



Department of Energy
Western Area Power Administration
Desert Southwest Customer Service Region
P.O. Box 6457
Phoenix, AZ 85005-6457
DEC 06 2004

Post-2008 Remarketing Effort
Parker-Davis Project

Dear Customers and Other Interested Parties:

As part of the public process initiated by publication of the October 1, 2004 Federal Register Notice (Volume 69 FR NO. 190, pages 58900–58903), the Western Area Power Administration (Western) conducted Public Information Forums during the week of October 25, 2004. At these forums, Western received a number of questions pertaining to the criteria proposed in the Federal Register Notice (FRN). Responses to these questions are provided in the attached document. This document has also been posted to the Western web site at <http://www.wapa.gov/dsw/pwrmtk>.

During the Public Comment Forum held on December 1, 2004, Western received a request to extend the comment and application period beyond the December 30, 2004 deadline. Western has considered this request and has decided to extend the deadline for receipt of comments and applications for an allocation of Parker-Davis Project resource pool power. As soon as the Federal Register Notice (FRN) is published announcing the extension and the new deadline, Western will mail a copy of the FRN to you.

The application form, along with related information on this effort, is available on Western's web site at <http://www.wapa.gov/dsw/pwrmtk>.

Thank you for your participation in this public process. If you have any questions, please call Roy Tinsley at 602-352-2788.

Sincerely,

A handwritten signature in black ink, appearing to read "Jean Gray".

Jean Gray
Assistant Regional Manager
for Power Marketing

Enclosure

bcc:

A0200 (Harness)

G1580 (CF)

G0000 (Carlson)

G6000 (Gray)

G6002 (Tinsley)

G6100 (Murray)

G6200 (Oretta)

G6300 (Casey)

(Sent electronically w/cy)

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**Parker-Davis Project Post-2008 Resource Pool
Proposed Procedures
Public Information Forums
October 25-27, 2004**

Questions and Responses

- Question:** Does the Power Marketing Initiative (PMI) apply to Parker-Davis?
- Answer:** Yes. Western published its final decision to apply the Power Marketing Initiative to the Parker-Davis Project in the May 5, 2003 Federal Register Notice (68 FR 23709).
- Question:** Are Native American Tribes considered to be preference entities?
- Answer:** Yes, federally recognized Native American Tribes are considered to be preference entities.
- Question:** Regarding withdrawable and non-withdrawable power, can an applicant apply just for withdrawable power?
- Answer:** Comments to this effect may be made in the "Other Information" section of the application form and/or as a part of the comments submitted in this public process.
- Question:** Are there additional restrictions on the use of withdrawable power?
- Answer:** Withdrawable power can be used in accordance with the same terms and conditions that apply to non-withdrawable power, with the proviso that, upon 2 years notice, this power could be withdrawn for Federal Reclamation project use or for irrigation pumping on certain Indian lands.
- Question:** Concerning the Order of Priority, does Western anticipate that there will be at least 17 entities in the first priority group?
- Answer:** Over the past few years, Western has received unsolicited letters of interest in an allocation of Parker-Davis Project power from over 50 entities. However, it is not known at this time how many of these entities will apply or whether or not they will qualify for an allocation.
- Question:** Contractors will pay in advance – how much do you pay up front and would it be for the entire 20-year period?

Answer: Contractors will be required to pay in advance for their Firm Electric Service on a month-ahead basis. The Firm Electric Service contracts containing this provision for payment in advance will be effective from October 1, 2008 through September 30, 2028.

Question: Contractors will pay in advance – will there be a monthly or annual true-up?

Answer: The Parker-Davis Project Firm Electric Service contract is a take-or-pay contract. Each contractor is expected to schedule their full monthly energy allocation each month. Each contractor will be billed on that allocation and receive credit for funds advanced. As a result, there is no need for a true-up.

Question: Reimbursement of undepreciated replacement advances. How will this work and how significant will this amount be for new contractors?

