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IN THE UNITED STATES DEPARTMENT OF ENERGY
WESTERN AREA POWER ADMINISTRATION
PHOENIX, ARIZONA

BOULDER CANYON PROJECT
POST-2017 REMARKETING
PUBLIC INFORMATION FORUM

REPORTER'S TRANSCRIPT OF PROCEEDINGS

Phoenix, Arizona
July 13, 2011
10:11 a.m.

REPORTED BY: CHRISTINE JOHNSON, RPR
Certified Reporter #50383

PREPARED FOR:
WESTERN AREA POWER ADMINISTRATION

BRUSH & TERRELL
Court Reporters
26712 N. 90th Lane
Peoria, Arizona 85383
(623) 506-8046

CHRISTINE JOHNSON, RPR
Brush & Terrell Court Reporters
(623) 561-8046

1 Be it remembered that heretofore on July 13, 2011,
 2 commencing at 10:11 a.m., at the offices of the Western Area
 3 Power Administration, Phoenix, Arizona, the following
 4 proceedings were had, to wit:

5

6

7	OPENING REMARKS	Page
8	BY MR. DOUG HARNESS	3

9

10 PRESENTATION:

11	BY MR. MIKE SIMONTON	5
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12

13 COMMENTS BY:

14	HITCHCOCK, Ralph	13
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15	TOENYES, Jerry	13, 26
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16	FANT, Doug	16, 23, 25, 27
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17	KAPPELMAN, Susan	16
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18	LYNCH, Bob	16
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19	PONGRACZ, Ann	19, 24
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20	MOYES, Jay	24
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21	SWEENEY, Sheryl	24
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1 MR. HARNESS: On the record. Good morning
2 everybody. Welcome to our Public Information Forum. I'm an
3 attorney with Western Area Power Administration from our
4 office in Lakewood, Colorado.

5 This Public Information Forum has been scheduled
6 for Western to present information on and to allow you to
7 ask questions about the proposals made in Western's Federal
8 Register Notice of April 27th, 2011, relative to the
9 marketing and Boulder Canyon Project firm electric service
10 beyond September 30, 2017, when current BCP contracts
11 expire.

12 The proposals concern: One, the quantity of the
13 capacity and energy to be marketed; two, the quantity of
14 resources to be extended to existing customers; and, three,
15 the size of the proposed resource pool to be available to
16 new customers; and, four, excess energy provisions.

17 Please keep in mind that all issues raised today
18 should be relevant to these proposals. Please wait to ask
19 any questions until after our formal presentation has been
20 completed.

21 A verbatim transcript of today's Forum is being
22 prepared by our court reporter. Everything said while we're
23 in session today, together with all exhibits, will be part
24 of the official record.

25 The transcript of today's Forum will be available

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1 for review on-line at www.wapa.gov/dsw/pwrmt under the
2 Boulder Canyon Project Effort link. The transcript and the
3 complete record of this public process will also be
4 available at Western's Desert Southwest Regional Office and
5 at Western's Corporate Services Office.

6 Additionally, a copy of the transcript will also
7 be available upon payment of the required fee to the court
8 reporter. The court reporter's contact information may be
9 obtained during or after today's Forum.

10 Anyone interested in commenting on these proposals
11 should submit written comments by mail to Mr. Darrick Moe,
12 Regional Manager, Desert Southwest Region, Western Area
13 Power Administration, Post Office Box 6457, Phoenix, Arizona
14 85005-6457. You may also fax comments to Western at
15 (602)605-2490 or e-mail them to post2017bcp@wapa.gov.

16 In addition, Western will hold a Public Comment
17 Forum beginning at 10:00 a.m. on August 17th, 2011 at this
18 same location. Comments made at the Public Comment Forum
19 will be recorded by a court reporter and will become part of
20 the official record as part of this public process, as will
21 all comments written directly to Western.

22 Comments on these proposals that were previously
23 submitted in response to Western's November 20th, 2009
24 Federal Register Notice will be considered and addressed in
25 this process and does not need to be resubmitted.

