

**National Rural Electric Cooperative Association
Comments in Response to the
Draft Recommendations of the Joint Outreach Team**

The National Rural Electric Cooperative Association (“NRECA”) appreciates the opportunity to submit these comments in response to the Department of Energy (“DOE”) and Western Area Power Administration (“Western”) Joint Outreach Team (“JOT”) Draft Recommendations.

I. Introduction

NRECA appreciates the opportunities the JOT has given NRECA and its members to express our views at the regional conferences, in follow-up comments in August, and in response to the Draft Recommendations. We further greatly appreciate that the JOT agreed to answer questions about those Draft Recommendations, even through the holiday season. And, NRECA recognizes and appreciates the fact that the JOT has responded to those comments by retreating from some of the positions enunciated in the March 16, 2012 Memorandum issued by DOE Secretary Steven Chu (“Chu Memo”).

However, as we explain throughout these comments, NRECA remains concerned that the Draft Recommendations do not yet adequately address the issues raised by NRECA and its members during this process. Even as clarified in the JOT’s Response to NRECA’s Questions of December 17, 2012, received on January 9, 2013 (“NRECA/JOT Q&A”), NRECA is concerned that the broad descriptions of some of the Draft Recommendations leave open the possibility that Western could take actions that exceed its statutory authorities, could move forward without the cooperative processes that are important to the preference customers, or could impose undue costs on preference customers. Further, without appropriate prioritization, NRECA is concerned that the process of further defining and implementing the Draft

Recommendations could impose an undue financial and staff drain on Western and the preference customers.

Accordingly, the following comments emphasize the need for Western to conduct a rigorous legal analysis before making their recommendations to the Secretary; explain the need for Western to use open and transparent procedures that adequately include preference customers as they further develop and implement the Draft Recommendations; offer suggestions for prioritizing the Draft Recommendations; offer suggestions for how better to scope some of the Draft Recommendations to assure that they are lawful, politically palatable, practical, and beneficial; and argue that some Draft Recommendations should be dropped altogether.

II. NRECA and its Relationship with the Power Marketing Administrations

NRECA is the national service organization representing more than 900 not-for-profit, member owned, member-controlled rural electric cooperatives (“Cooperatives” or “Co-ops”). Most of NRECA’s members are distribution Cooperatives, providing retail electric service to more than 42 million consumers in 47 states. NRECA members also include approximately 65 generation and transmission (“G&T”) Cooperatives that supply wholesale power to their distribution Cooperative member-owners. Electric Cooperatives provide service to approximately 75% of the nation’s land mass. Both distribution and G&T Cooperatives were formed to provide their members with adequate and reliable electric service at the lowest reasonable cost. For this reason, Cooperatives evaluate opportunities and obligations from the perspective of whether they will provide certain, meaningful benefits to their consumers, either by lowering costs, increasing reliability or offering new service.

The Power Marketing Administrations (“PMAs”) provide affordable power to more than 600 rural electric Cooperatives in 34 states. Cooperatives and the PMAs share a

unique relationship and powerful bond built on shared principles. Indeed, the PMAs were founded based upon a partnership between electric Co-ops, other preference customers, and the federal government, wherein the government invested in dams for flood control, recreation, and electricity generation. Preference customers, including Cooperatives, agreed to buy the electric power at above-market rates and repay the federal government's original investment through their power rates, in exchange for a guarantee of continued access to power and a promise of lower rates over the long term. This partnership, which remains intact today, helps Cooperatives keep electric bills affordable for consumer-members. At the heart of this relationship and agreement is an understanding that those who pay for the investment are to be the beneficiaries of that investment.

The PMAs are perhaps of more critical value to Cooperatives and their communities than to any other sector, because they provide low-cost, affordable power that would not otherwise be available in Cooperative communities. The mission of Cooperatives, to serve largely agricultural and rural areas of the country, is still as vital a purpose as it was when the Rural Electrification Act was signed into law in 1936. Low-cost, affordable power is vitally important to rural communities and supports jobs given the current era of economic recovery following a devastating recession.

III. Western's Legal Authority

While NRECA appreciates the efforts undertaken by the JOT to address our members' concerns, elements of the Draft Recommendations run counter to the Western enabling statutes. The Chu Memo acknowledged that the changes outlined therein are only possible "to the extent allowable under [the PMA] enabling statutes."¹ The Chu Memo also

¹ Chu Memo at 1 and 4.

acknowledged the complex statutory framework governing the PMAs: not only may each PMA have its own enabling statute, each system of dams may have their own governing statute, and sometimes even a single dam may have its own authorizing statute.²

The enabling statutes are clear on the purpose and statutorily-directed primary mission of the PMAs, and the Draft Recommendations have not given these factors adequate weight. These factors are not “constraints.” Nor are they appropriate subjects for negotiation during the public processes that Western intends to use to determine the manner in which the Draft Recommendations will be developed and implemented. They are, simply put, requirements. In response to the Chu Memo and in their participation in the “Defining the Future” initiative thus far, NRECA and its member Cooperatives have repeatedly questioned whether the enabling statutes permit DOE and Western to perform the activities necessary to achieve the objectives of the Chu Memo and the “Defining the Future” initiative. The statutory authority relied upon by DOE in making the Draft Recommendations for Western’s reformation remains unclear to Western customers. Therefore, NRECA once again wishes to remind the JOT, Western and DOE of some of the explicit statutory obligations Western must satisfy.

