

Via E-mail

September 27, 2012

Ms. Anita Decker
Acting Administrator
Western Area Power Administration
P.O. Box 281213
Lakewood, CO 80228-8213

RE: MIRACORP OPERATIONS STUDY REPORT

Dear Ms. Baker:

On behalf of Arizona Electric Power Cooperative, Inc. (AEPCO) and its Members, I am providing the following comments on the Operations Study report (Report) that was released by the Western Area Power Administration (Western) in August. AEPCO, along with Southwestern Transmission Cooperative, Inc. (SWTC), has a long history of working with Western to serve more than 147,000 electric meters in Arizona, California and New Mexico through six Class A Member Distribution Cooperatives.

As one of 68 electric G&T Cooperatives in the nation, AEPCO generates and purchases power, including resources marketed by Western, to meet Member energy needs during peak summer energy use. SWTC is the transmission affiliate of AEPCO, operating and maintaining more than 620 miles of transmission lines and 26 substations reaching out from AEPCO's Apache Generating Station, serving customers across Arizona to the northwestern corner of the state.

At the outset, AEPCO and its Member Distribution Cooperatives agree with the comments that the Colorado River Energy Distributors Association will be providing on the Report. However, there are some additional points that bear emphasis that should be seen as supplementing the comments that have already been provided. In particular, we remain concerned with reckless statements that the Report asserts, an absence of perspective, and important omissions that should be addressed as foundational issues in any report of this nature.

Reckless Statements

In an alarming statement, the Report asserts in Section 7.3.1 that "Western has chosen to participate" in an Energy Imbalance Market (EIM). We can find no statement of Agency or Administration policy indicating that Western has made such a decision. In fact, not only is this statement patently false, it simply ignores the legal restrictions and budgetary limitations that Western needs Congress to address before entering an EIM. Nonetheless, it once again shows

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how the Department of Energy (DOE) will engage any consultant who will advance DOE's political agenda without regard to the legal and budgetary restrictions that Congress has imposed.

The statement suggests a pernicious outcome for power customers. Indeed, the Report's claim that Western has already committed to an EIM before needed studies have been completed or cost benefit analysis performed is truly reckless because it shows a commitment to participate in a market without any regard to costs or consequences. Potential market participants in a west wide EIM need not negotiate with Western on market conditions; apparently the Agency has already gone "all in" without looking at its cards.

More importantly, however, the assertions of fact on this point underscore a decision making process that has proceeded without regard to statutory limitations, cost benefit analysis, or underlying budget authority. The fact that DOE and Western would allow this report to be published with this apparently false statement raises many questions regarding the Report's other conclusions. While we understand that Western desires to study the potential benefits of an EIM, any serious evaluation must first start with a disavowal of this false assertion.

An Absence of Perspective

There is a fundamental error in the entire approach employed by the contractor in the comparisons between Western and neighboring utilities that renders many of the report's conclusions largely meaningless. Indeed, the exercise of comparing Western, which operates pursuant to a prescriptive and limited Congressional mandate, to Investor Owned Utilities (IOUs) which are entities organized pursuant to state laws of incorporation and subject to both state laws and the full panoply of provisions of the Federal Power Act (FPA) yields insight of limited value.¹

There is no surprise that Western and IOUs would be different and have different organizational structures. They have roots in different statutes and are creations of very distinct statutory themes. This has been a concern of AEPCO and its Members since the very outset. There appears to be a push for Western to act like an IOU when its fundamental structure and statutory mandate require a more limited role. As AEPCO and SWTC have explained in comments to the Joint Operating Team (JOT) working on Secretary Chu's Power Marketing Administration (PMA) modernization initiative, an inquiry on improving Western's operations must begin with consultation with the customers *and* analysis of Western's organic statutes.

The Report thus suffers from not considering the foundation of Western's operations, its statutory mandate. What is troubling is that the authors appear to recognize the statutory mandates governing Western's operations, but simply discount the applicability of those laws to Western. As explained in section 6.3.3:

¹ *The use of the term "company" leads the reader to conclude the utilities used for benchmark purposes are IOUs. Furthermore, we are unaware of a consumer owned utility that has undergone a major merger or reorganization in recent years. See section 2.3.*

Western's current organizational structure is different from the other partners', as shown in the simplified diagram above. Each operations center is autonomous and is directed by a Regional Manager who reports to the Administrator in the CSO. The primary driver for this difference is the fact that Western's system is comprised of various transmission projects that were developed under different legislative acts.