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1 The deadline for submitting written comments is
2 September 1st, 2011. And Western reserves the right not to
3 consider any comments received after this date. Any
4 questions we're not able to answer this morning will be
5 answered for you in writing.

6 And with that, unless anyone has any questions
7 about our procedures for today, I will turn the Forum over
8 to Mike Simonton, Project Manager for Western's Desert
9 Southwest Region for this effort.

10 MR. SIMONTON: My name is Mike Simonton. I'm the
11 Public Utility Specialist here at Western to serve as
12 the Project Manager for our remarketing effort, and I'll be
13 walking us through our Information Forum here and the
14 material here today.

15 To get started, I'll discuss our
16 presentation topics, things that we're going to go through
17 today. We're going to have a brief project history. We're
18 going to discuss the remarketing effort to date. We're also
19 going to go into a decent amount of detail regarding the
20 Federal Register Notice dated April 27th of this year in
21 which it has some decisions that we have made, as well as
22 some proposals.

23 We're also going to talk about some remarketing
24 milestones, and we'll also list the points of contact
25 relative to this project.

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1 To give you some project history, back in December
2 of '28 the Boulder Canyon Project was authorized by the
3 Boulder Canyon Project Act. By 1930, some initial
4 allocation of energy were distributed under the regulations
5 by the Secretary of Interior for a 50-year term commencing
6 in 1937.

7 In August of '77, the Department of Energy
8 Organization Act transferred the power marketing functions
9 for the Bureau of Reclamation to Western. In May of 1983,
10 Western published the General Consolidated Power Marketing
11 Criteria for Regulations for Boulder City Area Projects via
12 Federal Register Notice.

13 And January of 1984, the Hoover Power Plant Act of
14 1984 was enacted. And in December of '84, Western published
15 the conformed General Consolidated Power Marketing Criteria
16 for Regulations for Boulder City Area Projects, again
17 through a Federal Register Notice.

18 By June of 1987, Western and the current
19 contractors entered into 30-year firm electric service
20 contracts.

21 These contracts are set to expire September 30th,
22 2017 and they entail a marketed value of contingent capacity
23 of 1,951 megawatts with an associated 4.5 million -- just
24 over 4.5 million megawatt hours of annual firm energy.

25 We've listed the 15 contractors that are existing

1 contractors today. And, again, those contracts are set to
2 expire in September of 2017.

3 We've added a depiction of the current Boulder
4 City marketing area. This is the Hoover marketing area that
5 we use today, and we can discuss a little bit more about
6 that in future slides.

7 To give you a little background on what efforts
8 have been done or what activities have taken place for the
9 remarketing effort to date, back in November of 2009, we --
10 Western initiated the public process via Federal Register
11 Notice and in that Federal Register Notice, Western proposed
12 the following: We have proposed to apply the Energy
13 Planning and Management Program, which I'll refer to later
14 in later sides as EPAMP.

15 The Power Marketing Initiative, which, again, I'll
16 refer to as PMI to the Boulder Canyon Project. We proposed
17 30-year contract terms, a 5 percent resource pool, and a
18 2,044 megawatts of marketable contingent capacity with an
19 associated just over 4.1 million megawatt hours of annual
20 firm energy.

21 Relative to these proposals, Western conducted
22 Public Information and Comment Forums. Based on comments
23 received, Western extended the comment period from April of --
24 I'm sorry, from January 29th to September 30th of 2010. We
25 did that via the April 16th Federal Register Notice.

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1 More current or recent marketing activity
2 that's taken place, on April 27th, Western published a
3 Federal Register Notice making some key decisions and
4 further proposals.

5 The key decisions that Western's made was to apply
6 the EPAMP PMI to the Boulder Canyon Project for the
7 remarketing efforts after the existing contracts expire. We
8 also proposed a 30-year contract -- I'm sorry, we also made
9 a decision on the 30-year contract term.

