



TRI-STATE GENERATION AND TRANSMISSION ASSOCIATION, INC.

HEADQUARTERS: P.O. BOX 33695 DENVER, COLORADO 80233-0695 303-452-6111

November 19, 2007

Mr. Ron Horstman
Energy Services Specialist
Western Area Power Administration
P.O. Box 281213
Lakewood, CO 80228-8213

Dear Mr. Horstman:

Tri-State Generation and Transmission Association, Inc. appreciates the opportunity to comment on Western's Notice of Proposed Rulemaking as published in the Federal Register on August 21, 2007 on Energy Planning and Management Program; Integrated Resource Planning Approval Criteria. Tri-State is a consumer-owned generation and transmission cooperative that is owned by forty-four rural distribution systems in Colorado, Wyoming, New Mexico, and Nebraska.

Significant market and regulatory changes have occurred in the electric utility industry in the elapsed time since the establishment of the requirements for the IRP and the supporting regulations and it is appropriate to take a fresh look at the existing requirements.

Western has proposed three changes to the current IRP regulations: (1) approval of IRP's for member-based associations (MBA's); (2) approval for regional IRP participation; and (3) facilitated availability of EPAMP IRP's. Tri-State offers the following comments:

1. Changes to Approval Process under 10 CFR 905.11(b) (4) (i)

Tri-State fully supports the proposed change, and we would specifically support deleting the language, "...and each MBA member (such as a board or directors or city council)..." as it appears in CFR 905.11(b) (4) (i).

Under the existing regulation, the following language is used:

"... the governing body of an MBA and each MBA member (such as a board or directors or city council) must approve the IRP.....", where the abbreviation "MBA" has been defined as a "member-based association".

It is not appropriate to require approval of both the governing body of an MBA, which in the case of Tri-State would be the Tri-State Board of Directors; and to require approval by each member of Tri-State, which in the case of Tri-State would be the boards of each of the 44 Member distribution cooperatives. If the IRP is a reflection of the Tri-State planning process, then only the Tri-State Board can act on behalf of Tri-State in





Mr. Ron Horstman
November 19, 2007
Page 2

approving the IRP. In addition, at Tri-State, as we believe is also the case for other G&Ts/MBAs, we have a number of Board Policies that direct our resource planning process which are developed by our Board and followed by our staff. Finally, when the Tri-State members' Boards of Directors convene, they have no fiduciary responsibility to or legal ability to act on behalf of Tri-State. As a result, the existing language is flawed in concept in that it requires a governing body to make representations on behalf of an organization over which it has authority.

First, Western's practice has been to not require such approvals. Further, this issue was raised in Tri-State's most recent Western IRP public participation process and that was submitted to Western and approved. We maintained then and contend now that such a duplicative approval process is unnecessary and unwarranted.

2. Changes to Encourage Cooperation among Customers under 10 CFR 905.12(b)

Tri-State does not oppose the proposed changes.

Collaborative planning was originally intended to provide a process for small utilities in a region to conduct joint planning for facilities development. This proposed change seems to focus on collaborative regional transmission planning. If this is the intended focus, then the proposed language should be explicit that this is the case, since there is very little attention given to transmission in the existing regulations.

The regional, cooperative IRP planning model is currently described as an alternative, and should continue to be considered as such. For multi-state utilities such as Tri-State, it is practical to take such an approach in meeting Western's requirements, particularly in the highly competitive supply resource side of the system. Tri-State and other utilities do engage in significant joint transmission planning processes that involve power producers and developers. Those transmission plans are then factored into our IRP as appropriate; however, such a process should not be required.

3 Changes to Make Customer IRPs More Available to the Public

After submitting our 2006 IRP, Tri-State voluntarily posted the document on our web page. In addition, we did not object when Western sought our position on posting the IRP on its web site after that filing. Western should be careful that it not place itself in the middle of communication between interested parties and customers regarding customer IRPs. 10 CFR 905.11 (b) (4) already requires the customer to describe how it will share information with the public. That requirement is sufficient, as communication of IRP results by a customer to the appropriate parties should be addressed as part of the



Mr. Ron Horstman
November 19, 2007
Page 3

customer's public participation process. However, if Western were to choose to post IRPs that are not filed with it as confidential or market sensitive on its web site, we would not oppose such.

In addition to the three changes proposed by Western, Tri-State requests that additional changes be considered.

1. Recognize the Limitations of Wholesale Suppliers to Influence Retail Demand

As a wholesale supplier, there are limits as to how much a G&T or a wholesale power authority, such as Tri-State, can influence the retail relationship between our members and their end-use customers. As retail providers, our members can and do appropriately manage their customer relationships. Certain demand-side options in an IRP process are often not available to Tri-State. For example, Tri-State has no authority to develop retail rates. This circumstance is recognized in 10 CFR 905.11 (b) (1), where the following language is found:

“... Identification and comparison of resource options is an assessment and comparison of existing and future supply-side and demand-side resources options available to a customer based upon its size, type, resource needs, geographic area and competitive situation.”

Note that both supply and demand-side resources are to be evaluated only to the extent they are “available to a customer...” Furthermore, the one state public utilities commission that has considered this question for Tri-State in addressing utility DSM programs has specifically ruled that since Tri-State has no retail customers, it is not covered by utility DSM obligations. We can and do work aggressively with our Members in promoting such programs, but there are limitations inherent in our vertically disaggregated business model that vertically integrated utilities do not face.

Tri-State believes explicit language in the regulations should clarify this issue.

2. Changing Regulatory Backdrop

Since the implementation of the Western IRP requirements, important statewide initiatives have been implemented. Specifically, in Colorado there is a Renewable Portfolio Standard (RPS) (known as Amendment 37) and similar requirements in New Mexico that requires defined levels of expenditures for renewable generation – 10% of retail electric sales by 2020 in both states – and encourages energy efficiency and





Mr. Ron Horstman
November 19, 2007
Page 4

conservation measures through the Renewable Energy and Conservation Fund mechanism in New Mexico.

There is a reasonable expectation that some form of national RPS could be enacted in the near term. In light of these changing requirements, certain of the Western IRP requirements should be changed today, and the regulations implementing the Western IRP requirements should be adapted to anticipate future changes.

Today, the language in 10 CFR 906.16 (c) requires that customers with multi-state service territories adopt the "...highest requirement from the State or Tribe within the customers' service territory and additional apply it to all members"

There are several reasons why Tri-State believes that this requirement is not appropriate. First, Tri-State is the multi-state aspect of this requirements within the Energy Policy Act of 1992. Second, with varying requirements of differing designs flowing from the different States, it would now seem to be impossible to apply this requirement on top of, or integrated with an RPS requirement.

Instead, Tri-State believes that each of these State requirements comprise a piece of a system that accomplishes or exceeds the objectives of the IRP process. As a result, Tri-State would suggest that the multi-state requirement be dropped, and instead recommend Western take a global view of the efforts by a utility to comply with all applicable state law, and that Western need not create, and should eliminate, additional and duplicative requirements within the regulations.

Tri-State appreciates the opportunity to provide comments on Western's IRP proposal, and we are available to discuss our comments at you request.

Sincerely

Mac McLennan
Sr. Vice President
External Affairs

MM/cm