate set for the ROW will already include annual adjustments from the MWh rate schedule.

Component G is the *rate of return* – 2806.52(b)(4)

The rate of return is set at seven percent by regulation and will not change over the term of the ROW. The rate of return is the relationship of income to the total value of a granted use of the public land resource.

Component H is the *annual energy generated* – 2806.52(b)(5)

Prior to the start of energy generation, the holder must submit the annual certified statement containing an estimate of the first year’s energy generation on the ROW. Once energy generation begins, the holder must submit to the BLM an annual certified statement of the most recent calendar year’s actual energy generation on the ROW. For example, a certified annual statement for the second year of energy generation submitted by October 2025 would report actual energy generation from calendar year 2024.

The BLM may approve a request by a holder to provide a new estimate of energy generation in certain circumstances, such as:

- (1) When energy generation is expected to be interrupted, such as with planned maintenance activities and the amount of energy generated is expected to interrupt energy generation by 25 percent or more.
- (2) When the ROW holder is aware that the energy generation for year will exceed the actual energy generation for the previous year by 25 percent or more, such that the BLM’s use of the actual generation from the previous year as the basis for a bill would result in an underestimate of more than 25 percent.
- (3) Other circumstances as determined reasonable by the BLM.

The BLM’s calculation for the capacity fee payment will be based on the energy generated on public lands. The payment of the capacity fee for energy developments that include both public and non-public lands will be prorated by multiplying the total energy generated by the development by the percentage of the total area of the ROW footprint on public lands compared to the full energy development footprint. The holder will be billed, credited, or refunded for the underpayment or overpayments pursuant to §§ 2806.13(e) and 2806.16. In no event will the total payment required be less than the annual acreage rent.

*Request for conditional approval* – 2806.52(b)(1)(v)

A request for conditional approval may be submitted for the *Alternative MWh rate*, *Domestic Content reduction*, and *PLA reduction*. A developer who wishes to qualify for the alternative MWh rate, the Domestic Content reduction, or the PLA reduction will need to submit a request for conditional approval prior to the issuance of a grant or lease, if they are unable to qualify before issuance of the grant or lease, along with sufficient documentation to demonstrate that they may later qualify for these rate reductions.

## Attachment 3 – Capacity Fee

In some cases, the BLM will not be able to determine definitively in advance whether the proponent qualifies for these reductions. The BLM may conditionally approve the requested reductions. However, the conditionally approved reductions will not go into effect until the proponent adequately demonstrates that the facility qualifies for the relevant reduction.

The BLM will charge the holder the capacity fee absent the reduction if energy generation begins before the holder has demonstrated that the facility qualifies. The capacity fee will be updated for subsequent calendar years after the holder demonstrates that the facility qualifies. The BLM will not refund past payments made before the holder demonstrates that they qualify and the rate reductions go into effect.

### MWh rate schedule

The MWh rate schedule is determined using the five-calendar-year average of the annual weighted average wholesale prices per MWh for major trading hubs serving the 11 western contiguous states. This schedule will be updated once every five years, consistent with the timing of the linear rent adjustments under 43 CFR 2806.22. The next update will occur in 2025, for the five-year period of 2026-2030, and so on.

Solar and wind energy capacity fees will be set based on the most recent 5-year period's weighted average wholesale prices per MWh for the major trading hubs. Once the rate is set for the first year of the MWh rate schedule, it will be adjusted each subsequent year by the annual adjustment factor for the five-year schedule. When setting the MWh rate schedule, the BLM will populate the MWh rate for the first year using the weighted average wholesale prices per MWh, apply the annual adjustment, and then round the yearly value to the nearest penny.

### Protocol for accessing and calculating Weighted Average Wholesale Prices

The BLM uses the Energy Information Administration (EIA) reported wholesale values in the 11 contiguous western states. The most recent 5-year average of values will be used in setting the MWh rate schedule. For the 2024 final rule, the BLM used years 2017-2021. The update of the MWh rate will occur in 2025 using the most recent full calendar year weighted average wholesale prices (2020-2024) for the MWh rate schedule years 2026-2030.