10 In that Federal Register Notice, Western also made some
11 additional proposals. We reiterated the same proposal of a
12 5 percent resource pool. We maintained the same proposal of
13 2,044 megawatts of contingent capacity. But we modified our
14 energy from just over 4.1 million up to -- just a little
15 over 4.5 million. Exactly 4.5 -- I'm sorry, 4,527,001
16 megawatt hour of annual firm energy.

17 Western also presented or proposed some more defined
18 excess energy provisions, and we'll discuss those proposals
19 here shortly.

20 Subsequent to that FRN being published, Western
21 published another Federal Register Notice on May 24th, which
22 extended the effective date of these decisions from May 27th
23 to the end of the calendar year, December 31st of 2011.
24 This Federal Register Notice also extended the close of the
25 comment period from June 16th to September 1st of this year.

1 We briefly discussed the EPAMP PMI decision. The
2 EPAMP became effective on -- in October of 1995. A major
3 part of the EPAMP process is the Power Marketing
4 Initiative. Some key points about the Power Marketing
5 Initiative is that it would extend a major portion of
6 resource allocations to existing contractors. It would
7 establish a resource pool, and we would utilize that pool
8 for new customers.

9 One key component of applying EPAMP is that it
10 would retain the existing marketing area of the Boulder
11 Canyon Project.

12 Western carefully reviewed all comments received
13 based on the proposal of EPAMP applying and has decided that
14 Western will apply the PMI to the Boulder Canyon Project,
15 concluding that historical application has resulted in a
16 balance between resource assurance for existing contractors
17 and an opportunity for those who do not currently have an
18 allocation.

19 Western finds that existing contractors will
20 retain significant resource assurance resulting in greater
21 stability in their resource planning. Western also will
22 fulfill its responsibility to market federal generation
23 based on most widespread use principles.

24 To briefly discuss the 30-year contract term
25 decision, again, Western carefully reviewed all comments

1 received and has determined that contracts after 2017 shall
2 have a duration of 30 years. Western found that this was
3 supported by the comments received that support 30 years
4 with a maximum of 50 years, and that the term should support
5 widespread use principles.

6 Therefore, Western finds that a 30-year term is
7 appropriate in order to maintain widespread use principles
8 in a dynamically changing electric industry.

9 To highlight the proposals we'll discuss here,
10 again, what we've proposed a 5 percent resource pool,
11 2,044 megawatts of contingent capacity, just over 4.5 million
12 megawatt hours of marketable annual firm energy and proposed
13 excess energy provisions.

14 The 5 percent resource pool is comparable to
15 resource -- comparable resource pool percentages to other
16 Western projects and their remarketing efforts. Western
17 believes this is consistent with the PMI to extend a major
18 portion of power currently under contract. Western also
19 believes this is consistent with the PMI to reserve a modest
20 percentage for a resource pool.

21 Again, the proposed marketable resource, it would
22 entail 2,044 megawatts of contingent capacity with
23 four-and-a-half million megawatt hours of annual firm energy.
24 This would result in a one-time resource pool of 93 megawatts of
25 capacity with 226,350 megawatt hours of annual firm energy.

1 The amount of resource retained by existing
2 contractors would be the existing 1,951 megawatts of
3 contingent capacity and result in a renewal of about
4 4.3 million megawatt hours of annual firm energy.

5 To discuss the provisions -- the proposed excess
6 provisions, Western has proposed some provisions that are
7 fairly similar to what we have today, but I've tweaked it
8 just a bit.

9 In the proposal, energy generated over 4.5 million
10 megawatt hours annually will result in excess energy.
11 This excess energy would be distributed with two priorities.
12 The first priority would be that the first 200,000 megawatt
13 hours reserved -- would be reserved for the Arizona Power
14 Authority with a maximum of 600,000 megawatt hours
15 accumulation.

16 The second priority would be distributed
17 proportionately to each of the contractors annual -- or
18 based on the annual firm energy percentage allocation.

19 This proposal provides access to excess energy for
20 all contractors and maintains historical energy
21 considerations.

