

**Boulder Canyon Project (BCP) Post-2017
Proposed Marketing Criteria
Public Information Forums
November 27-29, 2012**

Questions and Responses

The following are responses to questions that were submitted in writing or identified at the Public Information Forums as needing further response regarding Western's proposed BCP Post 2017 marketing criteria. No decisions will be made on these proposals until all comments are submitted and considered by Western.

Question: Please provide further clarification or definition of "independently governed and financed".

Answer: Western's intent in proposing this language is the utility is empowered and responsible for managing the operations of the utility and their expenses are paid from the rates and fees they assess.

Question: Can Western describe the impacts of a fractional allocation that is less than 1,000 kilowatts (KW) as compared to a fractional allocation that is greater than 1,000 KW?

Answer: Industry standard practice is to schedule resources in whole megawatt (MW) quantities. BCP contractor allocations are rounded to provide for whole megawatt scheduling, thus all fractional allocations that do not round up to a whole megawatt will not be scheduled. An additional consideration is that fluctuations in Hoover's total available capacity have a pro-rata impact on all BCP contractors' capacity availability. BCP is rarely, if ever, at 100% nameplate rated capacity availability due to hydro conditions and/or unit availability. If a contractor has a 500 KW or less allocation, they will be rounded down to zero in all times in which a capacity availability reduction is in effect. This essentially renders the allocation unusable. Conversely, a contractor with an allocation over 1,000 KW will be much more likely to maintain an allocation able to be rounded to a useable quantity. Allocations less than 1,000 KW would need to be aggregated in a manner to achieve a quantity of capacity that can be used. This poses additional administrative burden in the coordination, scheduling, and accounting that all BCP contractors would need to financially support.

Question: What does having a distribution system require? Is the intent to own or have access to a distribution system?

Answer: To meet this requirement an entity must own or lease a distribution system.

Question: Western has not sufficiently defined “New Allottee” as contemplated by the Hoover Power Allocation Act (HPAA). Request Western further define “New Allottee,” in particular as it applies to the existing customers of APA and CRC.

Answer: The HPAA describes “New Allottee” as an entity not receiving contingent capacity and firm energy under Schedules A and B, as prescribed. Western reviewed the legislative history associated to the HPAA and language contained within the HPAA and finds that the HPAA’s intent is to “further allocate and expand the availability of hydroelectric power generated at Hoover Dam, and for other purposes.” Allocations to existing customers of the APA and CRC would not expand the availability of Hoover power to a described “New Allottee”. Therefore, Western believes the intent of the HPAA legislation is that existing customers of APA and CRC who have a sub-allocation of Schedules A and B through the APA or CRC will not be eligible applicants for Schedule D from Western.

Question: Would an entity such as the Southern Nevada Water Authority (SNWA) that wasn’t originally allocated Hoover power but has acquired an allocation from the Colorado River Commission of Nevada (CRC) through a bankruptcy situation be eligible for an allocation from Western?

Answer: Although there were unique circumstances as to the history in which SNWA received its allocation from CRC, currently SNWA is in the same position and should be considered comparable to other CRC customers Western believes the intent of the HPAA legislation is that existing customers of CRC who have a sub-allocation of Schedules A and B through the APA or CRC will not be eligible applicants for Schedule D from Western.

Question: Does Western have an estimate of what the Multi Species Conservation Program (MSCP) obligations will be?

Answer: Western does not administer the MSCP. From initial inquiries, Western understands the MSCP cost distributions use a complex calculation of participants’ gross domestic product and producer price indexes. If dispersing MSCP costs over allocated capacity, an estimate for annual MSCP costs would be approximately \$400 per MW of BCP capacity allocated.

Question: Does Western have an estimate of what the repayable advance obligations will be? What is the duration or time frame of cumulative repayable advances that would need to be repaid?

Answer: BCP repayable replacement data is updated and published annually. Based upon the current estimated 2017 cumulative repayable advance amount of approximately \$153M, the Schedule D resource pool (103.7 MW) would be responsible for reimbursing existing contractors approximately \$7.66M. This would equate to an approximate \$74K per MW of allocation repayable advance

obligation for new allottees. This figure is subject to change based upon the maintenance needs of the plant and budget refinements. Considering portions of Schedule D have been allocated to existing contractors, there will be net debits and credits for those existing contractors. Repayable advance obligations are amortized on a 50 year basis and began accumulating in 1987. BCP repayable replacement summaries and background data are posted to Western's website in November of each year at:

http://www.wapa.gov/dsw/pwrmt/BCP/BCP%20Capital/BCP_Capital_Advance.htm

Question: Can Western provide a precedence example of aggregation used for Firm Electric Service?

