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IN THE UNITED STATES DEPARTMENT OF ENERGY
WESTERN AREA POWER ADMINISTRATION
LAS VEGAS, NEVADA

BOULDER CANYON PROJECT
POST-2017 REMARKETING

REPORTER'S TRANSCRIPT OF PROCEEDINGS

Las Vegas, Nevada
January 19, 2010
1:07 p.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 January 19th,
2 2010, commencing at 1:07 p.m., at the Tropicana Hotel, Las
3 Vegas, Nevada, the following proceedings were had, to wit:

4

5

6	OPENING REMARKS	Page
7	BY MR. DOUG HARNESS	3

8

9 COMMENTS BY:

10	CAAN, George	6
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11	McNEILL, John	9
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12	SHAMO, Ned	14
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1 MR. HARNESS: Well, why don't we go ahead and get
2 started. Everybody's in their seats and it has quieted down
3 quite nicely. So thank you very much for this. So we might
4 as well begin.

5 Good afternoon. Welcome to today's Public Comment
6 Forum. My name is Doug Harness, and I'm an attorney with
7 the Western Area Power Administration in our office in
8 Lakewood, Colorado.

9 This Public Comment Forum has been scheduled to give
10 interested parties the opportunity to make oral
11 presentations or to submit written comments for the record
12 on Western's proposal to apply the Power Marketing
13 Initiative of Western's Energy Planning and Management
14 Program to Boulder Canyon Project Firm Electric Service
15 Commitments beyond September 30th, 2017 when the current
16 Boulder Canyon contracts expire.

17 Western's proposal would extend 100 percent of the
18 existing contractors' contingent capacity allocations and
19 95 percent of the proposed marketable firm energy and would
20 create a single, one-time resource pool consisting of
21 93 megawatts of contingent capacity with an associated
22 205,800 megawatts of annual firm energy.

23 In addition to today's Forum and the Forums held
24 in the next couple days, written comments may be submitted
25 by mail to Mr. Darrick Moe, Regional Manager, Desert

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1 Southwest Region, Western Area Power Administration, Post
2 Office Box 6457, Phoenix, Arizona 85005-6457. You may also
3 fax comments to Western at area code (602) 605-2490 or
4 e-mail them to post2017bcp@wapa.gov. Western will accept
5 written comments received on or before January 29th, 2010.
6 Western reserves the right not to consider any comments
7 received after this date.

8 A verbatim transcript of today's Forum is being
9 prepared by our court reporter. Everything said while we
10 are in session today, together with all exhibits, will be
11 part of the official record. The transcript of today's
12 Forum will be available for review on-line at
13 www.wapa.gov/dsw/pwrmtk under the Boulder Canyon Project
14 Marketing Effort link. The transcript and the complete
15 record of this public process will also be available at
16 Western's Desert Southwest Regional Office and Western's
17 Corporate Services Office.

18 Additionally, a copy of the transcript may also be
19 available upon payment of the required fee to the court
20 reporter. The court reporter's name, address and telephone
21 number may be obtained at any time during or after today's
22 Forum.

23 All comments made today should be relevant to the
24 proposed action, which is: One, the application of the PMI
25 to Boulder Canyon Project; two, the quantity of resources to

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1 be extended to existing customers; three, the size of the
2 proposed resource pool to be available to new customers;
3 four, excess energy provisions; five, the term of the
4 contracts and; six, what role the Colorado River Commission
5 of Nevada and Arizona Power Authority should have in the
6 allocation process.

7 As the moderator, I reserve the right to disallow
8 any comments that are not relevant to these subjects. Any
9 relevant materials to be introduced in the record should be
10 given to the court reporter, and she will assign it an
11 exhibit number.

12 After the close of the comment period, Western
13 representatives will review all the information, comments
14 and exhibits that have been received with regard to the
15 proposal. Western will then announce a decision in the
16 Federal Register. Comments made during this public process
17 will be discussed in this announcement.

18 Please keep in mind that Western has no
19 presentation today and will not be answering questions. The
20 sole purpose of this Forum is to take your comments. I'll
21 open the floor in just a second, but before I do that, I
22 would ask that once you've been recognized, if you would
23 please identify yourself and the organization that you
24 represent. And as always, spell your last name for the
25 convenience of our court reporter.

