



**Nye County**  
**Nuclear Waste Repository Project Office**  
2101 E. Calvada Blvd., Ste. #100 · Pahrump, Nevada 89048  
(775) 727-7727 · Fax (775) 727-7919

13-003 DL (L)

January 7, 2013

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

**Re: Comments on Western's Proposed Marketing Criteria for Allocation to Schedule D Applicants**

Dear Mr. Moe:

Nye County is pleased Western Area Power Administration plans to allocate contingency capacity and firm power to eligible applicants through the Hoover Power Allotment Act of 2011.

Nye County, Nevada, meets the eligibility criteria under Section 5 of the Boulder Canyon Project Act of 1928, as a political subdivision. Hoover power has not previously allocated power to Nye County under Schedules A, B, or C. Therefore, Nye County qualifies as a "new allottee" under the proposed Post-2017 Resource Pool Marketing Criteria for Schedule D allocations.

The Boulder City Area extends into the southern region of Nye County where access to electricity is available through the Valley Electric Association. Nye County and VEA are working cooperatively to develop agreements and mechanisms to enable VEA to receive and distribute a Nye County allocation of Western's Hoover Power for Nye County uses.

Nye County asks Western to consider the following comments on the marketing criteria Western proposed in the Federal Register, Vol. 77, No. 210, Tuesday, October 30, 2012.

**Proposed Criteria and Comments**

A: Western will determine amounts of allocations of power.

No comment.

B: Allottees must execute an electric service contract to purchase power.

No comment.

C: Eligible applicants, except Native American tribes, must be ready, willing, and able to receive and distribute or use power from Western.

Comment: Nye County appreciates that Western requires reasonable assurance an applicant “be ready, willing, and able to receive and distribute or use power from Western”, and suggests Western accept a Memorandum of Agreement (MOA) or similar agreement between a government subdivision (applicant) and a transmission distribution facility as evidence the applicant has met this eligibility requirement. Requiring the development and execution of contractual agreements prior to notification of an allocation could create an unnecessary political and procedural hardship on a political subdivision such as a county. Additionally, the proposed eligibility requirement excuses Native American Tribes from meeting the requirement. Nye County requests all applicants, including Native American Tribes, be required to meet the same criteria.

D: Native American applicants must be an Indian tribe as defined in the Indian Self Determination Act of 1975.

No comment.

E: In determining allocations, Western will give priority consideration in the following order... Nye County understands applicants must meet eligibility requirements; however, we disagree with the use of priority criteria as these are prejudicial. Nye County requests priority criteria be eliminated from the marketing criteria used by Western to determine allocations to eligible applicants. If Western determines it must prioritize eligible applicants, Nye County makes the following specific recommendations:

E. 1: Federally recognized Native American tribes. Native American Tribes should compete with other eligible applicants on an equal basis – without receiving special treatment or prejudice. Singling out a certain type of eligible entity for special treatment discourages collaboration among applicants and encourages future isolating and unproductive competition.

E. 2: Municipal corporations and political subdivisions... that have electric utility status by April 1, 2014.

Giving priority to entities having “electric utility status” would eliminate or at least prejudice the status of all otherwise eligible applicants who are customers of electric utilities. We suggest Western eliminate the priority for having electric utility status.

E. 3: Electric cooperatives and public utilities...

No comment.

E. 4: Other eligible applicants.

No comment.

F: Western will consider existing Federal power resource allocations of the applicants. In determining allocations in light of existing Federal power resource allocations received by applicants,

Comment: Nye County requests Western also consider the availability of other lower cost power to the applicants. In instances where Hoover power is the only lower cost power available to an applicant, Nye County requests a greater consideration be given to that application.

G. Western is available to assist tribes in developing load estimates.

Comment: Nye County appreciates some applicants may benefit from technical assistance provided by Western in the preparation of an application for a Hoover power allocation; however, we submit this assistance should be made equally available to any eligible applicant.

H. Allocations will be based on actual loads in the most recent calendar year.

Comment: Nye County suggests Western allow consideration of the historical load experienced by an eligible applicant over the previous three year period if an applicant can demonstrate significant

load/demand variance and can explain the basis for the variance. This would enable Western to more accurately estimate the projected annual load of new allottees whose load may be influenced by weather, economic development or other factors.

I. The minimum allocation will be 1,000 kW, and applicants will be allowed to aggregate their loads to meet the minimum requirements.

Comment: Nye County agrees eligible applicants should be allowed to aggregate load to achieve the minimum threshold requirement of 1,000 kW.

J. Aggregated applicants must demonstrate existence of a contractual aggregation arrangement prior to final allocation determinations.

Comment: Nye County agrees all members of an aggregated group should meet eligibility requirements with the exception of having individually to meet the 1,000 kW load requirement. We ask Western accept a Memorandum of Agreement between members of an aggregated group as demonstration of the group's intention and ability to apply for an aggregate load.

K. Contractors must execute electric service contracts within six months of receiving a contract offer from Western.

No comment.

L. "If unanticipated obstacles to the delivery of electric service to a Native American tribe arise, Western retains the right to provide the economic benefit of the resource directly to the tribe."

Nye County requests Western clearly define what is meant by "unanticipated obstacles" and "economic benefit" as these terms are used in this criterion. Does Western intend to develop, construct, and operate a transmission company, facility, or service in order to deliver and distribute electric power to Native American Tribes? Or, does Western intend to provide cash payment to a tribe to compensate for the lack of delivery facilities for electricity service? Nye County suggests this criterion be explained and either eliminated or applied to all eligible applicants equally.

Sincerely,



Darrell Lacy, Director  
Community Development

Cc: Jayne Harkins