Answer: The Eastern Arizona Preference Pooling Association is comprised of 4 members that jointly applied for and were granted a Parker-Davis Project allocation commencing in October 2008.

Question: What is the definition of "new allottees" as that term is used in the 2011 Hoover Allocation Act? In responding to this question, we would appreciate knowing your views on the specific language in the bill that identifies new allottees as being entities other than those named in the statute. Does that include Arizona Power Authority customers whose allocations and contracts terminate on September 30, 2017? Since the 2011 Act specifically qualifies Indian tribes as an addition to the original qualification statute (Section 617(d)), and the remaining "new allottees" must come from within the four corners of the original 1928 definition, what designations within that statute cover each of the types of entities named in priority categories 2 and 3 in your Federal Register notice?

Answer: The HPAA describes "New Allottee" as an entity not receiving contingent capacity and firm energy under Schedules A and B, as prescribed. Western reviewed the legislative history associated to the HPAA and language contained within the HPAA and finds that the HPAA's intent is to "further allocate and expand the availability of hydroelectric power generated at Hoover Dam, and for other purposes." Allocations to existing customers of the APA and CRC, would not expand the availability of Hoover power to a described "New Allottee". Therefore, Western believes the intent of the HPAA legislation is that existing customers of APA and CRC who have a sub-allocation of Schedules A and B will not be eligible applicants for Schedule D from Western. Similarly, Western established categories 2 and 3 of the Federal Register notice after reviewing the legislative history for the HPAA in addition to the applicable statutory provisions in order to establish criteria consistent with the intent of the Act.

Question: At the Forum, Doug Harness indicated that the authority of the agency to impose preferences within the community of authorized entities comes from the 2011 Act. I myself would agree since Section 2(k) and (l) of the 2011 Act bring forward the Congressional mandate that Section 105 is "the exclusive method for disposing of capacity and energy from Hoover Dam . . .". What provision in the 2011 Act then is the authorizing provision for these preferences?

Answer: The HPAA prescribes that the Secretary of Energy, through Western, shall allocate Schedule D contingent capacity and firm energy to new allottees that are eligible to enter into contracts under section 5 of the Boulder Canyon Project Act or federally recognized Indian tribes. The HPAA does not mandate specific allocations for Schedule D to any of these entities. Therefore, the HPAA provides Western the discretion to determine how to make those allocations and Western is exercising that discretion through the proposed priorities.

Question: There seems to be an internal inconsistency between the definition of “electric utility status” and the definition of “ready, willing, and able”. The latter definition contemplates an eligible applicant to be someone who has arranged for not only transmission but distribution service by October 1, 2016. The former definition on the following page of the Federal Register notice states that the same entity must have a distribution system and that this requirement must be met by April 1, 2014. What was actually intended and how can these conflicting provisions be reconciled?

Answer: Under proposed marketing criteria Section C, Western proposes that eligible applicants, except Native American tribes, must meet the “ready, willing, and able” criteria by October 1, 2016. Ready, willing, and able provisions are intended to establish the applicant’s ability to receive and distribute or use the allocation. Within the ready, willing, and able definition an applicant is required to either have the facilities needed for the receipt of power or have made the necessary arrangements for transmission and/or distribution service.

Under proposed marketing criteria Section E, Western proposes an order of priority considerations. The second of these would provide a priority for described entities that have electric utility status by April 1, 2014. Within the “electric utility status” definition the entity must have a distribution system and be ready, willing, and able to purchase power on a wholesale basis. Entities with electric utility status should be able to purchase power from Western on a wholesale basis for resale to retail consumers. A distribution system is needed in order to facilitate delivery to the retail consumer. In order to use electric utility status as a priority consideration, Western would need to know if the applicant has electric utility status prior to making allocations final. Western currently anticipates finalizing allocations by the summer of 2014.