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1 If you have a copy of your presentation, also,
2 please give it to the court reporter. So with that, the
3 floor is now open. Are there any comments? And by the way,
4 can everybody hear me okay, which I guess I should have
5 asked first.

6 MR. CAAN: Good afternoon. For the record, my
7 name is George Caan. I'm the Executive Director of the
8 Colorado River Commission of Nevada. Let me begin by
9 thanking Western for this opportunity for public comment. I
10 am presenting comments today on behalf of the Colorado River
11 Commission of Nevada.

12 The CRC has, among other duties, a statutory
13 responsibility to receive electric power generated by Hoover
14 Dam and other federal hydroelectric power projects on the
15 Colorado River. We plan to follow up today's comments with
16 written comments by January 29th, 2010.

17 The Colorado River Commission is one of the Hoover
18 contractors who have been participating in the efforts over
19 the past two years to develop legislation to address the
20 post-2017 Hoover power allocation issues. We believe that
21 Congress should allocate post-2017 Hoover power as it has
22 done each time the allocation has been necessary since the
23 construction of Hoover Dam.

24 The CRC supports the legislation that has been
25 introduced in the U.S. Congress to accomplish this goal. We

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1 request that Western hold this proceeding in abeyance
2 pending Congressional action.

3 Notwithstanding this request, we are providing
4 these initial comments, consistent with Western's current
5 schedule for this proceeding, to share with Western some of
6 our views and concerns regarding the proposal.

7 We welcome Western's decision to include in its
8 proposal provisions that are consistent with those in the
9 legislation introduced in the House and the Senate.
10 However, we have concerns with Western's proposals regarding
11 the proposed marketable resource, the amount retained by
12 current contractors, the term of the contract, and
13 application of the PMI.

14 We also have concerns about current requirements
15 that are not included in Western's proposal, such as
16 application of the MSCP, Multi-Species Conservation Program,
17 in the Lower Colorado River, sharing provisions --
18 cost-sharing provisions and the Boulder Canyon
19 Implementation Agreement to new allottees, inclusion of
20 existing Schedules A, B and C provisions, and recognition of
21 the role of the Arizona Power Authority and the Colorado
22 River Commission of Nevada to allocate Hoover power to
23 Arizona and Nevada entities.

24 Let me briefly address our concerns. With respect
25 to the proposed marketable resource, instead of its current

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1 proposal, we recommend that Western market Hoover's maximum
2 dependable operating capacity of 2074 megawatts and its
3 current energy amount of 4,527,001-megawatt hours.

4 With respect to Schedules A, B and C, the current
5 statute provides for the Schedules A, B and C. We recommend
6 that Western include in its proposed language references to
7 Schedules A, B and C and to the Hoover contractors included
8 in these schedules in statute.

9 With respect to the term of the contract, the CRC
10 supports and requests new contracts with a 50-year term
11 commencing on October 1st, 2017.

12 On the application of the PMI, it is unclear to
13 the CRC whether the PMI should be applied to the post-2017
14 Hoover contracts. For this reason, we request, as stated
15 earlier, that Western hold this process in abeyance pending
16 Congressional action.

17 The allocation of Hoover power is one of the
18 covered projects of the Lower Colorado River Multi-Species
19 Conservation Program. We request that any entity given the
20 opportunity to contract for Hoover power in the future be
21 required to join the current contractors in paying for the
22 MSCP in accordance with each state's requirements.

23 With respect to the Boulder Canyon Project
24 Implementation Agreement, we agree, as indicated in the
25 Federal Register Notice, "new contractors or contractors who

1 receive an increased allocation will be required to
2 reimburse existing vis-a-vis contractors for replacement
3 capital advances to the extent existing contractors'
4 allocations are reduced as a result of creating the resource
5 pool." This is a requirement of the Boulder Canyon
6 Implementation Agreement, and we request that any entity
7 given the opportunity to contract for a new Hoover power in
8 the future be required to become a signatory to the BCP
9 Implementation Agreement.

10 With respect to the recognition of the role of the
11 Arizona Power Authority and Colorado River Commission of
12 Nevada, Western should recognize the Arizona Power Authority
13 has exclusive authority to allocate marketable Hoover Dam
14 power to entities within Arizona, and that the Colorado
15 River Commission of Nevada has exclusive authority to
16 allocate marketable Hoover Dam power to entities within
17 Nevada.

