

Daniel Herder
T (602) 440-4898
Email: dherder@clarkhill.com

Clark Hill
3200 North Central Avenue, Suite 1600
Phoenix, AZ 85012
T (602) 440-4800
F (602) 257-9582

July 11, 2022

[By Email SLund@wapa.gov](mailto:SLund@wapa.gov)
dswpwrmrk@wapa.gov

Mr. Scott R. Lund
Acting Senior Vice President and
Desert Southwest Regional Manager
Western Area Power Administration
P.O. Box 6457
Phoenix, Arizona 85005

Re: 2023 Formula Rates & Base Charge

Dear Scott:

We appreciate Western Area Power Administration's ("WAPA") efforts to consult with contractors and the public on the FY 2023 proposed Base Charge and the proposed Rate Schedule BCP-F11. We submit these comments on behalf of five clients: Pinal County Electrical District Number Six; Electrical District Number Seven of Maricopa County, Arizona; Maricopa County Municipal Water Conservation District Number One; Roosevelt Irrigation District; and Buckeye Water Conservation and Drainage District (together, the "Districts"). Each District is a contractor with the Arizona Power Authority ("APA") for electric service stemming from APA's electric service contract with WAPA (Contract 16-DSR-12626, the "BCP ESC"). These written comments are in supplement to, and not intended to replace, the comments made at the June 13, 2022, Public Comment Forum.

In general, the Districts are in support of WAPA's proposal to extend the current Base Charge formula for another five years. WAPA's proposed Rate Schedule BCP-F11 allows for BCP revenues to be credited against the Base Charge. This is supported by Section 7.4.11 of the BCP ESC which states that the Base Charge may be decreased by "revenue and funds from any other source as properly allocated to the BCP in accordance with published regulations." The Districts' comments are focused on WAPA's preliminary decision to include revenue from the sale of unallocated Renewable Energy Certificates ("RECs") as "BCP revenue" credited against the Base Charge in the FY 2023 calculation. Because each REC is an environmental attribute assigned to a specific contractor, revenue from the sale of these RECs is not attributable to the BCP as a whole, but instead the revenue should be credited directly to the applicable contractor(s).

WAPA's June 8 response to the comments from Russell Smolden, Arizona Municipal Power User's Association, and Ed Gerak, Irrigation & Electrical Districts Association of Arizona, pledges that WAPA "will work with the BCP contractors and discuss options to directly provide benefits to those BCP contractors who do not claim their RECs in the future." This is welcome news, and the Districts are in full support of this initiative. We also support WAPA's current

proposal to remove the predicted \$800,000 of unclaimed RECs sale revenue from the proposed Base Charge FY 2023 calculation, which would have improperly socialized those revenues across all contractors, regardless of whether the RECs sold were attributable to the contractor. Because the Districts are not aware of any further guidance from WAPA regarding its plan to directly provide REC benefits, or commitments that revenues stemming from RECs will be excluded from the Base Charge formula for each of the next five years, the Districts respectfully submit these comments.

Under Section 6.11.6 of the BCP ESC, WAPA has committed to work to provide each contractor with the benefit of the contractor's RECs, referred to in the BCP ESC as Environmental Attributes. "Western agrees to undertake any reasonable actions necessary to effectuate the Contractor's use of the Environmental Attributes." These RECs are to be "utilized by Western or Reclamation for the benefit of the Contractor" as "appropriate and feasible". In this situation, it is clearly both appropriate and feasible to use the RECs for the benefit of the individual contractors to whom each REC belongs.

- It is appropriate that unutilized RECs are credited for the benefit of the specific contractor because these RECs are an attribute of that specific Contractor's power allocation. The RECs are part of the bargained-for consideration received by the specific contractor. WAPA has contractually agreed to take "any reasonable actions necessary" for the Contractor's use of the RECs, not BCPs use of the RECs.
- It is likewise feasible. We understand that Western already tracks the RECs attributable to each contractor. It appears to be administratively straightforward for WAPA to sell these unutilized RECs, and then credit each contractor's account with the value of the RECs sold that were attributable to that contractor.

As we said above, we are strongly supportive of WAPA's indication that there will be options to directly provide the benefits of each REC to the appropriate BCP contractor, irrespective of whether those RECs were claimed by the contractor. We request that WAPA make a formal commitment that revenues from the sale of RECs will not be applied to the Base Charge in the proposed formula. It would be inappropriate and a violation of the BCP ESC for WAPA to fold revenue from sales of unclaimed RECs into the Base Charge, socializing the revenue across all contractors. We look forward to additional clarification from WAPA regarding how this benefit will be provided, so the contractors can understand how this system will work and prepare accordingly.

Sincerely,

CLARK HILL



Daniel Herder

c: Sheryl Sweeney
R. D. Justice
Donovan Neese
Glen Vortherms
Bill Van Allen
Shelton Van Allen

Noel Carter
Ken Saline
Ed Gerak
John Sullivan
Jordy Fuentes
(all via email)