

**Comments of the
Heartland Consumers Power District
Regarding Western Area Power Administration
Operations Study Report**

Heartland Consumers Power District (“Heartland”) submits these comments regarding the August 9, 2012 Western Area Power Administration (“Western”) Operations Study, created by Miracorp (“Ops Study”).

I. Introduction

The purported impetus for the Ops Study was Western’s desire to evaluate its current power system operations to determine how best to improve operations and transmission services processes and activities. In August 2011, Western contracted with Miracorp to perform the study and create a report examining the following functions: 1) transmission services and planning activities; 2) transmission operations and balancing authority activities; 3) settlement activities related to real-time operations; 4) meeting industry compliance and reliability standards in the operations environment; and 5) participation in industry-wide power systems initiatives. The Ops Study was released on August 9, 2012. Miracorp’s methodology for evaluating its power system operations involved comparing Western’s operations with that of three investor-owned utilities (“IOUs”), which were in the process of or had recently completed mergers. Western set a comment date on the Ops Study that was subsequently revised to September 28, 2012.

II. Background

Heartland is a public corporation and political subdivision of the state of South Dakota created in 1969 under the Consumers Power District Law. Heartland

provides low-cost, reliable power to municipalities, state agencies and one electric cooperative across South Dakota, Minnesota and Iowa. Heartland serves as a partial, supplemental or full requirements power supplier to customers. Heartland has also invested in extensive wind development and energy efficiency programs. Heartland is empowered by the Consumers Power District Law to finance, own and operate anywhere, singly or jointly, any electric light and power plants, lines or systems for the generation, transmission or transformation of electric power and energy. Heartland is authorized to sell, transmit and deliver electric power and energy at wholesale to distributors within and outside the boundaries of South Dakota.

Western was created in 1977 to perform the power marketing and transmission function previously performed by the Bureau of Reclamation for the Secretary of Interior. Western markets federally-generated hydroelectric power within the Pick-Sloan Missouri Basin Program-Eastern Division (“PSMB-ED”) from eight power plants located in Montana, North Dakota, and South Dakota. Most Heartland customers are power customers of Western, with Heartland providing transmission service, supplemental power supply and power management services to its customers. Western also owns and operates an extensive system of high-voltage transmission facilities in the PSMB-ED. Western’s transmission facilities are included within an integrated transmission system called the Integrated System (“IS”) along with portions of the transmission facilities of Heartland. Western operates these facilities on behalf of the three IS owners.

III. Comments

A. The Ops Study Methodology is Flawed

Heartland believes that the methodology under which the Ops Study was conducted is fatally flawed and misguided in that it makes an inappropriate and misleading comparison between IOUs and Western, a power marketing administration (“PMA”). The Ops Study fails to recognize the key differences between an IOU and a PMA: an IOU’s mission is predominantly driven by the need to produce profits for investors, while a PMA’s mission is statutorily defined. Specifically, Western’s mission is to market and transmit hydropower generated at federal multi-purpose projects in different river basins in the West to the PMA’s preference customers “at the lowest possible rates to consumers consistent with sound business practices.”¹ In addition, the comparison of WAPA to a small group of IOUs is inappropriate because the job descriptions, duties, compensation and technical capabilities of the organizations are neither equivalent nor comparable. Because the Ops Study does not recognize these fundamental differences between Western and IOUs, the Ops Study has produced recommendations that, if followed, would contradict Western’s statutory role and responsibilities.

B. Western Cannot Take Any Action in Violation of its Statutorily Defined Mission and Principles

Certain core principles were carefully drafted into the PMAs enabling statutes that narrowly constrain the PMAs’ lawful activities and sources of funds. The first principle is that preference in the sale of federal hydroelectric power and energy by

¹ Flood Control Act of 1944, Pub. L. No. 78-534, 58 Stat. 887 (codified as amended at 16 U.S.C. §§ 460d, et seq., and in scattered sections of 33 and 43 U.S.C.).

the PMAs is to be given to not-for-profit consumer power districts, consumer-owned electric utilities, rural electric cooperatives, state and federal agencies, and Native American tribes. Second, the PMAs must provide power and energy at the lowest possible rates to consumers consistent with sound business principles. Third, those who use the investment are responsible to pay for it as beneficiaries. Fourth, and finally, the PMAs are administered through local control and local operation.