First, the PMA enabling statutes make clear that electric power and energy generated at reservoir projects under the control of the Department of the Army and in the opinion of the Secretary of the Army not required in the operation of such projects shall be delivered to the Secretary of Energy, who shall transmit and dispose of such power and energy in such manner as to encourage the most widespread use thereof among preference customers “at the lowest possible rates to customers consistent with sound business principles.”³ This

² See *id.* at 2.

³ Flood Control Act of 1944, § 5, 16 U.S.C. § 825s (2012), *see also*, Reclamation Project Act of 1939 § 9(c), 43 U.S.C. § 485h(c) (2012).

provision has accurately been described as a requirement that Western provide “power at cost”. Utilizing hydroelectric project facilities constructed pursuant to the enabling statutes for any purpose that would not ensure the lowest possible rates, contravenes the plain meaning of the underlying statutes. Further, any initiatives undertaken in response to the recommendations that might increase costs to project beneficiaries would run counter to the cost recovery mechanisms directed by Congress.

Second, the enabling statutes could not be clearer in their pronouncement that “[p]reference in the sale of [excess hydro-]power and energy shall be given to public bodies and Cooperatives.”⁴ These “preference customers,” make up the vast majority of PMA customers who will be affected by any change in the way the PMAs are administered. To the extent the final recommendations or any actions in pursuit of those recommendations stray from this principle and provide benefits to third parties at the expense of preference customers, they would be in violation of this statutory principle governing Western.

Third, the enabling statutes prohibit the reallocation of project costs without congressional approval.⁵ To the extent that any final recommendations or actions in pursuit of these recommendations are deemed to reallocate such costs, including through market-based rates or other mechanisms utilizing hydropower to firm-up intermittent resources at a cost to preference customers, such actions would certainly be considered changes that would require prior congressional approval. Pursuit of such changes without congressional approval would clearly violate this principle.

⁴ *Id.*

⁵ Department of Energy Organization Act § 302(a), 42 U.S.C. § 7152(a)(3) (2012).

Because of the preliminary and rather vague nature of many of the Draft Recommendations, a more thorough legal analysis of their adherence to the statutory obligations placed upon Western cannot be conducted by Western customers, who continue to lack insight into the final goal of this process. What is clear is that the general statutory obligations outlined herein should be afforded significant weight. In no way are these comments meant to reflect all of Western's statutory obligations, which must guide any final recommendations or actions implementing such recommendations. Despite that, certain recommendations seem on their face to be well outside Western's statutory authorities. These include recommendations to consolidate rates across project areas or moving away from contract-path transmission service to a flow-based approach and the use of locational marginal pricing ("LMP"). A legal analysis should immediately be conducted by the JOT or the appropriate legal advisor and made public within this process. This legal analysis should be conducted in advance of any further action regarding certain of these proposals.

We appreciate the statement contained in the NRECA/JOT Q&A, Q-General, that both Western and the DOE General Counsels have been involved in the Draft Recommendations, and would be involved in the implementation. However, we respectfully disagree "that all of the Draft Recommendations are within Western's legal authorities." Given the breadth and complexity of the legal requirements governing Western's activities, we believe that a detailed legal analysis is needed before moving forward, so that neither Western nor the preference customers waste time and resources further developing Draft Recommendations that Western lacks the authority to implement. We do look forward to working with Western as these issues evolve.

Finally, NRECA has had an opportunity to review, agrees with, and has joined with a number of other organizations in separate “Limited Joint Comments” submitted today addressing legal considerations raised by the JOT Draft Recommendations (“Joint Legal Comments”).

IV. The Importance of Open and Transparent, Bottom-up Procedures

As the JOT is aware, the long-standing partnership between Western and the preference customers is extremely important to NRECA and the preference customers. In the past, changes in Western activities or procedures have been developed and implemented in close consultation with the preference customers in each Western region. In the NRECA/JOT Q&A, the JOT recommends that Western utilize an open and transparent process in implementing any recommendations.⁶ NRECA appreciates this important commitment. We are hopeful that Western will accept that recommendation. It is critical that any of the Draft Recommendations that may be finalized clearly state that Western will utilize an open and transparent, bottom-up process for further defining and implementing the proposal in a manner that offers Western’s preference customers with ample opportunities to substantively weigh-in from the beginning of the process, including the assumptions and models underlying any studies.

It is also important that the open and transparent, bottom-up process reflect the important relationship between Western and the preference customers and the degree of their involvement in the operations of Western and the joint activities undertaken over the years.⁷ It

⁶ NRECA/JOT Q&A, A1.