22 As Doug mentioned in the intro, we've established
23 a comment forum relative to these proposals. We established
24 that back on May 24th in the Federal Register Notice. That
25 is to be held in Phoenix here at this location on

1 August 17th, and I believe, again, it's at 10:00 a.m.

2 If you are inclined to submit comments, you can
3 provide written comments to Western by September 1st, 2011.
4 After that date, Western will evaluate the comments and
5 publish in the Federal Register Notice our final decisions.

6 To take a look at our milestones that we anticipate
7 at this point. In August 2011, we'll be conducting a Public
8 Comment Forum. We hope by February 2012 to establish the
9 marketable resource, a resource pool and excess energy
10 provisions. By summer of 2012, we're hoping to propose
11 criteria and make a call for applications; spring of 2013,
12 finalize criteria; fall of 2013, propose allocation; spring
13 of 2014, final the allocations. And by spring of 2015,
14 we're hoping that all contracts will be finalized.

15 If you would like to provide written comments to
16 Western, you can provide them to Mr. Darrick Moe at this
17 address or at this fax number or to this post2017bcp e-mail
18 account.

19 Our contact information is my supervisor,
20 Ms. Debby Emler. She's the Power Marketing Manager here in
21 Phoenix, or myself at this contact information provided
22 here.

23 You can also visit our website that's devoted to
24 the remarketing effort, if you were to go to that
25 remarketing effort link that's located at this website.

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1 That concludes our presentation for today. Does
2 anybody have some questions or comments, discussion?

3 MR. HARNESS: That should be my roll.

4 MR. SIMONTON: Sorry.

5 MR. HARNESS: We are now going to open the floor
6 for questions. I would ask, though, after you've been
7 recognized, before your questions, if you would please
8 identify yourself and any organizations that you represent,
9 and if you would spell your name for our court reporter.

10 So the floor is now open. So who has questions?

11 MR. HITCHCOCK: Ralph Hitchcock, Utility
12 Consulting and personal tribal clients. The comment was
13 made relative to the pool allocations for new recipients.
14 Is that new Boulder Canyon or new other, such as Parker
15 Davis or other Western?

16 MR. SIMONTON: That has not been decided. That
17 decision will be part of a subsequent public process to
18 determine eligibility criteria for the resource pool, then
19 ultimately who would get an allocation from that resource
20 pool.

21 MR. HITCHCOCK: Thank you.

22 MR. TOENYES: Jerry Toenyes, San Luis Rey Water
23 Authority. Couple of questions. One on the megawatt hours
24 of firm energy. So that means that Western's going to
25 firm that energy. They'll make purchases to determine

1 this amount?

2 MR. SIMONTON: Yeah, we're proposing the same
3 concept that we have in place today; that is firm
4 energy on a customer-by-customer basis. If it appears for
5 the year that we are not going to be able to meet the firm
6 obligation that we have for those customers, then on a
7 customer-by-customer basis, they can request Western to
8 purchase firm energy. The cost associated to that purchase
9 would be passed through directly to that customer.

10 MR. TOENYES: So it's kind of an optional purchase
11 to be made?

12 MR. SIMONTON: That's correct.

13 MR. TOENYES: And then I want to get an
14 understanding of this excess energy part here. And so this
15 would be energy generated for a particular year that would
16 be in excess of 4.5 million megawatt hours, that number
17 there. What's Western's rationale for reserving the first
18 200,000 of that?

19 MR. SIMONTON: Western looked at the historical
20 configuration of how we have excess provisions today, and we
21 foresaw that there were energy considerations given in the
22 excess provisions that we currently have, which entail that
23 first 200,000 right for APA.

24 So we didn't see that the climate has changed
25 based on that rationale and, therefore, we would like to

1 proceed in proposing something that maintained that first
2 priority of 200,000.

3 MR. TOENYES: I'm trying to get at why were they
4 allocated the first 200,000 for excess energy versus
5 allocating that to all the participants who receive Boulder
6 Canyon power?