Answer: The provisions for calculating the amount of undepreciated replacement advances to be reimbursed to existing contractors are contained in section 15.7 of Western's Advancement of Funds contract (98-DSR-10870). The contract states that Western will collect payments from new contractors over a period not to exceed five years until the obligation has been satisfied. The collection will begin 120 days after the effective date of the contract that carries out the withdrawal or reallocation of power. Western will then pay the contractors that advanced the funds in five annual payments, beginning on the first anniversary of the withdrawal or reallocation. At this time, Western cannot determine what this amount will be for new contractors in 2008. However, by keeping the reductions to existing customers down to a net reduction of less than 1%, Western has minimized the financial impact of this provision to new contractors.

Question: The proposed criteria contains a requirement for utility status. How can this status be achieved?

Answer: Section 905.35 of Western's Energy Planning and Management Program (EPAMP) regulation, 10 CFR § 905.35, requires entities that desire to purchase power from Western for resale to consumers to have utility status. Utility Status is defined to mean that the entity has responsibility to meet load growth, has a distribution system, and is ready, willing, and able to purchase power from Western on a wholesale basis for resale to consumers. Ready, willing, and able means that (1) the potential customer has the facilities needed for the receipt of power or has made the necessary arrangements for transmission and/or distribution service, (2) the potential customer's power supply contract with third parties permit the delivery of Western's power, and (3) metering, scheduling, and billing arrangements are in place.

Question: What will be the power rates for 2008?

Answer: Actual rates are determined through an annual public process. The rates currently projected for 2008 are posted on Western's website at www.wapa.gov/dsw/pwrmtkt, under the "Parker-Davis Project Rate Adjustment Data" link. The currently posted rates are subject to change on an annual basis and Western cannot determine at this time what the actual rates will be for 2008.

Question: Do the rates found on the web site include the impact of the surcharge for the Basin Fund?

Answer: No, the rate schedules posted on the web site do not currently include the surcharge. (See below for an explanation of the surcharge.)

Question: Is there an end to the surcharge applicable to the Parker-Davis Project?

Answer: No. The Colorado River Basin Project Act (Pub. L. 90-537, 82 Stat. 894) as amended by the Hoover Power Plant Act of 1984 (Pub. L. 98-381, 98 Stat. 1333) states:

"Provided, however, That ... for the Parker-Davis project commencing on June 1, 2005, and until the end of the repayment period for the Central Arizona project described in section 301(a) of this Act, the Secretary of Energy shall provide for surplus revenues by including the equivalent of 4 1/2 mills per kilowatthour in the rates charged to purchasers in Arizona for application to the purposes specified in subsection (f) of this section and by including the equivalent of 2 1/2 mills per kilowatthour in the rates charged to purchasers in California and Nevada for application to the purposes of subsection (g) of this section as amended and supplemented: Provided further, That after the repayment period for said Central Arizona project, the equivalent of 2 1/2 mills per kilowatthour shall be included by the Secretary of Energy in the rates charged to purchasers in Arizona, California, and Nevada to provide revenues for application to the purposes of [salinity control]".

Question: What is meant by "responsibility to meet load growth"? How do you demonstrate load growth responsibility with multiple utilities involved?

Answer: The expectation is that each utility has a service area and, within that service area, the utility has responsibility to accommodate any increase in load.

Question: What is the difference between Slide #22 of the presentation (Ready, Willing, and Able) and Slide #23 (Utility Status)?

Answer: Both slides contain the language of EPAMP. Slide #22 describes the "Ready, Willing, and Able" requirement for end use applicants, as well as those applicants who intend to purchase Western power for resale to consumers.

Question: Must cities have utility status to be eligible to receive an allocation?

Answer: In the October 1, 2004 Federal Register Notice, Western proposed that "Qualified applicants that desire to purchase power from Western for resale to consumers, including cooperatives, municipalities, public utility districts, and public power districts must have utility status by October 1, 2005."

Western's historic position has been that utility status is required for cities to be eligible to receive Western power under the preference clause.

Comments on this or any other subject may be submitted as part of this public process.

Question: Why is a one megawatt minimum allocation being proposed?

Answer: A one megawatt minimum allocation allows Western to minimize the risk of scheduling in excess of the Contracted Rate of Delivery, and is a provision of the current P-DP marketing plan.

