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November 26, 2007

VIA EMAIL DELIVERY ONLY

Mr. Ron Horstman  
Energy Services Specialist  
Western Area Power Administration  
Post Office Box 281213  
Lakewood, Colorado 80228-8213

Re: Proposed Changes to 10 C.F.R. Part 905 Concerning Integrated Resource Plans ("IRP's") Prepared Pursuant to Section 114 of the Energy Policy Act of 1992 (EPAct), Public Law 102-486

Dear Mr. Horstman:

The Arizona Municipal Power Users' Association ("AMPUA") is an association of consumer-owned and operated electrical systems and it consists of cities and towns, rural electric distribution and generation cooperatives, special districts, irrigation and electrical districts, water conservation districts, agricultural improvement districts and Indian utilities. Collectively the members deliver almost one-half the electricity in Arizona to over two million people.

AMPUA members purchase federal hydropower directly from Western and/or through the Arizona Power Authority, acting as the agent for the State of Arizona for receipt of Hoover energy under the Boulder Canyon Project Act.

As such, these entities are subject to the IRP requirement of Section 114 of EPAct. Our cooperative members are subject to the public disclosure requirements of the Department of Agriculture Rural Utilities Service department and the Arizona Corporation Commission, which is the regulatory body governing them. Additionally the Arizona Revised Statutes prescribes access to the books and records of cooperatives as non-profit Arizona corporations. AMPUA and its members are concerned and interested in any proposed regulatory change that affects the proposed federal IRP activity, especially a proposal that, among other things, would provide a process for third party access to - or public publication of information submitted in the IRPs without the knowledge or consent of the submitting entities. Arizona law permits and requires notice be given before information is released

either under the state public access to records law or the Arizona Corporation Commission rules on disclosure.

AMPUA, as a founding member of the Colorado River Energy Distributors Association ("CREDA"), has reviewed the October 16, 2007 CREDA comments on this IRP matter. AMPUA is fully supportive of the CREDA comments and requests your careful consideration of them.

NERC and WECC and RUS and the Arizona Corporation Commission are regulatory bodies having jurisdiction over the operation and information concerning most of our members, and those jurisdictional bodies are also issuing rules and regulations coordinated with the interests and concerns over public infrastructure raised by the Department of Homeland Security. The final version of FERC Critical Energy Infrastructure Information rules was published in the Federal Register only last week. 72 Fed.Reg. 63980, et seq. (November 14, 2007). Western needs to compare the obligations it and its customers have under the FERC and Homeland Security and RUS and Arizona Corporation Commission rules to ensure that it is not putting itself in a position of releasing information that will otherwise be deemed Critical Energy Infrastructure Information not subject to disclosure under FERC or Homeland Security or RUS rules. Neither Western nor its customers should be caught in between two or three sets of conflicting regulations.

The IRP structure is evolving and there is no certainty as to its future form, format, and requests for data and ultimate structure. Any IRP rule allowing content, formerly intended to permit Western as the contractor allocating power to determine privately between Western and the Customer whether the customer remains qualified for receipt and is complying with applicable rules and regulations in the use of power, to be publicly disclosed is an invitation to misuse, mayhem, abuse and injustice in a justice system designed and created in our country to be adversarial. Without additional safeguards the potential for socio-economic, political and judicial misuse of the IRP FOIA process is a critical flaw in the draft.

Requisite procedural and substantive due process under the law does not seem to be afforded by Western and provided in the draft. Notice of inquiry, opportunity to be heard, and an opportunity to appeal an order releasing information is very fundamental and vital to protect the rights of our members and your customers. While Western is responsible as an agency to the congress and the public in the administration of its responsibilities, it must balance those duties with the rights of its customers, the jurisdiction of other agencies, and infrastructure safety.

Additionally, customer proprietary rights do not appear to be protected in the draft.

Because the draft is ambiguous and lacks language protective of customer rights (rights of our members) to privacy and confidentiality of certain information (information confidential for proprietary, security and reasons of jurisdiction of other agencies, federal and state) the discretion seemingly created in Western employees under the rule appears to make more likely than not there will be an occurrence of Western releasing information which release will be construed as arbitrary and capricious. The rule sets up potential conflicts among Western and other entities having jurisdiction over your

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customers. Our municipal customers are subject to FOIA requests but have rules, regulations and processes which protect the public and the entity while making public appropriate information. Our cooperatives are subject to FOIA requests through RUS and the Arizona Corporation Commission which regulate them and yet there are protective processes in place. Your rule has an inadequate protective process.

A unilateral decision by an employee of Western determining exemption or not an exemption upon receipt of an FOIA without notice to the customer and opportunity to be heard and to appeal an adverse decision is not consistent with the way, manner and history of Western's dealing with customers and protecting the public.

AMPUA strongly suggests the proposed rule is legally and otherwise deficient and should be modified. Another publication of a draft with opportunity to be heard and comment is required.

Very truly yours,

ARIZONA MUNICIPAL POWER USERS'  
ASSOCIATION

By  \_\_\_\_\_  
Its Executive Secretary

Enclosure: AMPUA List of Members

cc: Tim Meeks, Administrator  
Leslie James, CREDA  
Tom Graves, Mid-West Electric Consumers Association  
AMPUA Membership

CGSUS HD: CGSUS AFS:AMPUA:letters and Bi weekly Report:2007 letters:112607 ampu IRP letter.doc



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**Arizona Municipal Power Users Association  
Membership List**

- \*Arizona Electric Power Cooperative
- \*\*Avra Valley Irrigation and Drainage District
- Central Arizona Water Conservation District
- Cortaro-Marana Irrigation District, Pima County
- \*\*Eastern Arizona Preference Pooling Association
- Electrical District No. 2, Pinal County
- \*\*\*Grand Canyon State Electric Cooperative Association
- HoHoKam Irrigation and Drainage District, Pinal County
- City of Mesa Electric Utilities
- Mohave Electric Cooperative
- \*\*Navajo Tribal Utility Authority
- Navopache Electric Cooperative
- City of Page
- City of Safford (Gila Resources)
- Salt River Project
- \*\*Town of Marana
- \*\*Town of Gilbert
- Town of Thatcher
- \*\*Trico Electric Cooperative, Inc.
- Town of Wickenburg
- Wellton-Mohawk Irrigation and Drainage District
- City of Williams
- \*\*\*Utah Association of Municipal Power Systems
- \*\*Yuma County Water Users' Association
  
- \* *Representing:*
  - Sulphur Springs Valley Electric Cooperative
  - Trico Electric Cooperative
  - Duncan Valley Electric Cooperative
  - Graham County Electric Cooperative
  - Mohave Electric Cooperative
  - Anza Electric Cooperative (California)
  
- \*\* *Associate Members*
- \*\*\* *Special Associate Member*