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E-MAILED AND MAILED

November 22, 2004

Western Area Power Administration  
Attn: Corporate Communications  
P.O. Box 281213  
Lakewood, Colorado 80228-8213

Re: Proposed changes to Western's Open Access Transmission Tariff  
including changes to its LGIP and LGIA provisions

Ladies and Gentlemen:

The following comments are submitted on behalf of the Southwest  
Transmission Dependent Utility Group for your consideration.<sup>1/</sup>

Two provisions caught our eye with regard to changes in your OATT  
that are not generated by an effort to conform your LGIP and LGIA  
provisions to decisions by FERC and its rulemaking decision on  
rehearing that affects this matter.

At sections 3 and 11, Western has inserted provisions concerning  
requirements for advance payment for services. In section 3 it  
relates to ancillary services. In section 11 it relates to  
advance payment for all service based on a creditworthiness  
review.

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<sup>1/</sup> Aguila Irrigation District, Ak-Chin Electric Utility Authority,  
Buckeye Water Conservation and Drainage District, Central Arizona Water  
Conservation District, Electrical District No. 3, Electrical District No.  
4, Electrical District No. 5, Electrical District No. 6, Electrical  
District No. 7, Electrical District No. 8, Harquahala Valley Power  
District, Maricopa County Municipal Water District No. 1, McMullen Valley  
Water Conservation and Drainage District, Roosevelt Irrigation District,  
City of Safford, Tonopah Irrigation District, Wellton-Mohawk Irrigation  
and Drainage District.

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There have been other occasions recently for Western customers to examine the extent of the authority that Western has to receive advance funding and the circumstances under Reclamation Law where statutes provide for advance funding as a requirement.

Suffice it to say that there is a considerable question about whether Reclamation Law, which forms the basis for this activity, provides any authority for requiring advance funding for activities related to the provision of electric service, whether it be transmission service or other services. Specifically, Section 9(c) of the Reclamation Project Act of 1939 provides for advance payment for water services but, in the same paragraph, does not do so for power services. Moreover, nothing in the Contributed Funds Act makes such a provision.

We understand the desire to employ business practices that FERC may feel are acceptable for its jurisdictional utilities. However, Western has taken great pains during the development of its voluntary OATT and since to advise FERC and others of the limits of Western's authorizing statutes.

Under the circumstances, Western should reexamine whether it has the legal authority to require, it is OATT, an advance funding mechanism for which it has no direct statutory authority.

Thank you for the opportunity to comment on this proposed revision to Western's OATT.

Sincerely,  
ROBERT S. LYNCH & ASSOCIATES

/s/

Robert S. Lynch

RSL:psr  
cc: SWTDUG Members