18 The Colorado River Commission appreciates the
19 opportunity to provide comments on Western's post-2017
20 remarketing initiative and reserves the right to submit
21 further comments and otherwise participate in this
22 proceeding. Thank you.

23 MR. HARNESS: Thank you, George.

24 MR. McNEILL: Good afternoon. My name is John
25 McNeill, M-c-N-E-I-L-L, and I represent the Central Arizona

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1 Water Conservation District. And I do have a written
2 version of my comments that I'd like to tender for the
3 record. That will also allow me to shorten my oral remarks
4 today.

5 I first want to thank you for the opportunity to
6 comment on Western's post-2017 remarketing effort for the
7 Boulder Canyon Project. Through CAWCD's contract with the
8 Arizona Power Authority, Hoover provides a significant
9 amount of the electric power and energy needed by CAWCD to
10 fulfill its critical mission in delivering the
11 1.6 million-acre feed of current Hoover water over the CAP's
12 336-mile long canal system to customers in Maricopa, Pinal
13 and Pima Counties.

14 Hoover power provides not only energy, but
15 flexibility in our ability to operate our system, and we'll
16 continue to need this resource well past 2017.

17 Recognizing the need to bring certainty to the
18 continuing availability of Hoover power, CAWCD has worked
19 closely with other Hoover customers, including CRC in
20 Arizona, California and Nevada, to develop legislation to
21 allocate the post-2017 Hoover power that is now pending
22 before Congress as the Hoover Power Allocation Act of 2009.

23 Congress has been the sole body to allocate Hoover
24 power since Hoover Dam was first authorized by the Boulder
25 Canyon Act and -- Project Act in 1928. And we believe that

1 should continue.

2 CAWCD believes Western should suspend further
3 action in this matter, at least through the current session
4 of Congress. In addition to avoiding substantial efforts by
5 Western that would be unnecessary if Congress acts, the
6 interim time could be productively used by Western to
7 address whether Western has authority to apply the Power
8 Marketing Initiative to the proposed allocation process.

9 Nonetheless, CAWCD offers comments in response to
10 Western's specific requests in its Federal Register Notice.
11 And in addition, we have comments regarding use of the
12 existing Schedules A, B and C and requirements that new
13 allottees participate in the cost of the Lower Colorado
14 River Multi-Species Conservation Program, and that they
15 agree to the Boulder Canyon Implementation Agreement.

16 The proposed legislation addresses or resolves all
17 of these issues. If CAWCD had to summarize its response in
18 a single sentence, it would be that we think Western should
19 follow the provisions in the legislation.

20 We do commend Western's decision to include
21 provisions that are generally consistent with the approaches
22 taken in the pending Hoover legislation. However, we think
23 that the types of entities and political subdivisions
24 eligible to receive Hoover power are clearly designed in the
25 1928 Act. Those entities, among other things, do not

1 include Native American tribes. That is a principal reason
2 why CAWCD and other Hoover customers support the current
3 legislation to create a power pool and add Native American
4 tribes as authorized allottees under the new law.

5 Turning to the specific comment areas, regarding
6 applicability of the PMI to the Boulder Canyon Project,
7 CAWCD believes there's a substantial legal question whether
8 Western has authority to apply PMI to the post-2017 Hoover
9 allocations. Unlike other projects, the allocation of
10 Hoover power has been the sole province of Congress.
11 Western should explain its legal theories that may support
12 the application of the PMI before it makes its threshold
13 determination whether to apply it in this case.

14 Regarding the quantity of resources to be extended
15 to existing customers, I think we concur in what Mr. Caan of
16 CRC said, and I don't need to belabor the point here, but I
17 will say that when lake levels allow for it, the Hoover
18 customers should be at the full benefit of the power
19 generation facilities that they have paid for.

20 And again, although CAWCD fully supports the
21 creation of a power pool for new allottees, including Native
22 American tribes in the current legislation, unless we can be
23 convinced that Western has authority to apply the PMI, we
24 see no basis for Western to make any allocation to customers
25 other than as provided in the 1928 Act.