⁷ For example, the Western States Power Corporation, which is composed of preference customers, has worked with Western, the Corps of Engineers and the Bureau of Reclamation and has contributed hundreds of millions of dollars to critical facility upgrades in order to maintain these electric generating and transmission assets in sound condition. This activity would not have been possible without the close and productive

appeared to the preference customers that in crafting some of the Draft Recommendations the JOT gave disproportionate weight to minority opinions held by one or two participants in the “Defining the Future” process, notwithstanding the fact that a much larger number (in the hundreds) of Western customers nearly unanimously expressed opinions counter to those few participants who offered a view supporting the changes reflected in the Draft Recommendations. Such appearances can only serve to undermine Western’s efforts.

V. Priorities

NRECA appreciates Western’s invitation to offer suggestions for the prioritization of the Draft Recommendations. NRECA believes that such prioritization is absolutely critical for several reasons.

First, developing and implementing all of the Draft Recommendations would demand an enormous financial investment for Western, the preference customers and all the stakeholders. The cost to consumers simply cannot be justified.

Second, the drain on Western’s staff resources would inevitably distract it from its critical priorities: reliably delivering federal hydropower to preference customers. It would also distract the preference customers’ limited staff from their core responsibility of delivering safe, reliable and affordable power to their own members. The only industry participants that could afford to staff such an effort are the few self-interested stakeholders that might be able to profit from significant changes to Western activities and priorities.

Third, it would make no sense to implement some of the Draft Recommendations until others had been fully implemented. For example, it would not make sense to evaluate the costs or benefits of a West-wide energy imbalance market (“EIM”) until the costs and benefits of

working relationship between the preference customers, Western and other federal agencies.

lower cost alternatives to that market that Western is already implementing have been assessed. Only by waiting can the EIM study include an accurate baseline against which to measure the incremental costs or benefits of establishing the market. In addition, the legal authority to institute an EIM appears to be lacking.

NRECA recommends that Western propose as its starting point continuing to invest resources, or perhaps enhancing the resources, it is currently investing in certain ongoing projects reflected in the Draft Recommendations. As noted, *supra*, Western States Power Corporation, on behalf of its preference customer members, has thus far invested hundreds of millions of dollars in federal agency facilities. NRECA members look forward to working with Western and the other federal agencies to optimize these future investments.

If Western has additional resources that it can reasonably invest in the recommendations, it should work on implementing a few of the ideas that engender the least controversy, and thus have the greatest likelihood of bringing practical benefit to Western, the preference customers, and stakeholders in a reasonable period of time. For example, Western could move forward with the following recommendations in the near-term (with the limitations set forth herein): No. 2, exploring whether to combine Western's four OASIS sites into a single OASIS; No. 3, considering whether to revise Western's Large Generator Interconnection Procedures ("LGIP"); No. 10, studying the feasibility of outsourcing the Electric Power Training Center; No. 11, implementation of intra-hour scheduling as required by the Federal Energy Regulatory Commission; and No. 12, continuing its current efforts with others in the region on ACE Diversity Interchange ("ADI"), Reliability Based Control ("RBC"), and Dynamic Scheduling System ("DSS").

Some ideas reflected in the Draft Recommendations may eventually be worth fleshing out in more detail at some later date. For example, at some point in the future when an analysis of Western's legal authority has been completed, the potential for cost shifting has been determined, and the benefits of certain recommendations can be more fully evaluated, Western may be able to consider going further with those recommendations. At that later date, Western may want to again propose to preference customers that they look at the following recommendations: No. 1, determining the regulation reserve capability that is required for each of Western's Balancing Authorities ("BAs") or sub-BAs using a consistent methodology and criteria; No. 5, identifying the best rate-setting methodologies; No. 6, evaluating IRP guidelines and implementing a quality control program; No. 7, conducting an infrastructure investment study in collaboration with other preference customer efforts; and No. 8, evaluating combined transmission system opportunities.

Finally, some ideas reflected in the Draft Recommendations are best shelved. They are so controversial, so likely to violate Western's statutory obligations, or so likely to harm preference customers that they should not be pulled out again. These include the following recommendations: No. 4, rate consolidation; No. 9, moving from a contract-path to flow-based environment; No. 13, investigating a West-wide energy imbalance market; and No. 14, taking further action to encourage integration and aggregation of renewable energy products outside of the ongoing efforts of preference customers.

VI. Comments on Specific Recommendations

In introducing the Draft Recommendations the JOT has included some language that is troubling to NRECA. The JOT states that it is an important priority for Western to "incorporat[e] policies and industry trends in long-term strategic planning contexts that ensure

long-term viability and relevance and contribute to strengthening America's energy security, environmental quality and economic vitality.”⁸ While these are laudable goals, and goals that Western's preference customers advance each and every day in their operations, NRECA questions whether any expenditure of resources on “strengthening America's energy security, environmental quality and economic vitality, except as such goals are naturally achieved through the marketing of federal power to preference customers at the lowest cost consistent with good business practice, would be consistent with Western's legal authority and obligations.