7 MR. SIMONTON: Well, I think what we saw is that
8 they actually had a reduction in their firm energy allotment
9 relative to the other contractors and then they, at the
10 time, surveyed what federal power was going to water
11 projects among the three states and found this to be an
12 optimal solution and fair reconciliation of the energy.

13 MR. TOENYES: And what's the rationale for the
14 600,000 megawatt cap?

15 MR. SIMONTON: That, I don't know off the top of
16 my head. We have to look a little bit more into that.

17 MR. TOENYES: And then I assume after 200,000,
18 every 600,000 energy, then it's allocated out to everyone?

19 MR. SIMONTON: That's right.

20 MR. TOENYES: I'm just struggling with the
21 rationale for the accumulation of the cap, too, because it
22 seems like that could be -- I mean, I really look forward to
23 seeing what the rationale for that is.

24 MR. SIMONTON: We'll follow up with a written
25 response and post it for everyone.

1 MR. HARNESS: Doug?

2 MR. FANT: Doug Fant, Arizona Power Authority.
3 Looks like the excess energy provisions changed between
4 drafts, and we were just curious what was the reason for the
5 change?

6 MR. SIMONTON: Well, actually this is our first
7 proposal of excess. So I'm not sure what revision you might
8 be speaking of. We initially asked for comment on excess
9 energy provisions, generally speaking, and in this latest
10 FRN, we actually made the proposal, which is our first
11 proposal.

12 MR. FANT: Okay. Thank you.

13 MS. KAPPELMAN: Susan Kappelman,
14 K-A-P-P-E-L-M-A-N. Just wondering, I don't see any
15 reference to the 30 megawatts that Western had indicated
16 that they were -- had decided to reserve. So is that still
17 the decision or proposal?

18 MR. SIMONTON: At this point, that's still the
19 proposal.

20 MS. KAPPELMAN: Okay.

21 MR. SIMONTON: The marketable capacity of
22 2,044 megawatts is a proposal at this time.

23 MR. HARNESS: Bob?

24 MR. LYNCH: Oh, Bob Lynch, L-Y-N-C-H, counsel to
25 the Irrigation and Electrical Districts Association of

1 Arizona. And I have a list of questions, which I will
2 provide to the court reporter, and I should give you a copy.

3 First, what is the authority for using the PMI
4 given the Boulder Canyon Project Act designation of states
5 as first allottees in their sovereign capacities?

6 Number two, what is the authority for extending
7 contracts Congress has declared will "terminate" rather than
8 the normal situation when Western is given an outside time
9 frame for contracting and discretion within that outside
10 time frame?

11 Number three, the PMI process will result in a
12 retained pool for allocation to new entrants. Will the new
13 entrant pool for Arizona and Nevada be allocated to these
14 state agencies for contracting? If not, what is the
15 authority for not doing so?

16 Four, the extended resource, A and B, appears to
17 be to maintain its existing characteristics. Is that true?

18 Five, the second priority for excess energy,
19 Hoover C, appears to add proportionately to all existing
20 load factors for A, B and D. Is that correct?

21 Six, what provisions that the 1984 Act carryover
22 to this process of the exiting marketing criteria?

23 What impact does 10 CFR -- this is number seven --
24 what impact does 10 CFR have on this process?

25 Eight, is the end result of the currently

1 announced process a close of Public Comment Period followed
2 by a Federal Register Notice announcing contract extensions,
3 or is there some additional administration process required
4 before that decision is announced?

5 I might add, based on the handouts today, I think
6 the answer to that question is "yes," that they would get
7 our comments, and then they will issue a Federal Register
8 Notice with the decisions extending the contracts and the
9 allocation. This would parallel what has been done in CRSP
10 and Parker Davis?

11 And then there would be a separate allocation
12 process for new entrants beginning next year.

13 Nine, what authority will Western invoke to allow
14 it to deal directly with proposed Indian allottees in
15 Arizona and Nevada?