1 Excess energy provision. This is a point that's
2 important to CAWCD. Schedules A, B and C were established
3 in 1984 and represent the recognition of the financial
4 contributions made by the parties that agreed to finance the
5 upgrading of generation at Hoover and the negotiated
6 settlement of claims by Arizona, California and Nevada to
7 the Hoover generation, including the rights to excess
8 generation. CAWCD urges Western to retain all three
9 schedules.

10 The term of the contracts, we agree with the
11 50-year term that's set forth in the legislation. And I
12 note that that is consistent with the 50-year term -- excuse
13 me, with the 50-year commitment made by the Hoover
14 contractors to fund the Multi-Species Conservation Program.

15 The 50-year term was also authorized in the 1928
16 Act. With respect to the role of the Arizona Power
17 Authority, the State of Arizona has designated APA as the
18 entity to receive Arizona's allocation of Hoover. Western
19 should continue to respect the State's choice. CAWCD would
20 expect to continue receiving a portion of the post-2017 APA
21 allocation just as it does now through a contract with APA.

22 We also have comments on the MSCP and the
23 Implementation Agreement, but they really don't vary from
24 what Mr. Caan said and I'll simply adopt those comments and
25 say that we intend to submit further comments by the written

1 comment deadline and reserve all rights to participate
2 further in this proceeding, and we appreciate the
3 opportunity afforded by Western to participate in these
4 Public Comment Forums. Thank you.

5 MR. HARNESS: Thank you, John. Yes.

6 MR. SHAMO: My name is Ned Shamo. I'm here
7 representing the City of Boulder City. I'm recently
8 retired, but I'm here in the capacity of the Electric
9 Utility Administrator, who is the person that has replaced
10 me. He was not able to make it today, but I want to pretty
11 much echo what Mr. Caan with the Colorado River Commission
12 has already stated; that we are in full agreement with his
13 comments, and they're pretty much reflected in the comments
14 that I have submitted here in writing.

15 I think I wanted to touch on the high points that
16 we again are in supportive of the 50-year renewal. I think
17 that was what was set out originally and with the investment
18 that we have, especially at this point made, in the Hoover
19 plan, I think is warranted that we continue to do that.

20 Boulder City gets about half of its resource from
21 Hoover Dam, and it's very important to us -- it's critical
22 to us that it be renewed and to stay renewed into the
23 future. Boulder is not -- because of very stringent growth
24 control requirements, we're not growing very fast and Hoover
25 will continue to remain a significant portion of our

1 resource, and we would like it to be that way.

2 We're also in favor of the 5 percent resource pool
3 that's been set up. We're supportive of that and think that
4 that's the way to handle some of the issues that may be
5 raised by those entities who are not able to participate in
6 the full renewal of the resource.

7 The repayable advances, I think that that needs to
8 be discussed and addressed in the final legislation. The
9 existing contractors have been paying for all of the
10 upgrades and the improvements that have happened to the
11 Hoover Dam Power Plant since 1987, and I think that that
12 needs to be acknowledged and any additional or new people
13 that come into the mix need to pay their share of that.

14 We're supportive of the MSCP participation and
15 that any new allottees need to share in that as well. We're
16 also agreeable to the idea of increasing the capacity of
17 energy to the full allocated amount and based any
18 allocations, including the 5 percent resource pool on that
19 full amount.

20 Again, I appreciate the opportunity of being here.
21 Again, the comments made by Mr. Caan are basically our
22 comments, and we're totally supportive of that and thank you
23 again for the opportunity.

24 MR. HARNESS: Thank you. Anyone else? I'm like
25 an auctioneer waiting for people to indicate they still want

1 to bid. One last chance.

2 (Pause.)

3 MR. HARNESS: Okay. Well, seeing that no one else
4 has indicated a desire to make any comments, we'll prepare
5 to go off the record. However, before we do, I want to
6 thank you all for coming today and attending our Forum. I'd
7 also ask that if you have not already done so, that you sign
8 the attendance sheet that is outside by the doors so we have
9 an accurate attendance record for today.

10 So again, we appreciate your attendance and your
11 participation and with that, the Forum is closed. We'll go
12 off the record. Thank you.

13 (Whereupon, the proceedings terminated at
14 1:27 p.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 16, 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 27th day of January, 2010.

Christine Johnson, RPR
Certified Court Reporter No. 50383

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