Yet, these "different legislative acts" appear to matter little in the promotion of another agenda when the authors declare in Section 7.1:

As the executor of marketing the generation from the Federal Hydro Projects, ***Western is governed by many pieces of legislation*** relative to marketing and delivering federal power, even as it may be specific to just one project. In addition, Western is operator of a large, ***loosely-connected transmission network***. This transmission is, or could be, key to the development of a system that could benefit the Western United States. Western should be a leader in the effort to strengthen the transmission system in the West. (Emphasis added)

What is truly troubling about this paragraph's concluding statement on the role Western should play is the fact that the authors acknowledge that there are fundamental obstacles to Western asserting that role. Western cannot be a driver of transmission reform because of its many pieces of legislation. Moreover, the fact that Western operates a loosely connected transmission network should give DOE and Western pause in their overall efforts. Indeed, there needs to be a recognition that the West is fundamentally different and the tight power pools in the East cannot serve as a template for the western electricity market.

Important Omissions

In many respects, the Report dodges the primary issue that appears to be driving the outcome oriented process that has emerged from DOE and foisted on Western; who should bear the burden of integrating intermittent resources? The report suggests that cost concerns are trivial or "silly" topics for discussion.² Indeed, the authors appear to find fault with objections over cost shifting when they imply that there have been incorrect price signals for the development of available resources. But this issue lies at the heart of many objections that preference customers have asserted over the course of the summer. There is a fundamental and real fear that Western

² See section 7.2.5. *Are transmission and ancillary service rate designs unfairly shifting costs to the intermittent generators? Is it possible that intermittent generation and intermittent loads are related? Should the transmission cost of supporting intermittent generation be assigned to loads that do not follow generation? This may seem a silly discussion, but in cost causation rate designs, certain assumptions are made, and it is forgotten that many assignments of cause are related to "who was first." Maybe those discussions should re-examine the processes and define appropriate assignment of costs that encourage the most wide-spread use and send the correct pricing signals to encourage the development of available resources.*

will embark on a modernization effort that provides no benefit to existing preference customers, yet increases their costs.

The authors of the report denigrate such concerns as “silly.” We strongly disagree. AEPCO and its Member Cooperatives serve many households where an increase in electricity prices is not a trivial matter but a burden that must be addressed with a real sacrifice. This is not an academic or theoretical exercise. There are real, significant consequences for many Americans if Western is going to shift costs onto preference customers to accommodate developers of intermittent resources.

The potential financial burden on end use electric consumers has been a primary motivator for preference customers throughout the West in their encouragement of Western to adhere to a “beneficiary pays” concept in any proposal. However, we believe that Western needs to be clear in this instance as to who is the beneficiary. Beneficiaries of transmission modernization are not existing preference customers using the transmission system for the traditional delivery of power generated at Bureau of Reclamation (Bureau) and U.S. Army Corps of Engineers (Corps) projects.

Undoubtedly, as the report even suggests, there will be an argument that cost should be assigned on a wide-spread basis, because *everyone* will benefit from a modernized transmission grid. We encourage Western to resist the temptation of this argument and set a baseline of costs as they currently exist to serve preference customers buying power from the Bureau and the Corps. Costs incurred above and beyond that baseline can be allocated accordingly to new entrants, developers, or generators of intermittent resources who are clamoring for Western to “modernize the grid.” This is the benchmark that would have some value in the overall debate on the future of Western.

Conclusion

Without any consultation with existing power customers, the Report fails to ask the most important stakeholders in any changes that Western may seek to adopt. In fact, we hope that Western will recognize that many of the conclusions reached in the report provide little value to Western and Western’s preference customers. I remain available to answer any questions regarding our concerns raised above.

Sincerely,



Patrick F. Ledger
Chief Executive Officer