16 Ten, will Western require new entrants to
17 participate in the MSCP in the implementation agreement?

18 I would hope that we could get some answers to
19 these questions and the other questions that have been asked
20 today or may be asked today, beyond what has already what
21 has already been asked, before we have to come to the Public
22 Comment Forum on the 17th.

23 I think it would be very helpful if we could get
24 some more clarity about what Western believes it is doing
25 and what these legal principles are and how they're being

1 applied. We know in the Federal Register Notices that
2 you've put out, you've said that you have authority and
3 flexibility under Section Five of the Boulder Canyon Project
4 Act of 1928.

5 I'm not sure everybody in this room agrees with
6 that, but the rationale for maintaining that position,
7 absent Roy Cahilli (phonetic) stating, I'll tell you about
8 the 1931 Boulder Canyon Project regulations, which he wrote.
9 It would help, I think, if we could sharpen the dialogue
10 over this process before we have to make comments at the
11 Public Comment Forum and then written comments.

12 So I would ask you to consider the possibility of
13 responding to these questions as soon as possible. Thank
14 you.

15 MR. HARNESS: Okay, Bob, I appreciate your
16 questions and certainly we're not going to try to answer
17 every single one of them here today. We'll provide written
18 responses.

19 Preliminarily though, you know, I want to state
20 that this process -- and we're only seeking -- we've only
21 made four proposals on four issues. So we'll respond to any
22 questions that are relevant to those proposals, and we
23 certainly will try to get those answers provided in writing
24 prior to the Comment Forum. So I appreciate your questions.

25 MS. PONGRACZ: Ann Pongracz for the Colorado River

1 Commission of Nevada. I've got a couple of questions. One
2 relates to a question earlier this morning about the
3 resource pool.

4 Is Western considering combining Hoover resources
5 with resources from other projects in the pool that was
6 discussed in the presentation?

7 MR. SIMONTON: We are not seeking to commingle
8 resources for the purposes of that resource pool, but I
9 think it's fairly common knowledge and we stated in our
10 existing criteria that the projects are operationally
11 integrated.

12 So while our projects are operationally
13 integrated, they operate in a commingled fashion, but for
14 purposes of this resource pool, we are not -- we are not
15 analyzing excesses and shortfalls of other resources to
16 either make up and distribute via the Boulder Canyon
17 resource pool.

18 MS. PONGRACZ: Does Western anticipate any
19 commingling of Hoover resources with other resources in any
20 type of an allocation process as opposed to an operational
21 -- on an operational basis?

22 MR. SIMONTON: We anticipate to continue to
23 operate the projects in an integrated fashion. I'm not sure
24 that answered your question, if you might repeat it.

25 MS. PONGRACZ: It seemed to me in response to my

1 question, you distinguished between allocation through the
2 pool and otherwise and operations, and what you were saying
3 is that today and in the future, you anticipate commingling
4 on an operational level.

5 In the past, there has not been commingling on
6 allocation level. I'm asking whether you anticipate any
7 form of commingling on allocation level as opposed to the
8 operational level?

9 MR. SIMONTON: At this point in time, no.

10 MS. PONGRACZ: Okay. I'm trying to understand the
11 implications of the application of the PMI and wondering,
12 have you itemized the changes that would occur in the
13 allocation process for Hoover if the PMI was applied going
14 forward, and could you provide us with an itemization of
15 those changes?

16 MR. SIMONTON: We'll do so, I guess so, in a
17 written response, yes.

18 MS. PONGRACZ: And, of course, one of the most
19 specific concerns of ours is would Western anticipate that
20 the role of an agency like the CRC, in allocating Hoover
21 resources, be changed in any way if the PMI was applied, and
22 if you see those any changes you're contemplating be
23 itemized?

24 MR. SIMONTON: Again, I guess we'll have to
25 respond to that in a written response.

1 MS. PONGRACZ: Okay. That's fine. And also about
2 the PMI, has Western conducted a proceeding of evaluating
3 whether it was appropriate to apply the PMI specifically to
4 Hoover?

