



COLORADO RIVER INDIAN TRIBES

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November 6, 2002

Mr. J. Tyler Carlson
Western Area Power Administration
Desert Southwest Region Manager
P.O. Box 6457
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Subject: Parker-Davis Project – Extension of Electric Power Resource
Commitment by Application of the Energy Planning and Management
Program Power Marketing Initiative

Dear Mr. Carlson:

In response to the August 8, 2002 Notice of Proposal published in the Federal Register, the Colorado River Indian Tribes (CRIT) submit the following comments on the Western Area Power Administration (Western) proposal to apply the Power Marketing Initiative (PMI) to the long-term firm power contracts of the Parker-Davis Project. The proposal would create a power pool for new customers by withdrawing six percent (6%) of the power presently allocated to existing customers.

SUMMARY OF CRIT INTERESTS:

CRIT has received a continuing benefit from a current Parker-Davis firm power allocation to the Bureau of Indian Affairs, Colorado River Agency (CRA). The CRA provides electric service some 3,500 customers on the Colorado River Indian Reservation (CRIR) occupied by CRIT in Arizona and California. Although CRA previously provided some electric service off the CRIR, it presently provides such service exclusively on the Reservation. A large portion of the CRIR lands are irrigated by an irrigation project, also operated by CRA, using water diverted from the lower Colorado River at Headgate Rock Dam. The CRA allocation of Parker-Davis power has been the major source of electric energy to the CRIR for many decades both, for domestic use and irrigation, and is an essential resource to CRIT. Thus CRIT believes that the continuation of CRIR deliveries under the Parker-Davis firm power allocation is vital.

As an Indian tribe, CRIT has this year received a PMI allocation of Western power from the Post-2004 Resource Pool-Salt Lake City Area Integrated Projects (CRSP). That

allocation was from a new pool created by withdrawing a portion of power from existing CRSP power contracts. The CRIT allocation will supplement a minor CRSP allocation to CRA and will help assure adequate energy resources to the Reservation. CRIT anticipates a similar allocation from the new Parker-Davis pool to be created for Indian tribes and other new customers, especially those in California.

PRIORITY FOR PARKER-DAVIS ENERGY:

The construction of Parker Dam was authorized by Congress in 1935. Act of August 30, 1935, 49 Stat. 1039. That Act established the reclamation of Indian reservations on the lower Colorado River as one of the purposes of Parker Dam and also authorized the construction of Headgate Rock Dam to divert irrigation water to the CRIR. The Act singled out Indian reservations on the lower Colorado River as primary beneficiaries of the electric production at Parker Dam. No preference customers, other than such tribes, were given this priority.

The priority of such Indian reservation electric usage was clarified in 1975, when final Parker-Davis allocations were made. In the September 21, 1975 approval by the Secretary of the Interior, the following clarification was made in response to challenges to the proposed CRA allocation:

“...The plain fact is that not enough Parker-Davis and CRSP power is available to supply all the needs of the preference customers that want it. Therefore, some or all of them must rely in part on other sources of power to supplement the Federal power. Under these circumstances, the proposed allocation was based on a policy that the only uses that would receive an absolute priority were Federal reclamation projects and irrigation pumping on Indian irrigation projects along the lower Colorado River. There is legal justification for such a priority.

“The allocation of the remaining power among the preference customers is one of policy, depending on the circumstances. In this instance, it was concluded as a matter of policy that it would be appropriate to give the Indian reservations a relative advantage over non-Indians but not an absolute priority...”

At this time, when the firm power allocation to CRA is due for renewal in 2008 and when the competition for Parker-Davis energy continues, it is essential that all concerned be reminded of and recognize the first priority of electric use on the CRIR.