NRECA is also concerned by the statement within the Draft Recommendations that Western has an opportunity to take a constructive role in “integrating and/or interconnecting new generation technologies into the federal transmission system.”⁹ Through the actions of NRECA members and other preference customers a large amount of new generation technologies has already been integrated into the regional system. In addition, the Transmission Improvement Program (“TIP”), initiated in 2009, has also permitted significant upgrades to begin to move forward. There are limits to Western's legal authority to assume additional roles and preference customers remain concerned with costs.

The JOT Draft Recommendations assert that the “PMAs play a vital role in providing an electricity system that supports our Nation's economic competitiveness, security and prosperity.”¹⁰ NRECA is concerned that this description of some of the supplemental benefits of the PMAs fails to recognize Western's statutorily-mandated obligation to provide power and energy at the lowest possible rates to consumers consistent with sound business principles. To be clear, NRECA does not dispute that the PMAs have provided supplemental

⁸ Draft Recommendations at 5.

⁹ *Id.* at 4.

¹⁰ *Id.*

benefits other than those they are required to provide, including those cited by the Draft Recommendations. Indeed, NRECA member Cooperatives themselves play an important role in ensuring the competitiveness, security and prosperity of the United States. However, Cooperatives clearly understand that their primary role is to provide reliable electric service to their members. If a Cooperative were to focus on these less tangible benefits at the expense of their primary mission their members would have concerns. So too must NRECA raise concerns if the PMAs add missions without prioritization.

The JOT Draft Recommendations also assert that the “potential for cost shifts, need to be part of the evaluation process.”¹¹ This statement raises concerns considering that assurances provided in the Draft Recommendations themselves indicate that the JOT has committed in this process to “ensure that the beneficiary pays.”¹² If the JOT has truly committed itself to the principle of beneficiaries pay, then the potential for cost shifting must be avoided. This seemingly contradictory language only serves to confuse participants in this process and could inadvertently raise concerns about the intent of the JOT where no concerns should exist. Since this process is intended to be transparent, conflicting statements such as these must be clarified.

Below, NRECA addresses the Draft Recommendations in the order presented in the proposal.

INCREASING OPERATIONAL EFFICIENCIES

The JOT indicates that it has identified several aspects of existing operations that Western may improve. These recommendations purportedly build on work already being done

¹¹ *Id.*

¹² *Id.*

by Western's customers and peers. The JOT asserts that some of its recommendations for increasing operational efficiencies correspond with: 1) the Operations Study;¹³ 2) efforts underway by Western's peers or customers; or 3) efforts that Western has previously evaluated. The JOT asserts that these recommendations can be deployed quickly and concurrently.

1. Required Regulation Reserve Capacity

The JOT recommends that Western "undertake an analysis to determine the regulation reserve capability that is required for each of Western's BAs or sub-BAs using a consistent methodology and criteria."¹⁴ The JOT also indicates that "additional analysis should be conducted to determine the regulation reserve capability that is available from all dispatchable generation sources within each of Western's BAs or sub-BAs."¹⁵

NRECA questions the focus of this analysis. As with some of the Draft Recommendations, the language used in describing this recommendation is vague and it is unclear what precise purpose this recommendation is intended to further or fulfill. The NRECA members support efforts by Western to satisfy reliability responsibilities in as efficient a manner as possible. This needs to be achieved through an open and transparent process that will permit preference customers to participate and review proposals on an ongoing basis.

In addition, it is understood that this type of analysis has already been performed in the Sierra Nevada Region ("SNR"). It is unclear if SNR would be required to undergo yet

¹³ On Aug. 9, 2012, Western released an operations study report ("Operations Study") created by an independent consultant, Miracorp, to evaluate Western's current power system operations and provide alternatives, available at: <http://ww2.wapa.gov/sites/western/Documents/OperationsStudyReport.pdf>

¹⁴ Draft Recommendations at 8.

¹⁵ *Id.*

another analysis, whether SNR's analysis would be used as a standard or whether other regions would be permitted to develop their own analysis. We look forward to a dialogue on this issue.

Additionally, this recommendation highlights an issue with some of the recommendations. Although we have been verbally assured since the issuance of the Draft Recommendations that the purpose of many of the recommendations is to simply develop uniform methodologies, the language used in the Draft Recommendations indicates a far broader purpose. It is one thing if the goal in making this recommendation is to ensure that a uniform, appropriate methodology is applied for determining regulation reserve capability and needs, as has been verbally stated in meetings with JOT members. It is quite another if the goal is to go beyond that purpose and reallocate "excess" generation if it is determined it is not needed for reserves to meet preference power obligations, as could be gleaned from a reading of the language of the Draft Recommendations. NRECA/JOT Q&A, A-2 suggests that the value of the federal hydropower resources would be "maximized" for preference customers; a view we support. However, the answer also suggests that many resources may be withheld in light of the "regulatory environment in which we are in." NRECA does not understand this phrase and seeks clarification. Without clarification of the purpose of this recommendation, NRECA cannot support it.