The protocol for accessing and calculating the weighted average wholesale prices for the 11 contiguous western states is as follows by accessing the EIA's public data at - <https://www.eia.gov/electricity/wholesale/#history> - and then completing the following:

1. Download each year's historical electricity wholesale market data.
2. Filter data to get the major trading hubs serving the 11 contiguous western states. NOTE that trading hubs may change over time. For example, the Southwest Power Pool (SPP) may provide enough data at the trading hub level in the future to be used in setting the MWh rate Schedule: <https://www.eia.gov/electricity/wholesalemarkets/spp.php>. Current MWh rate schedule uses data published for the following electricity hubs:
  - a. Indiana Hub
  - b. Mid-C
  - c. NP-15

## Attachment 3 – Capacity Fee

- d. Palo Verde
- e. SP-15
3. For each year’s data, calculate the annual daily volume-weighted average of the “Wtd avg. price \$/MWh” for every hub serving the 11 contiguous western states. To calculate the weighted average for each major trading hub: –
  - a. Sum the “Daily Volume MWh” (column “I”) for the entire year.
  - b. Calculate the weights by dividing each day’s trading volume by the total daily volume MWhs of the year (calculated in previous step).
  - c. Multiply the weights from the previous step by the “Wtd Avg Price \$/MWh” (**column G**) for each trading day. (DO NOT USE high/low \$/MWh in columns E and F).
  - d. Sum all the daily volume weighted prices for each major trading hub. This will equal the annual daily volume-weighted average price for that trading hub for that year.
4. Repeat steps 3a through 3d for each hub and year for the 5-year period to calculate the weighted average wholesale prices by MWh.
5. Calculate a final simple average across the major trading hubs by each a year for the 5-year period (e.g., current schedule uses 2017-2021, update will use 2020-2024) to calculate the yearly weighted average.
6. Then compute the simple average of the 5-year averages (from step 5) to calculate the MWh rate for the base year of the MWh rate schedule.

Energy Information Administration (EIA) reported wholesale values (2017-2021)

Follow steps 1-3 from section, *Protocol for accessing and calculating Weighted Average Wholesale Prices*, to download, filter and calculate hub averages.

Step 4 - Summarized						Step 5	Step 6
Year	Indiana Hub	Mid-C	NP-15	Palo Verde	SP-15	Annual Average Across all Hubs	5-Year Average (2017 - 2021)
2017	39.66762	25.18812	45.49452	36.21823	44.29844	\$38.173386	
2018	57.23073	32.01635	108.9894	50.06452	62.29406	\$62.119005	
2019	45.50387	40.3596	67.50149	33.46556	42.55639	\$45.877382	
2020	29.99152	23.066	62.53171	47.9071	52.03844	\$43.106952	
2021	63.39763	58.36854	103.9379	68.70568	65.52373	\$71.986693	<b>\$52.252684</b>

Carry 5-year average forward as year 1 of the 5-year rate schedule and apply three percent annual adjustment factor for years 2-5. Final step is to round the calculated MWh rates for the

## Attachment 3 – Capacity Fee

MWh rate schedule values per year. NOTE – First MWh rate schedule will be only for 2024 and 2025<sup>1</sup>.

	2021	2022	2023	2024	2025
Unrounded	\$52.25268	\$53.82026	\$55.43487	\$57.09792	\$58.81086
Rounded	\$52.25	\$53.82	\$55.43	\$57.10	\$58.81

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<sup>1</sup> Final rule, **Rights-of-Way, Leasing, and Operations for Renewable Energy**, published May 1, 2024, and no rates under this methodology available before rule effective date on July 1, 2024: <https://www.federalregister.gov/documents/2024/05/01/2024-08099/rights-of-way-leasing-and-operations-for-renewable-energy>

**Example: Summary – Qualification for Domestic Content reduction**

<b>Qualifying material, product, and items per: 2 CFR 184.3</b>	<b>Cost</b>
<i>A. Construction materials</i>	
(1) Non-ferrous metals;	
(2) Plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables);	
(3) Glass (including optic glass);	
(4) Fiber optic cable (including drop cable);	
(5) Optical fiber;	
(6) Lumber;	
(7) Engineered wood;	
(8) Drywall.	
<i>B. Iron or steel products: Predominantly of iron or steel or a combination of both</i>	
<i>Manufactured products</i>	
(1) Articles, materials, or supplies that have been:	
(i) Processed into a specific form and shape; or	
(ii) Combined with other articles, materials, or supplies to create a product with different properties than the individual articles, materials, or supplies.	
<i>C. Produced in the United States</i>	
(1) Iron or steel products.	
(2) Manufactured products.	
(3) Construction materials.	
<i>D. Materials</i>	
(1) cement and cementitious materials;	
(2) aggregates such as stone,	
(3) sand, or gravel,	
(4) aggregate binding agents or additives	
Total cost of qualifying materials, products, items (A through D)	
Total cost of development materials, products, items	
Percentage costs of qualifying items to total development cost	

Estimates do not include labor costs. Supporting documentation to summary qualification sheet are tabulated in the order they appear in the table. There are no duplicative entries across the multiple lines to qualify for the reduction.

\_\_\_\_\_  
Name of  
Chief Financial Officer  
Bright Breeze Company

\_\_\_\_\_ date \_\_\_\_\_