5 MR. SIMONTON: Well, I think like we've depicted
6 in this presentation here, that we did propose to apply the
7 PMI. We accepted numerous comments from the public on the
8 application of the PMI and after consideration of those
9 comments, we've decided to apply.

10 MS. PONGRACZ: But you're referring -- are you
11 referring to the 1995 proceeding?

12 MR. SIMONTON: No, I'm talking about -- we
13 proposed to apply the PMI back in November of 2009,
14 to the Boulder Canyon Project to this process.

15 MS. PONGRACZ: So it would be the factual basis in
16 the record of this proceeding that would provide the basis
17 for your decision to apply the PMI?

18 MR. SIMONTON: That's correct.

19 MS. PONGRACZ: Okay. And you would not be
20 attempting to rely on the record for the '95 proceeding?

21 MR. HARNESS: No.

22 MS. PONGRACZ: Okay. Oh, could you itemize the
23 source of Western's legal authority for retaining
24 30 megawatts for its own use in the response you provide?

25 MR. SIMONTON: Uh-huh.

1 MS. PONGRACZ: And then similarly, provide a
2 specific information on Western's legal authority to
3 allocate to tribes in your response, please?

4 MR. HARNESS: Well, we -- frankly, we may or may
5 not answer that. We're not really proposing that at this
6 point. We're just proposing to create a resource pool at
7 this point. We're not proposing any specific allocation to
8 any specific parties. So the proper answer is we're not at
9 that part of the process yet.

10 MS. PONGRACZ: I understand.

11 MR. HARNESS: But we'll expect that question
12 should we get to that part of the process.

13 MR. FANT: Doug Fant. Question for the future,
14 but you had indicated in the April 27th Notice that you had
15 actively contacted most, if not all, the tribes in the
16 marketing area. So assuming it's not necessarily going to
17 tribes to whom the 93 megawatts go to?

18 MR. HARNESS: Well, there'll be a process of which
19 we'll propose criteria for eligibility for the resources in
20 the pool, and we'll also call for applications for from
21 interested parties for resources in the pool and as part of
22 that process, then a determination would be made as to, you
23 know, who the resources actually would be allocated to, but,
24 you know, it may well be -- well, we don't want to assume, I
25 guess, at this point, how that all turns out.

1 MS. PONGRACZ: Ann Pongracz of the Colorado River
2 Commission of Nevada. Following up on Bob's procedural
3 question about when would we expect to receive responses to
4 the questions asked today, it would be very helpful if we
5 could have 10 -- 10 days to two weeks to consider your
6 responses to the questions before our comments need to be
7 made at the Forum and we'd like to make that request.

8 MR. HARNESS: Okay. Thank you.

9 MR. MOYES: Jay Moyes of the law firm of Moyes,
10 Sellers & Hendricks. I just have a follow-up question with
11 respect to one of Ms. Pongracz's questions. She asked with
12 regard to the legal authority for the withholding of the 30
13 megawatts. I would like to see a detailed itemization of
14 the response with respect to exactly how Western anticipates
15 utilizing that 30 megawatts.

16 MR. HARNESS: Thank you.

17 MR. SIMONTON: I guess I would just point out that
18 we have posted all previous Q & A's and comments and comment
19 responses to our website relative to anything that's either
20 been previously proposed or commented on. Much of these
21 questions might actually be already addressed in some of
22 that material.

23 MS. SWEENEY: Sheryl Sweeney with Riley Carlock &
24 Applewhite. A follow-up to Jay's question. Does Western --
25 do you anticipate treating that 30 megawatts, is it the last

1 30 or is it like an equivalent to an allocation to a party?

2 MR. SIMONTON: We anticipate treating that as an
3 equivalent as an allocation to the party. So any
4 reductions, it would also be reduced in a proportionate
5 fashion, much like any other contractor.