WESTERN'S PARTIAL DENIAL OF CRSP ENERGY TO CRIT:

As noted above, CRIT this year received an allocation of electric power from the Post-2004 Resource Pool of CRSP. The Western PMI allocation procedure was based on CRIT's reservation electric load for a recent historic period. In its initial application for an allocation, CRIT submitted for consideration the load for its entire reservation in both Arizona and California. However, Western rejected the California load because the CRSP marketing area did not include California. In its written comments, CRIT asked

that its total reservation load be recognized by altering the market area or by otherwise providing adequate CRSP energy for CRIT' total electric needs in both states. The CRIT request was denied by Western. Thus, CRIT's final allocation of Post-2004 CRSP energy is not intended to serve CRIT loads in the California portion of the reservation.

However, in the final allocation justification, Western did not dispute the validity of CRIT's needs in California and indicated that the California loads would be adequately provided for in the Parker-Davis allocation to be effective in 2008. Specifically, Western said in its February 4, 2002 Federal Register announcement:

“Originally, the marketing area for the Colorado River Storage Project included the drainage area of the Colorado River. The Post-1989 Marketing Plan reduced the marketing area to Arizona, Colorado, New Mexico, Utah, Wyoming and portions of Nevada. The current action is an extension of that marketing plan. Therefore, Western is not able to consider expanding the marketing area at this time. Any expansion of the marketing area to include portions of reservation in California is outside the scope of this effort. The portions of reservations in California are within the Parker-Davis marketing area. Power resource pools from these projects will be allocated effective upon expiration of existing contracts on September 30, 2008. Tribes within reservation and eligible loads in California may be able to participate in that process.”

CRIT believes that Western is sincere in its endeavor to make equitable and reasonable power allocations to Indian tribes and this anticipates an adequate allocation of Parker-Davis energy to serve the California portion of its reservation.

THE PMI RESOURCE POOL:

In view of apparent needs, the proposed PMI pool to be created and offered to new customers in relatively small. The California Indian reservations that would be eligible for new Parker-Davis energy did not receive any CRSP energy allocations and will have to rely for their needs on a portion of the Parker-Davis pool, in the same way that CRIT must look for Parker-Davis power to serve the California portion of the CRIT reservation. Such California needs are presumably to be met from the new pool in addition to requests from other non-California entities. While we do not know how large any such requests or needs will be, we anticipate a severe lack of power to be available from a new Parker-Davis pool and we are concerned that the deficit will severely reduce any allocation for CRIT's needs.

Under these circumstances, we feel Western should search for and find other economic resources to add to its basic Parker-Davis resource.

REDUCTIONS IN ALLOCATIONS TO REFLECT CHANGED WATER CONDITIONS OR OPERATIONS:

In the August 8, 2002 Federal Register announcement, Western proposes that any allocations made under the PMI be subject to adjustment "to reflect changes in dam operations and/or water conditions upon 5 years notification." We are aware that proposals have been made to transfer water between California water users, which transfers would result in reduced generation at Parker Dam. Such transfers are proposed for the convenience and benefit of transfer parties. If such reduced generation occurs, we feel that Parker-Davis allottees, particularly CRA and CRIT, should not be penalized through reduced power allocations. Any such lost generation should be replaced.

SUMMARY AND CONCLUSION OF CRIT COMMENTS:

The following comments summarize the position of CRIT. We urge that the proposal to apply the PMI to the Parker-Davis Project be modified in the following respects:

First, the existing allocation to CRA on behalf of CRIT should be extended without reduction. This reflects the Congressional priority for CRIT's electric usage.

Second, the PMI allocation process should recognize the inadequate allocation of CRSP energy to CRIT for its California needs. An allocation is needed that produces Federal energy parity throughout CRIT's reservation.

Third, Western should embark on a search for additional economic resources to add to the Parker-Davis resource and share such additions in a second phase of this process. If Western has an interest in developing new generation, CRIT will be willing to consider a suitable site and water supply for it.

Fourth, any reduction in Parker-Davis generation caused by water transfers that primarily benefit such transferees must be replaced by equivalent energy, especially when priority uses are threatened.

Thank you for the opportunity to submit these comments.

Sincerely yours,



Daniel Eddy, Jr., Chairman
Colorado River Indian Tribes