Question: How does one demonstrate that it has the responsibility to meet load growth? A statute? A rule? A contract? Does that mean load growth that a wholesale utility accepts in a contract as a responsibility to a retail utility? Does it mean only a retail utility?

Answer: Western’s Applicant Profile Data (APD) is intended to capture the information needed for Western to make this determination. If an applicant needs assistance when completing the APD they are encouraged to contact Western at that time. 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: Are size requirements for a distribution system inherent in this requirement? 230 kV? 69kV? Other?

Answer: There are no prescribed voltage requirements for a distribution system, but it must be sufficient to deliver the entity's allocation.

Question: At the Public Information Forum, you indicated that "public utilities other than electric utilities" were municipal water utilities. You were then asked a question about what "electrical facilities" they need to have and facetiously agreed that even a light switch would do. Obviously that term has to have some relevant meaning. What is it? How is it different from a distribution system? Are there minimum requirements other than a light switch?

Answer: Western has proposed making public utilities, such as municipal water utilities, eligible in category 3 and envisioned the electrical facility requirement to encompass pumps, treatment plants, etc. as well as the distribution system necessary to deliver to those facilities.

Question: At the Forum, you explained that using a one-year history standard was something you were more or less boxed into because, under the Paperwork Reduction Act, you had had approved a form for application that was for only a one-year history because you are required to reduce paperwork burden on the applicants. You then discussed the use of the term "most recent calendar year". I pointed out to you that an entity with an agricultural load could experience a natural upset in demand by having it rain on the fields in the district or other service area and thus, as in the summer of 2012 in central Arizona, have reduced the demand that is not typical of the entity's normal demand. On what basis will you determine which year is the "most recent"? On the finalization of the criteria? On the year preceding the proposal published on October 30th? The first gives you 2012. The second gives you 2011. These choices make a difference. How will you adjust this parameter so as not to unfairly penalize those who have rain or other uncontrolled occurrence that makes the reference year atypical?

Answer: When a call for applications is made the most recent calendar year load information will be required for the application. Western anticipates making a call for applications by the summer of 2013. If this occurs, Western would be seeking calendar year 2012 load information.

Question: Others pointed out the anomaly of needing a wheeling contract before you get an allocation versus being able to get it a year in advance of the power being delivered. Obviously this conflict within the Federal Register notice needs to be examined again. How do we deal with this?

Answer: As proposed, an entity seeking to acquire priority by having electric utility status must have the necessary arrangements completed by April 1, 2014. All applicants, other than Native American tribes, must be ready, willing, and able as defined by October 1, 2016. Western does not find these proposals to be conflicting.

Question: What if aggregators get together and agree to work together for this purpose but not for the entire contract term?

Answer: Western has proposed that applicants seeking an allocation as an aggregated group must demonstrate to Western's satisfaction the existence of a contractual aggregation arrangement prior to final allocation determinations. Western will assess the merits of these potential contractual aggregation arrangements at such time as they are presented to Western.

Question: In a joint aggregation, if one of the parties pulls out, do the others lose their allocation?

Answer: Unique situations of this nature will be handled by Western on a case by case basis consistent with applicable contractual terms and conditions.

Question: What type of aggregation do you have in mind for those who might wish to work together for this purpose? Are you talking about a separate entity such as a joint powers agency or joint action agency? Are you talking about a separate entity that is a marketing or pooling association formed for the purpose of contracting?

Answer: Types and configuration of aggregations may take various forms. Western has proposed that each member of an aggregated group must meet all eligibility requirements, but is trying to provide flexibility for entities wishing to pursue this option.

Question: Isn't it possible to deal with less than whole megawatt or more than whole megawatt allocations in scheduling requirements in contracts and get rid of this requirement?

Answer: Yes, it may be possible to address less or more than whole megawatt allocations through scheduling requirements in contracts. Western has proposed to address this issue at the allocation stage through the proposed marketing criteria, but will consider comments on alternatives prior to making a final decision.

Question: What are the financial contribution requirements of the Act going to entail? How do we find out about how much money is likely to be involved? If we have current statistics that show what that amount would be as of today, do we have some sort of reasonable projection about what it will be when calculated on October 1, 2017? If not, how do the potential applicants decide whether or not that economic burden is worth shouldering in order to apply for the resource?

Answer: MSCP and repayable advances have associated financial obligations; see prior responses for further detail.