6 MR. FANT: Doug, you and I discussed this a couple
7 weeks ago -- Doug Fant, Arizona Power Authority. I
8 apologize. You and I discussed this a couple weeks ago.
9 New capacity; say there's a new uprating program that adds
10 2- or 300 megawatts capacity to the dam.

11 Will there be some way of handling that? I'm
12 referring to the folks that know the implementation
13 agreement better than I do. Do you anticipate some language
14 in order to handle new upratings, significant upratings on
15 the facility?

16 MR. SIMONTON: When you say "upratings," you're
17 talking about an increase in nameplate capacity?

18 MR. FANT: Right, because we think there's a
19 potential there for new uprating programs. Maybe I'll just
20 say it: How would that be handled?

21 MR. SIMONTON: I would assume that would be
22 handled through a future public process. Right now, we're
23 working with what we've got, and if we were to modify or
24 tweak the project, which would entail an increase in
25 nameplate capacity, you're essentially talking about an

1 additional resource that had not previously been allocated.

2 But, again -- so I would presume that we would be
3 conducting a future public process and not in the purview of
4 this.

5 MR. FANT: Well, no, I'm sure you're familiar with
6 your own regulations, but 10 CFR 904 applying capacity,
7 essentially as 1951 megawatts. Then says, I think 904.9,
8 defines excess capacity as everything over that and says
9 Western controls everything over 1951 for use on regulation
10 on the river, except they will remand back to the
11 contractors that capacity which they don't use.

12 So, you know, that -- is there -- and that may
13 influence any decision making.

14 MR. HARNESS: Yeah, I mean, I guess the best
15 answer we can give is, you know, this is all somewhat
16 speculative at this point probably beyond the scope of this
17 process, but, I mean, we appreciate you bringing that issue
18 up.

19 MR. FANT: That's the answer, beyond the scope.
20 thank you.

21 MR. TOENYES: Jerry Toenyas, T-O-E-N-Y-E-S. I
22 believe one other issue we could address, and that there's
23 legislation going through Congress right now. How could
24 that impact or could that impact what's being proposed
25 today?

1 MR. HARNESS: Well, certainly, if Congress passes
2 the law governing these allocations, that would have an
3 impact on our process and, you know, we'll just have to see
4 when and if that happens and what it says.

5 And -- but, obviously, as a federal agency, we are
6 subject to laws and the will of Congress and if they
7 basically direct us to do something, we will do it, but, you
8 know, we'll have to see, like I said, when and if that
9 happens.

10 MR. FANT: Doug Fant, Arizona Power Authority.
11 Assuming the legislation passes through Congress, can we
12 then assume any efforts to apply PMI to the Hoover
13 allocation process or kaput?

14 MR. HARNESS: I'm sorry?

15 MR. FANT: Are dead, finished.

16 MR. HARNESS: I guess it depends on what that
17 legislation says. You know, again, I mean, I don't want to
18 be flippant about that, but we'd have to see what the actual
19 legislation was and, you know, certainly, we would implement
20 that and take whatever -- every steps we needed to implement
21 that.

22 More questions? Well, after having waited a fair
23 amount of time to allow for other questions and seeing that
24 there are none, we'll, I guess, prepare to close the Forum.
25 But before we do, thank you all for coming this morning and

1 for participating. Please, if you have not already done so,
2 sign the attendance list that's outside the door from these
3 rooms so we have an accurate attendance record for today,
4 and I think that's it. So thank you very much. We'll go
5 off the record.

6 (Whereupon, the proceedings terminated at 10:52
7 a.m.)

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I, CHRISTINE JOHNSON, having been first duly sworn and appointed as Official Court Reporter herein, do hereby certify that the foregoing pages numbered from 2 to 28, inclusive, constitute a full, true and accurate transcript of all the proceedings had in the above matter, all done to the best of my skill and ability.

DATED this 25th day of July, 2011.

Christine Johnson, RPR
Certified Court Reporter No. 50383

CHRISTINE JOHNSON, RPR
Brush & Terrell Court Reporters
(623) 561-8046

