THE METROPOLITAN WATER DISTRICT
OF SOUTHERN CALIFORNIA

Office of the General Manager

January 11, 2013 Via Email

Mr. Darrick Moe
Desert Southwest Regional Manager
Western Area Power Administration
P. O. Box 6457
Phoenix, AZ 85005-6457
Post2017BCP@wapa.gov

Dear Mr. Moe:

This letter conveys the comments of the Metropolitan Water District of Southern California in response to the notice of proposed marketing criteria for allocating the Post-2017 Resource Pool pursuant to the Hoover Power Allocation Act of 2011. The notice was published by the Western Area Power Administration in the Federal Register (77 Fed. Reg. 65681, October 30, 2012).

The construction and operation of power generating facilities as part of the Boulder Canyon Project was initially authorized by Congress in the 1928 Boulder Canyon Project Act. The power revenues assured the repayment of the costs of constructing the Hoover Dam and Powerplant, a pre-condition imposed by Congress before it would make appropriations for this project. Section 5 of the 1928 Act authorized power contracts only with States, municipal corporations, political subdivisions, and private corporations, with preference given to the States. Metropolitan was one of the initial contractors that committed to purchase the power generated by the project.

The 1984 Hoover Power Plant Act authorized an uprating of the Hoover Powerplant, with the additional power and generating capacity to be marketed to new customers, while existing contracts were renewed through September 2017. The 1984 Act required that new customers be eligible under section 5 of the Boulder Canyon Project Act.

The Hoover Power Allocation Act of 2011 re-sets the amount of capacity and energy for the parties that hold existing contracts, and requires the issuance of new contracts commencing October 1, 2017. It further requires the allocation to new contractors of a resource pool equal to five percent of the full rated capacity and associated firm energy of the Hoover Powerplant, as set forth in a new Schedule D created by the 2011 Act. Again, Congress limited potential contractors to entities eligible pursuant to section 5 of the 1928 Act, but also added federally recognized Indian tribes.

Eligible entities in California are entitled to 11.1 percent of the Schedule D resources (i.e., 11,500 kW of contingent capacity and associated firm energy), as well as any potential allocation made by Western out of the 66.7 percent of the resources (69,170 kW of contingent capacity and associated firm energy) made generally available to the Boulder City Marketing Area.

The proposed marketing criteria would establish priorities commencing with Indian tribes and proceeding down through municipal corporations or political subdivisions that are electric utilities, electric cooperatives and public utilities that are not electric utilities, and finally any other eligible applicants. Metropolitan questions the legal basis for this prioritization. The only preference authorized in the legislation governing the Boulder Canyon Project is that in favor of the States of Arizona, California, and Nevada in section 5 of the 1928 Act. There should be no priority among different types of eligible applicants; instead, the allocation should be based on the other elements of the marketing criteria, such as the actual load or energy demand of each applicant, whether the applicant already receives the benefits of a federal power resource, and the applicant's ability to take delivery of the energy to meet their load.

In particular, Metropolitan is concerned that the priorities discriminate against public water agencies that require energy resources to perform their public service functions. The transportation, treatment, and service of public water supplies require significant amounts of energy. Public water agencies should have an equal opportunity to obtain federal energy resources that are reserved for the public benefit. The provision of public utility service is of equal benefit to the public, whether the utility is water or electric service.

Thank you for the opportunity to comment on the proposed criteria.

Very truly yours,

Jon C. Lambeck
Manager of Power Operations and Planning

JL/jj