Of key importance is the final principle, in pursuit of which the PMAs have established regional offices and built close relationships with local preference customers. Heartland believes that local operation of the PMAs, particularly Western, is necessary to reflect the differences in regional policies, resources, grid connections and economic arrangements with customers across the geographic area in which they operate. In addition, the regions reflect different statutory obligations of different projects and the related costs and budgets. In fact, the tariffs governing operations in the Upper Great Plains Region (“UGPR”) of Western are different than in other Western regions.

This difference is recognized in the Ops Study only fleetingly by stating, “[a]s the executor of marketing the generation from 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.”² No true consideration is given to these “many pieces of legislation” that govern Western’s operations. The Ops Study fails to recognize Western’s statutory obligations. Its recommendations are based upon the

² Ops Study at 78.

approaches of IOUs and are not appropriate for Western and, in some instances, may be prohibited by Western's enabling statutes.

Before pursuing any of the recommendations in the Ops Study, Western should first consider its statutory obligations. Any lawful recommendations should be pursued only if they streamline operations in a cost-effective manner. Competition with utilities that are driven by profits is not an appropriate consideration in determining which recommendations to pursue.

C. A Primary Consideration in Determining Whether to Pursue Recommendations Should be Cost

Western should conduct a cost/benefit analysis on the Ops Study recommendations it seeks to pursue prior to taking any action. Although the Ops Study makes over thirty recommendations, Miracorp explicitly recognizes that: 1) implementing five of the recommendations will result in increased costs;³ 2) no cost analysis has been done with regard to seventeen of the recommendations;⁴ 3) it has not

³ *See id.* at Sections 8.1.1, Centralizing TOP, TP and TSP Functions Under a Single Senior Manager; 8.1.2 Consolidate the OASIS System Activities; 8.2.2, UPG Takes Responsibility for Operating the RMR Facilities Within the MRO Footprint; 8.2.3, RMR Takes Responsibility for Operating the UGP Facilities Within the WECC Footprint; and 8.3.1, Standardizing Processes and Tools Among Operations Offices.

⁴ *See id.* at 8.1.3, Consider Consolidating TP and TSP Functions Into a Single Organization; 8.1.8, Define Transmission Settlements Functions and Processes; 8.1.9, Review Compliance Structure; 8.2.7, WASN Collaborates with SMUD for WASN to Become the BA/Operator and SMUD to Become the Sub-BA; 8.3.2, Consider Moving Toward a Single SCADA System for All of Western; 8.3.3, Develop a Secure Method to Allow a Simplified Login for Dispatchers for Multiple Products so as to Reduce the Time Involved, Yet Maintain Security; 8.4.2, Consider Registering as a Single NERC Entity; 8.4.3, Set a Goal and Milestones to Achieve One Set of Transmission Rates per BA; 8.4.4, Review Possibilities of the WASN Sub-Balancing Authority Becoming a Sub-Balancing Authority of WALC or WACM; 8.4.7, Develop a Program Using Common Tools to Track and Perform Routine Training; 8.4.8 Review Operations Training Manual; 8.4.9, Improve Efficiency of Switching Program Training; 8.4.10, Agreement to Support Transmission Service; 8.4.11, Require All BAs to Settle Energy

conducted a substantive analysis of the costs relative to another four of the recommendations;⁵ and 4) goes so far as to explicitly admit that two of the recommendations will result in cost-shifting.⁶ Standardization sounds like a great concept, but also creates inefficiencies and other operational difficulties. Western has several regions with unique differences, i.e., processes, software, equipment, etc. Conversion would be costly. Some of those processes and equipment interface with other “non-PMA” entities that would also be impacted by standardization. Standardization assumes “one size fits all” and ignores the reasons the specific process or equipment was selected in the first place. Greater examination of the costs is critical.

Western must ensure that those who benefit from investment pay for that investment, upholding the “beneficiary pays” principle. Section 7.2.5 of the Ops Study suggests that load should be penalized for not following intermittent generation. Such a suggestion would be legally indefensible and would serve as a disincentive for more renewable energy.