Nevertheless, if this recommendation is passed on to the Secretary, NRECA would fully expect that any "excess" generation found through such a process would be deemed to be reallocated to preference customers through the subsequent marketing plan, thus holding preference customers harmless. Federal hydropower should not be used to provide regulation for non-preference customers in violation of the preference clause. Additionally, NRECA would fully expect that this recommendation would include a directive for Western to utilize an open

and transparent, bottom-up process for developing a consistent methodology and criteria for determining the required regulation reserve capacity with ample opportunity for preference customers to substantively weigh-in.

Given the uncertainty surrounding the scope of this recommendation, NRECA is:

a) unsure whether the recommendation can be carried out in less than one year as described in the Draft Recommendations; and b) concerned that benefits would be provided to non-preference entities in contravention of the Western enabling statutes.

2. Open Access Same-Time Information System

The JOT recommends that Western's four OASIS sites within the Western Interconnection be combined into a single Open Access Same-Time Information System ("OASIS") site.¹⁶ The stated goals of the combination are cost savings, consistency and avoiding potential Open Access Transmission Tariff ("OATT") violations. NRECA fully supports these goals provided the intent of the consolidation is as stated and this recommendation is not intended as a first step toward homogenizing or standardizing the rates, terms and conditions of service provided in the different Western regions. The response to NRECA/JOT Q&A, A-3, endorses this view.

NRECA believes a one or two year timeline, as stated in the Draft Recommendations, is appropriate for combining the OASIS sites.

¹⁶ *Id.* at 9.

3. Large Generator Interconnection Procedures

The JOT recommends revision of Western’s Large Generator Interconnection Procedures (“LGIP”) to conform the changes recommended by WestConnect’s LGIP Work Group and successfully implemented by several WestConnect participants.¹⁷

NRECA supports the JOT’s recommendation for Western to put its proposed LGIP reforms out for the standard 30-day public comment period. However, NRECA notes that this JOT recommendation states the reforms may “yield different LGIP revisions than those specified, so at this time the JOT cannot state conclusively there would be no [Large Generator Interconnection Agreement (‘LGIA’)] changes associated with LGIP queue reform.”¹⁸ This result would concern NRECA and its members. If new proposals for amending the LGIP are raised during the comment period, NRECA would hope that such proposals would not be adopted by Western without further opportunity for review and comment by the preference customers and Western stakeholders.

4. Rate Consolidation

The JOT recommends conducting a study of the transmission and ancillary services rates charged by each Western-owned transmission project. The JOT also recommends determining the feasibility and the appropriate level of potential consolidation of transmission rates from the bottom up, *i.e.*, intra-regionally, inter-regionally, or Western-wide.¹⁹

This recommendation is another example of the words on the page indicating a far broader scope than the verbal explanation provided by the JOT in describing the recommendation. Although NRECA appreciates the well-meaning assurances given by the JOT,

¹⁷ Draft Recommendations at 11.

¹⁸ See NRECA/JOT Q&A, A-4.

¹⁹ Draft Recommendations at 12.

the scope of this recommendation as well as the underlying intent raises some issues. While efforts to reduce rate pancaking are always encouraged, NRECA questions the need or benefit for consolidating Western transmission rates. Additionally, NRECA questions Western's statutory authority for consolidating rates when Western is statutorily required to insure that costs incurred in certain sub-regions be recovered in those sub-regions. Moreover, NRECA questions how the "beneficiary pays" principle can be complied with if rates are standardized. Such a move would inevitably result in cost-shifting. Additionally, NRECA is unclear why the JOT has not presented other options for addressing rate pancaking other than consolidation of rates.

In response to NRECA's request for clarification that "Western would not propose to consolidate rates where such consolidation would result in cost shifting inconsistent with the cost-causation principle," the JOT stated, in part, that "all criteria used to determine whether transmission and/or ancillary service rates would or would not be consolidated intra-regionally, inter-regionally or Westernwide will be determined as part of the collaborative process that implementation of the draft recommendation calls for."²⁰ While NRECA appreciates the JOT's recognition of the need for an open and transparent "collaborative" process, some matters are statutorily non-negotiable. This includes Western's adherence to the cost-causation principle. Spending valuable time in a collaborative process on whether Western will adhere to this principle would be a waste of Western and preference customers' resources. Western's dedication to the cost causation principle should be made clear.

If Western were to conduct the recommended study, at a minimum NRECA would expect the implementation of an open and transparent, bottom-up process with ample

²⁰ See NRECA/JOT Q&A, A-5.

opportunity for preference power customers to provide substantive input, as the JOT has indicated will be implemented through a “collaborative” process. Such a study should also determine who the specific beneficiaries of rate consolidation would be and who would see cost increases as a result of cost consolidation. Furthermore, NRECA would expect that if such a study were to show that rate consolidation would benefit third parties at the expense of preference customers, rate consolidation would not be pursued. Again, unless otherwise stated, the preference customers assumed they are paying the costs of these studies through their preference rates. This again appears to be artificially inflating preference power costs. Finally, NRECA questions how Western could move forward with rate consolidation if the study were to show that rate consolidation would benefit one group of preference customers at the expense of another. The response to the question in NRECA/JOT Q&A, A-5, suggests an extremely broad study scope.