Question: Is the one megawatt minimum allocation provision different than what was done in the recent Salt Lake City Area/Integrated Projects (SLCA/IP) remarketing effort?

Answer: Yes. Each region within Western has its own specific marketing plan.

Question: How was the resource pool created?

Answer: The process used by Western to create the resource pool is outlined in the May 5, 2003 Federal Register Notice, and is available on the www.wapa.gov/dsw/pwrnkt web site.

Question: Will there be a reduction to the allocations of existing customers?

Answer: Yes, the final decision of the May 5, 2003 Federal Register Notice resulted in a net reduction to the allocations of existing customers of less than 1%.

Question: Will potential new customers be afforded an opportunity to comment on the provisions of the power sales contract and the General Power Contract Provisions (or GPCPs)?

Answer: Western will consider all comments that are submitted within the comment deadlines.

Question: Is there a way to make potential customers aware of Section 12?

Answer: Western's external web site at www.wapa.gov/dsw/pwrnkt contains the current version of the Section 12 language, along with all customer comments received in this process and Western's responses to those comments.

Question: Is a copy of the proposed contract available on the web site? If you are a potential new Western customer, can you tell what the contract would look like?

Answer: A complete contract is not available on the web site. However, Western will furnish both a copy of an existing Parker-Davis Project Firm Electric Service contract and a Parker-Davis Project Firm Electric Service contract extension amendment upon request.

Question: The five-year notice is an EPAMP requirement. Is this a different requirement than what is contained in Section 12 of the Firm Electric Service Amendments?

Answer: Under EPAMP, Western has the right to adjust allocations in response to changes in hydrology and river operations upon at least 5 years notice to existing customers. This is a different provision than the language of Section 12, which focuses more on changes in the status of customers as being the basis for an allocation adjustment.

Question: What is the difference between the load served by a tribe and that served by a tribal utility? Why are tribes asked to exclude non-tribal load from the load data in their applications?

Answer: A tribal utility serves the load within its geographic service area, whether that be tribal load or non-tribal load. However, a tribe that does not have a tribal utility does not have responsibility to serve load. Because the intent of EPAMP is to assist Native Americans in meeting their needs for cost-based hydroelectric power, tribes are being asked to provide only tribal load data, for the load of tribal members, in their applications. Under EPAMP, Western did not intend to supply the load of non-tribal entities who may have load on the reservations.

Question: What happens if a tribe becomes a utility before October 1, 2008?

Answer: Formation of a tribal utility would facilitate the receipt of an allocation of power by a tribe. However, tribal utility status is not required in order for a tribe to receive an allocation of power. If the application for power is submitted as a tribal utility, Western's proposal published in the Federal Register on October 1, 2004 requires that utility status be in place by October 1, 2005.

Question: Are military installations considered to be members of a parent entity, such as the Department of Air Force?

Answer: Under EPAMP, member-based associations are defined "to include both parent-type entities and their user members and entities which act as agents for or

subcontract with, but do not assume power supply responsibility for, their principals or subcontractors..." (60 FR 54155). Military installations are neither parent-type entities nor member-type entities under this definition.

Question: Do wheeling arrangements need to be in place at the time the applications are due?

Answer: No. The October 1, 2004 FRN requires that the necessary arrangements for transmission and/or distribution service be in place by April 1, 2008 (69 FR 58901).

Question: What is the meaning of a "preference entity"?

Answer: The most specific listing of "preference entities" appears in Section 9(c) of the Reclamation Project Act of 1939 (53 Stat. 1194, 43 U.S.C. § 485h(c)). The Act states that preference in the sale of Federal power shall be given to municipalities and other public corporations or agencies, and also to cooperatives and other nonprofit organizations financed in whole or in part by loans made pursuant to the Rural Electrification Act. Since that time, the Bureau of Reclamation and Western have interpreted and further refined the concept of preference, as have numerous legal decisions. Historical examples of preference entities given in this public process include municipalities, cooperatives, public power districts, public utility districts, government entities, and Native American tribes.

Question: Does any preference entity have priority over another preference entity?

Answer: Within the order of priority specified in the October 1, 2004 FRN, there is no super-preference among preference entities.