Many of the defects of the Ops Study mirror the problems we identified with the March 16, 2012 memorandum from Secretary Chu to the PMAs (“Chu Memo”). The Chu Memo is cited in Section 7.2.2 of the Ops Study. In fact, Section 7.2.2.1 of the

Imbalance Accounts Financially; 8.4.12, Evaluate Federal Generation Capacity; 8.4.13 Review and Develop an Effective and Economical Strategy for Western’s Registrations and Committee Participation; and 8.4.14, Compare Differences and Standardize.

⁵ *See id.* at 8.1.4, Consider Consolidating the Transmission Security and Scheduling Dispatch Desks; 8.1.5, Organizational Alternatives for Transmission Planning and Operations Engineering; 8.1.8, Define Transmission Settlements Function and Processes; and 8.1.9, Review Compliance Structure.

⁶ *See id.* at 8.3.1, Standardize Processes and Tools Among Operations Offices and 8.4.3, Set a Goal and Milestones to Achieve One Set of Transmission Rates Per BA.

Ops Study appears to assume that Western has the legal authority to implement the Chu Memo. This is legally incorrect. Prior congressional action is required.

D. Consultation with Preference Power Customers is Warranted

Western has conducted this study without any consultation or input from federal firm power customers. Changes proposed by Western's Ops Study can create costs for Western's firm power customers, an impact lost in the study's analysis. These impacts must be included in any cost/benefit analysis. Before moving forward with any changes in the way Western is operated or governed, Western should engage in meaningful consultation with its preference power customers, as well as the Bureau of Reclamation and the Army Corps of Engineers. The Ops Study findings that Western personnel view each region as distinct entities should not be dismissed as misunderstandings of these employees regarding the nature of Western's operations. This attitude is present because of the realities on the ground, and the way the regions have been formed and operated, due in large part to distinctions between the regions. The most recent evidence is that a centralized Energy Imbalance Market ("EIM") would actually increase costs for Western's firm power preference customers, including Heartland and its customers. The Ops Study fails to recognize these distinctions and to continue to do so would be detrimental to the long-term success of any overhaul of Western's operations and management. In fact, the larger organization is likely to be less flexible and responsive. In general, the Western Ops Study was poorly done with little or no back-up data to support the conclusions and recommendations. The presentation provided in the webinar was prescriptive and a waste of participants' time. Western

apparently has been forced by senior officials in the Secretary’s office of the Department of Energy to say “take it or leave it” rather than exhibit the collaboration that once defined its relationship with customers. The changed tone and content of Western’s approach to customers contrasts sharply with the decades-old transparency and collaboration that up until now defined their relationship with customers.

E. Concerns that Implementation of the Ops Study is a Precursor to Implementation of a Centralized EIM and a Regional Transmission Organization (“RTO”)

A region-wide EIM has not been shown to be cost-effective for Western or its preference customers. The unexamined costs associated with the suggested measures in the Ops Study (*see* III (C), *infra*) must be thoroughly analyzed first. The Ops Study appears to be hurtling towards a centralized EIM without recognizing that the preference customers’ business models assume support for preference power generation and the transmission that was developed to deliver that generation. In fact, actions by the consumer-owned utilities were undertaken based upon the express provisions of the underlying statutes. The Ops Study ignores these facts. Non-jurisdictional, consumer-owned utilities generally see no value in a centralized EIM.

Costs have increased for consumer-owned utilities through the Independent System Operators (“ISOs”)/RTOs in the east and in California, and the EIM seems to be the first step in the effort to move towards a costly RTO on terms that would be unfavorable to preference customers. We remain deeply concerned, as was Western, prior to this recently politicized process, that shifting Western’s facilities to this market

could shift costs to Western and its customers. The Ops Study has not examined this problem.

IV. Conclusion

For the reasons set forth in these comments, Heartland asserts that Western should reconsider the recommendations of the Ops Study. The flawed methodology of the Ops Study in comparing IOUs to PMAs, failing to take into consideration Western's statutory obligations and giving little or no weight to cost considerations renders its recommendations virtually meritless. If Western is to consider the questions posed in the Ops Study, it must do so nearly anew, taking into account all the factors the study failed to recognize. Consultation with preference power customers should be a first, and ongoing, step in this process.

Respectfully submitted,



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