

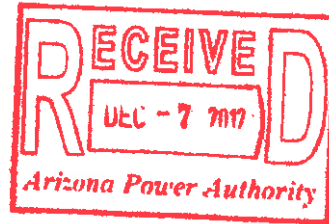


**Grand Canyon State Electric
Cooperative Association, Inc.**

Your Touchstone Energy Cooperatives 

December 7, 2012

Mr. Joseph Mulholland
Executive Director
Arizona Power Authority
1710 West Adams Street
Phoenix, Arizona 85007-2697



RE: Request for Proposal for Independent Outside Resource

Dear Mr. Mulholland:

On behalf of Grand Canyon State Electric Cooperative Association (“GCSECA”) and its member electric cooperatives, I am writing to provide comments on the draft Request for Proposal (“RFP”) that was posted on the Arizona Power Authority’s (“Authority”) web site in November. We are pleased to see the Authority moving ahead with efforts to engage independent consultants to assist with the evaluation of criteria and information needed to determine future allocations of power made available by the Hoover Power Act of 2017.

The RFP raises several questions regarding the Authority’s approach in developing criteria for the allocation of Hoover Power in 2017. While we believe that the RFP sets forth a solid foundation for the scope of work, there are a few areas that may merit some additional focus and consideration. Our suggested improvements are set forth below.

At the outset, we believe that the RFP should include a requirement that any party or firm chosen to assist the Authority may not have a prior or existing relationship with a current recipient of Hoover Power or a potential applicant for an allocation post 2017. While there may be an apparent advantage to hiring a firm or consultant with deep ties to the electric power community in Arizona, if engaged by the Authority a firm or person who works for or has worked for an existing or potential applicant could be suspect of bias. This suspicion could taint the due process that the Authority has committed to providing. Therefore, we would encourage the Authority to include a statement in the Requirements section that obligates an applicant to attest that it has not performed work for any Existing or New Qualified Entity.

We believe that the scope of work should be carefully reviewed to ensure that it does not delegate certain conclusions that should be vested with the Authority. Although there is a factual analysis that will inform the answer to the question of whether there is a “shortage of Hoover to satisfy Arizona needs” a conclusion on this point as a legal matter needs to be made by the Authority and not outsourced to a third party consultant. Indeed, as I am sure you recognize, questions of law and fact need to be resolved by the Authority.

In addition, the RFP should be careful in making statements that could otherwise be determined to be legally binding statements by the Authority. We note that the draft includes the statement on page 2 “[d]ue to the limited power and energy, the Hoover Power does not currently and in 2017 will not supply all of the power required by the Arizona Power Authority’s customers/applicants.” Taken in context with the remainder of the paragraph that it leads, this sentence may not be problematic. However, extrapolated as a legal conclusion, a party could argue that the Authority’s official position has been declared in issuing the RFP.¹ This sentence should be modified or a disclaimer should be added that alerts all parties that any statement contained in the RFP should not be construed as a binding or final decision by the Authority with regard to the post 2017 allocations.

In reviewing the scope of work, we would encourage some expansion in the responsibilities to evaluate the resources that will be provided to the Authority on a more detailed basis. For example, because the Hoover Resource is not available at all hours every day, some analysis is warranted on the availability of the resource as to quantities and to time of day availability. This resource needs to be matched with the anticipated loads as set forth in the Authority’s requirements set forth in RS12-14-202. In fact, we would encourage the Authority to take this analysis one step farther and consider the seasonal variations rather than simply confining the inquiry to an annual calculation.

David Fitzgerald, who appeared on behalf of the Arizona cooperatives before the Authority on October 30th, has recommended several additional analyses that the Authority could undertake to consider in developing a marketing plan. These suggestions were captured in a letter sent to your attention earlier last month. We believe that the services contemplated by the RFP could be used to answer several of the questions raised in the letter and provide data points that would assist the Authority with the development of a marketing plan. The scope of work should be expanded to allow for consideration of these questions.

On a final note, we believe that Task 3 needs to include an obligation to consider how to equably allocate the Hoover resource. While we believe that equitable considerations should play a factor in the Authority’s consideration of applications, we are also mindful that the law requires that the Authority dispose electric power in “*an equable manner* so as to render the greatest public service and at levels calculated to encourage the widest practice use of electric

¹ In particular, this statement could lead to a conclusion that Section 30-125 should be applied without due regard for the due diligence that the Authority should conduct in the first instance.

energy."² Thus, it is important to bear in mind that an allocation that may appear to satisfy certain equities, must also be uniform in its application, i.e. equable.³

As you move forward in developing the RFP, we would gladly expand upon any of the concepts raised herein. If you have any questions in the meantime, please do not hesitate to contact me.

Sincerely,

Grand Canyon State Electric Cooperative Association

A handwritten signature in blue ink that reads "Tom Jones". The signature is written in a cursive style with a large, sweeping initial "T".

Tom Jones, Chief Executive Officer

² Section 30-124 (B).

³ The terms equitably and equably have been used in several presentations including several made by the Cooperatives. While we believe that equitable considerations should be considered for all applicants, we also note that the law requires the Authority to allocate power in an equable manner which could yield a different result.