NRECA looks forward to working with Western to reduce rate pancaking, where appropriate and legally permissible.

TRANSMISSION PRODUCTS AND SERVICE OPPORTUNITIES

The JOT asserts that there are various opportunities to move the organization toward a standard approach when serving customers on the Western transmission system.

5. Rate Setting Methodologies

The JOT recommends initiating a collaborative process with Western regional offices, customers, tribes, and “stakeholders” to identify the best rate setting methodologies currently in use by one or more of Western’s regions. The JOT also states that to the extent possible, such a process should explore the potential to harmonize transmission and ancillary service rate setting methodologies across Western. The JOT further states that additional

services, such as load-following service and generation-based ancillary services should be investigated through this process for possible addition to Western's portfolio of products.²¹

Initially, NRECA questions the basis for this recommendation. Additionally, this recommendation, like others discussed above is unclear as to its scope. NRECA expects that this process is intended to simply determine the best rate setting "methodologies" as opposed to mandating a single rate through this process. NRECA is also unclear about the use of the term "best" in this context. NRECA believes that "best" in this context should be interpreted, in line with Western's statutory obligations, to mean: 1) ensuring that Western is able to deliver federal hydropower to preference customers at the lowest cost consistent with good business practices; 2) ensuring that beneficiaries pay; 3) recognizing the unique attributes of Western regions;²² and 4) recognizing the operational requirements of the federal generating agencies.

Similar to its response in NRECA/JOT Q&A, A-5, the JOT, in response to NRECA's request for clarification that "Western would not adopt a common rate setting methodology or new services if they would result in cost shifting inconsistent with the cost-causation principle," stated, in part, that "all criteria used to determine whether a rate setting methodology or practice is best and whether it should be adopted across Western's multiple Regions and projects will be determined as part of the collaborative process that implementation of the draft recommendation calls for."²³ NRECA again, appreciates the JOT's commitment to working with preference customers in a "collaborative" process. However, some matters are

²¹ *Id.* at 14.

²² For example, the Integrated Transmission System ("IS"), owned jointly in Western's Upper Great Plains Region by Western, Basin Electric Cooperative and Heartland Consumers Power District, limits Western's ability to modify transmission approaches and costs.

²³ *See* NRECA/JOT Q&A, A-6.

statutorily non-negotiable, including Western's adherence to the cost-causation principle and Western's dedication to the cost-causation principle should be made clear.

If such a recommendation were to be pursued, NRECA would expect a full analysis of who would directly benefit and who would not from such development. NRECA expects Western would not pursue a process that would disadvantage preference customers and benefit third parties and would develop a method to address a result that would benefit one group of preference customers over others. Again, the response to NRECA/JOT Q&A, A-6, suggests a very broad study scope and NRECA believes that time in this process should not be wasted by addressing possibilities not permitted by Western's enabling statutes.

NRECA believes that if this project is pursued at all, it must be more narrowly and tightly focused and given a longer timeline than the six to twelve months timeline set forth in the Draft Recommendations. The JOT has not provided a clear explanation or demonstration of its need.

6. Integrated Resource Planning Program

The JOT recommends Western evaluate its customer Energy Planning and Management Program ("EPAMP") IRP guidelines and processes to conduct customer outreach to identify opportunities for training and to implement a quality control program.²⁴

NRECA appreciates the JOT's clarification in response to NRECA's concerns that this recommendation may be inconsistent with the JOT's statement in the Draft Recommendations that "the JOT decided not to pursue any recommendations specifically targeted at energy efficiency, demand response or electric vehicles."²⁵ NRECA now understands

²⁴ Draft Recommendations at 15.

²⁵ *Id.* at 5.

that in making this recommendation, the JOT merely “proposes to evaluate the EPAMP IRP guidelines and processes, to conduct customer outreach to identify opportunities for training and to implement a quality control program.”²⁶

Additionally, NRECA shares the concerns of “[s]ome preference customers...that reductions in load will result in future years’ allocations being limited to such a baseline, which, if this is indeed the case, could serve to discourage efficiency measures.”²⁷ This would serve to discourage energy efficiency and would not be advantageous for preference customers, Western, DOE or the nation.

Nevertheless, it is unclear what inadequacies in the current program Western believes necessitate spending additional time and resources on implementing a quality control program. Although the JOT indicates a quality control program would benefit Western customers, the JOT has not clearly identified what those potential benefits are; nor made clear that the benefits of implementing a quality control program would outweigh the expense. In addition, for many Western customers the IRP already duplicates reporting required by some states. The vast majority of Western customers are already engaged in aggressive energy efficiency and demand response programs. These activities are far more aggressive than most private utility programs and were initiated earlier.

