

November 27, 2017

*VIA Email: SPP-Comments@wapa.gov*

Western Area Power Administration  
ATTN: Rodney Bailey  
150 East Social Hall Ave., Suite 300  
Salt Lake City, UT 84111

**RE: Comments for FR Vol. 82, No. 196 - Recommendation for the Western Area Power Administration Loveland Area projects and Colorado River Storage Project to Pursue Final Negotiations Regarding Membership in a Regional Transmission Organization**

Dear Mr. Bailey:

On behalf of Arizona Electric Power Cooperative, Inc. (AEP CO), I am providing the following comments in support of the efforts Western Area Power Administration (WAPA) Colorado River Storage Project (CRSP) region in their involvement with the Mountain West Transmission Group (MWTG) and its evaluation of the benefits and costs of participation in a regional transmission organization (RTO). AEP CO recognizes that most utilities will participate in a western RTO in the future and compliments the WAPA CRSP region for participating in the MWTG meetings to date to evaluate options.

AEP CO was present at the CRSP customer stakeholder meeting held in Phoenix on November 9, 2017 and appreciates the presentation and comments from WAPA representatives. Based principally on that meeting, AEP CO raises the following questions for WAPA to address:

1. WAPA provided a slide deck that represented the perceived or known benefits and concerns of pursuing membership in an RTO (slides 39-40 of the 11/09/17 meeting). Have WAPA and the other MWTG participants negotiated an “off-ramp”? Should those concerns or costs outweigh the benefits?
2. WAPA spent considerable time during the 11/09/17 stakeholder meeting discussing the seven year cost shift mitigation plan and how WAPA CRSP would receive \$11,000,000 per year from a combination of Regional Through and Out Rates (RTOR) revenue and MWTG member contributions. We did not hear how WAPA CRSP would reduce its expenses during that same seven year period so that CRSP customers will not bear an \$11,000,000 rate increase in year

- eight. Please provide the internal WAPA CRSP plans to mitigate that rate impact and the mechanism it will utilize to engage with CRSP customers during that period to ensure progress.
3. What provisions has WAPA identified to separate the cost exposure between the Upper Great Plains (UGP) region and the CRSP region? CRSP customers should not bear the compliance cost of UGP Southwest Power Pool (SPP) nor should the UGP region be exposed to any CRSP compliance costs for participation in SPP.

In addition to answering these questions, AEPCO encourages WAPA to pursue certain consumer protections as part of its potential membership in SPP. Notably, AEPCO encourages WAPA to adopt similar provisions of the Federal Service Exemption (FSE) that were proposed as a condition for WAPA UGP to join SPP. Indeed, as explained by SPP and WAPA in materials submitted before the Federal Energy Regulatory Commission (FERC), the FSE reflected the conditions upon which WAPA could participate in a Regional Transmission Organization (RTO). Those conditions were set forth in Section 1232 of the Energy Policy Act of 2005 and reflect the legal constraints placed on a Power Marketing Administration's (PMA) participation in an RTO.<sup>1</sup>

There are several core components of the FSE which should be incorporated into the membership agreement with SPP and a condition of the CRSP projects becoming part of the SPP. First, as with WAPA's UGP membership in SPP, WAPA CRSP should be permanently exempt from congestion and marginal losses settlements for transmission usage over the facilities in applicable pricing zones. This exemption is needed to allow WAPA CRSP to meet the contract requirements and load obligations without needlessly raising rates. Furthermore, we encourage WAPA to secure an exemption from a regional postage rate for deliveries from the CRSP projects in order to meet the contractual and statutory obligations associated with the CRSP projects. Moreover, the WAPA agreement with SPP should also reflect the necessary flexibility to allow use of network service in connection with deliveries of output from the CRSP projects, similar to the FSE provision adopted for the WAPA UGP customers.

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<sup>1</sup> A key component of Section 1232 addressed the extent to which FERC could exercise authority over a PMA's activities. In particular, in Subsection D, Congress explicitly states that:

(d) COMMISSION.—Neither this section, actions taken pursuant to this section, nor any other transaction of a Federal utility participating in a Transmission Organization shall confer on the Commission jurisdiction or authority over—

(1) the electric generation assets, electric capacity, or energy of the Federal utility that the Federal utility is authorized by law to market; or

(2) the power sales activities of the Federal utility. (Section 1232(D), Public Law 109-58, August 8, 2005)

As Section 1232 gives WAPA the authority to join or participate in an RTO, it also reflects the intent of Congress to respect the underlying organic authorities that govern WAPA's structure and operations. Participation in SPP must continue to honor this directive from Congress, including a delineation, i.e., prohibition on FERC ordering WAPA to make refunds.

We also believe WAPA should include a provision in the membership agreement that reflects WAPA's contractual obligation to provide the economic benefits associated with the CRSP contracts.<sup>2</sup> Although a provision of this sort could be included in the CRSP contracts, we believe language could be developed and adopted into the membership agreement to reflect the intent of WAPA to honor its commitment as embodied in the proposed CRSP contracts notwithstanding any decision to join SPP or any other organized market.

As the WAPA CRSP negotiations with SPP continue, AEPCO wishes to preserve the right to submit additional comments or update our submission if appropriate. If there are requirements to sign non-disclosure agreements to facilitate our review, please let me know as we will execute all appropriate documents in order to participate in a constructive manner.

In the meantime, AEPCO thanks WAPA for the stakeholder outreach process and this opportunity to comment.

Sincerely,



Patrick F. Ledger  
Executive VP and Chief Executive Officer

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<sup>2</sup> Conceptually, the provision would indicate that WAPA intends to honor its commitment to CRSP contracts, and membership in SPP must not infringe on WAPA's statutory or contractual duties to provide the economic benefit associated with the current or future CRSP contract.