

May 29, 1998

### Western Policy on Department of Defense Utility Privatization Issues

At the April 28, 1998 meeting between representatives of Western and the Department of Defense, there was a request for Western to document its policies concerning the impact on Federal power deliveries resulting from privatization of electric utility systems at military installations. Western markets Federal power from several distinct multi-purpose water projects, each with their own authorizing legislation, marketing plans, and contract provisions. However, there are some general principles applicable to the marketing of Federal power from all Western projects. These principles include the following:

- Western must observe the preference provisions of Reclamation law. This principle has several implications for the Department of Defense utility privatization effort. A military installation may not assign its electric service contract to a non-preference organization, such as an investor-owned utility. A military installation may not use its Federal power for transactions that have the appearance of a sale of Federal power to others for resale. A military installation may not enter into arrangements that provide for its Federal power under contract with Western to be delivered or used for other than load at the military installation. The intent of our electric service contracts with military installations is that the Federal power is for the sole use of the base.
  
- The delivery of Federal power must be consistent with the marketing plans governing sale of power from each project. Western's marketing plans are developed through a public involvement process considering input from all interested stakeholders. Historically, Western has required its wholesale customers, such as municipal utilities, cooperatives, irrigation districts, and public utility districts to have distribution facilities or otherwise be ready, willing, and able to accept and distribute or use their Federal power. The Energy Planning and Management Program (EPAMP) stated Western's general policy that customers desiring to purchase power from Western for resale to consumers must have utility status, meaning responsibility to meet load growth, having a distribution system, and being ready, willing, and able to purchase power from Western on a wholesale basis for resale to retail consumers. EPAMP also stated that for the Pick-Sloan Missouri Basin Program - Eastern Division (PSMBP-ED), Western will require that power commitments to specific Department of Defense sites not be changed unless the contract rate of delivery exceeds the total load at that site, and if so, then only the excess power at that site may be transferred to another Department of Defense site. The PSMBP-ED Post-2000 Resource Pool Allocation Procedures further stated that qualified utility and nonutility applicants must be able to use the firm power directly or be able to sell it directly to retail customers. The Central Valley Project 1994 marketing plan, under which military installations in northern California receive their Federal power, states, "to be eligible to receive an allocation, the preference entity must exist, operate, and be ready, willing, and able to receive and use or receive and distribute Federal power as of January 1, 1992." Western's marketing plans do not specifically address what impact the privatization of a military installation's distribution system has on that installation's

status as a customer of Western. Generally, marketing plans address eligibility requirements for future allocations of Federal power and do not address terminating contract obligations to current customers. The eligibility of military installations to receive allocations of Federal power in the future will be determined through the public involvement process used to develop future marketing plans.

- Normally, Western will require the military installations to continue being ultimately responsible for compliance with all obligations under the electric service contract as a condition of continuing to receive Federal power. Western electric service contracts include some standard provisions, such as integrated resource plan preparation, power scheduling, and bill payment. Each electric service contract also includes provisions that prohibit sale of Federal power for resale by a third party, and that require Western approval for transfer or assignment of contract rights. In addition, each project's electric service contracts may include obligations unique to the project. Some obligations under the contract may be satisfied by contracting for services with others, but the ultimate responsibility for contract compliance must reside with the military installation.
  
- Transmission or delivery arrangements beyond the Federal system will continue to be the responsibility of the military installation. There may or may not be difficulties in some states or with some utilities with obtaining transmission and delivery of Federal power to military installations that have privatized their electric utility systems. Western will continue to work with the military installation and interconnected utilities in making transmission arrangements. However, the responsibility and cost of such arrangements remain with the military installation.