NRECA does not believe this project should be pursued in the manner outlined in the Draft Recommendations, at least until the potential benefits are articulated and agreed upon, let alone immediately as preliminarily recommended. The response to NRECA/JOT Q&A, A-7, suggests that further studies would examine incentives and disincentives to energy efficiency,

²⁶ NRECA/JOT Q&A, A-7.

²⁷ *Id.*

including whether reductions in load could lead to preference power reductions. This response raises concerns with respect to the breadth of these studies.

7. Infrastructure Investment Study

The JOT recommends Western perform a Western-wide infrastructure investment study (“IIS”) to determine the state of Western’s infrastructure and the “commercial” value of transmission paths over which Western transacts business to ensure continued reliability on the system and to “maximize return on investment,” prioritize grid capital investment projects identified and proposed in Western's 10-year transmission plan as well as interconnection-wide, interregional, regional and sub-regional expansion planning processes.²⁸

NRECA is concerned with the use of specific investor-oriented concepts and philosophy in this proposal. The concepts of “commercial value” and “maximum return on investment” are not ones that belong in a discussion of how a PMA should be administered. The statutory and operational predicate for PMAs, including Western, is to satisfy congressional intent and to provide the least cost for preference customers, not the maximum return or enhanced commercial value.

Similar to its response in NRECA/JOT Q&A, A-5 and A-6, in response to NRECA’s request for the JOT to clarify that “if the results of the study will be used to help allocate costs for facilities that provide ‘commercial value’ to third parties those costs will be allocated solely to those third parties,” the JOT stated, in part, that “[a]ll criteria used to determine need and value to the customer will be determined as part of the collaborative process that implementation of the draft recommendation calls for.”²⁹ NRECA again, appreciates the

²⁸ *Id.* at 16.

²⁹ *See* NRECA/JOT Q&A, A-8.

JOT's commitment to working with preference customers in a "collaborative" process, however, some matters are statutorily non-negotiable, including Western's adherence to the cost-causation principle and Western's dedication to the cost causation principle should be made clear.

Having said that, NRECA believes the issue of additional infrastructure investment for Western is critical and should be pursued with input and participation by preference customers to protect their interests as preference customers. If Western determines an IIS is necessary and prudent, it should also be pursued in collaboration with other efforts by preference customers and Western. The IIS should be complementary to the regional planning process performed with preference customers, and not in lieu of or without consideration of that process.

8. Combined Transmission System Opportunities

The JOT recommends that Western conduct a study across DSW, CRSP, and RMR service areas to identify combined transmission system ("CTS") opportunities, while encouraging continued CTS efforts in Western's Sierra Nevada and Upper Great Plains service areas. In particular, the JOT recommends that Western begin scoping out two individual CTS studies: 1) an integrated study looking at CTS opportunities across the Rocky Mountain Region, Desert Southwest Region, and Colorado River Storage Project Management Center service areas; and 2) a study conducted across each region to determine opportunities for greater integration within that region, taking into account the unique aspects of each region's service area. Western would determine the merits of moving a CTS study(s) forward with one or more regions.³⁰

NRECA questions the need for such a study and the legal authority for Western to perform or expend money for such a study. As recognized in the Draft Recommendations, all

³⁰ *Id.* at 18.

Western regions are different. What may work in the Upper Great Plains may not work in other regions. NRECA also questions what CTS efforts the JOT is referring to within the Sierra Nevada Region?

Nevertheless, NRECA believes that if this project is shown to be permitted under Western's statutory authority, and is pursued in a bottom-up manner, it could be conducted in the one to three year timeline laid out in the Draft Recommendations.

9. Contract-Path to Flow-Based

The JOT recommends that Western conduct a study to explore potential options for moving away from a contract-path environment to a flow-based environment in Western's footprint in the Western Interconnection.³¹

NRECA questions what evidence of benefits the JOT relied upon in making this recommendation. There has been substantial work done in this area over the last twenty-five years, and the conclusion each time is that this approach cannot practically be done without also adopting a financial transmission rights regime and their accompanying markets utilizing LMP. This approach is opposed by NRECA. Western customers are loath to be exposed to markets that add costs, are administratively difficult and could possibly cause preference customers to suffer additional costs solely to benefit generators and bankers. Further, it is unclear how a movement to a flow-based transmission system would be consistent with Western's obligation to market power to preference customers at cost. In particular, it seems probable that movement to a flow-based system could pose a significant risk to the rights and rate stability that preference customers now enjoy. Additionally, NRECA struggles to understand the implication in this

³¹ *Id.* at 19.

recommendation that implementation of intra-hour scheduling will drive the use of locational-marginal pricing algorithms or be inconsistent with a contract-based scheduling system.

Similar to its responses in NRECA/JOT Q&A, A-5, A-6 and A-8 in response to NRECA's request for clarification that "if the study demonstrates that the move from contract-based transmission service to flow-based service causes preference customers to bear additional costs or risks that the proposal will be abandoned," the JOT stated, in part, that "Western['s] decision in this area will need to be determined as part of the collaborative process that implementation of the draft recommendation calls for."³² NRECA continues to appreciate the JOT's commitment to working with preference customers in a "collaborative" process. However, as NRECA has stated *supra*, some matters are statutorily non-negotiable, including Western's adherence to the cost-causation principle. Western's dedication to the cost causation principle should be made clear. NRECA does not believe this project should be pursued, let alone in the two to four year timeline laid out in the Draft Recommendations.

10. Electric Power Training Center

The JOT recommends that Western study the feasibility of transitioning the Electric Power Training Center ("EPTC") to the National Renewable Energy Laboratory's ("NREL") Energy Systems Integration Facility ("ESIF") in Golden, Colorado.³³

NRECA believes this project could be pursued in the timeline laid out in the Draft Recommendations.

³² See NRECA/JOT Q&A, A-10.

³³ *Id.* at 20.

VARIABLE ENERGY INTEGRATION

The JOT asserts that numerous operational and business practices were examined to fully understand how existing and new initiatives could be used by Western to fully meet load demands, generation changes, and disturbances and at the same time enable integration and aggregation of variable energy products. NRECA submits that since numerous Western regions have significant renewable penetration, this process should examine the work already undertaken by preference customers.³⁴

11. Intra-Hour Scheduling

The JOT recommends that, pursuant to FERC Order No. 764 [Integration of Variable Energy Resources (“VER”)], Western should work with regional reliability organizations, Western regional offices, customers, tribes, and stakeholders to coordinate the implementation of intra-hour scheduling consistent with neighboring utilities, including the implementation of 15-minute scheduling.³⁵

NRECA believes this project could be pursued in the timeline laid out in the Draft Recommendations.

12. Implementation of ADI, RBC, DSS

The JOT recommends that Western BAs and sub-BAs in WECC’s footprint should evaluate the benefits and costs of ACE Diversity Interchange (“ADI”), Reliability Based Control (“RBC”), and Dynamic Scheduling System (“DSS”), and if appropriate, proceed with implementation.³⁶

³⁴ *Id.* at 21.

³⁵ *Id.* at 22.

³⁶ *Id.* at 23.

NRECA understands that evaluation of the benefits and costs of ADI, RBC and DSS is already underway. In addition, much like the concept of moving from a contract path to a flow-based environment, there is quite a bit of research material available on the pros and cons of implementing these various operational mechanisms which should be considered in their evaluation. Also, like in the previous discussion on the previous item for intra-hourly scheduling, these operational ideas would need to be analyzed and coordinated on an interconnection wide basis to get a complete picture on the overall costs and benefits of each.

13. Energy Imbalance Market Initiatives

The JOT recommends that Western undertake a study to evaluate the benefits and costs to it and its customers, tribes, and stakeholders in participating in either regional or sub-regional initiatives investigating energy imbalance markets (“EIM”).³⁷

It is unclear to NRECA at this time what benefit a study of a West-wide EIM would offer that other studies already conducted do not provide. Preference customers and Western are already engage in a regional study process which has shown no benefit to preference customers. NRECA does not believe a further study would provide benefits that the studies to date have not and recommends this proposal not be pursued.

It is also unclear to NRECA what the term “benefits” in this context is meant to convey. If the term is meant to convey broad societal benefits, at potential cost to preference customers, such a reading would raise concerns among preference customers in light of Western’s statutory obligation to provide power at cost to preference customers. NRECA does not believe this project should be pursued. If the JOT finds good reason such a study should be

³⁷ *Id.* at 24.

pursued, such action should be taken only after the results of the work done under Section 12 is completed.

14. Integration and Aggregation of Renewable Energy Products

The JOT recommends Western take on a number of initiatives in this recommendation, including: 1) establish a position within Western's Renewable Resource Program office to be a Renewable Energy Liaison for facilitating renewable energy interconnection to Western's transmission system; 2) undertake a number of proactive measures to facilitate and encourage the interconnection and integration of renewable energy projects into the federal transmission system; and 3) create and maintain a database of possible project proposals and renewable generation requirements.³⁸

NRECA questions Western's legal authority to pursue these initiatives given its statutory limitations. NRECA members and other consumer-owned utilities have already initiated proactive measures to interconnect renewable energy projects into the transmission system. An initial effort should be to catalogue actions that have already been undertaken.

NRECA believes this project should not be pursued, and certainly not in the timeline laid out in the Draft Recommendations.

VII. Conclusion

In conclusion, NRECA wishes to thank the JOT for its recent significant efforts at outreach and its openness to NRECA members' concerns. However, we do want to reiterate some concern with the Draft Recommendations. NRECA believes that some of the activities recommended in the Draft Recommendations could violate core principles of the development and implementation of federal hydropower over the decades and the PMA enabling statutes.

³⁸ *Id.* at 26.

Furthermore, NRECA believes that several of the recommendations are not appropriate for the PMAs to address. As such, NRECA urges the JOT, in drafting its final recommendations, to remain committed to the statutorily-defined roles and responsibilities of the PMAs. We look forward to continuing our work with the JOT, DOE and Western.

Respectfully submitted,

NATIONAL RURAL ELECTRIC
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