



April 28, 2014

Arizona Power Authority  
Attn: Mr. Michael Gazda  
1810 W. Adams St  
Phoenix, AZ 85007-2679  
[Mike@powerauthority.org](mailto:Mike@powerauthority.org)

Dear Mr. Gazda and members of the Commission:

The Arizona Power Authority (APA) has formulated a set of proposals for the Hoover allocation process, including six draft allocation alternatives. In its Public Information and Comment Draft Plan (Plan), the APA provides the reasoning behind its current position on the draft allocations. CAWCD submits the following comments in response to the Plan and draft alternatives.

### **Schedule B Power**

Title 45 specifically states that development of the state's power resources is an essential and integral part of the effectuation of the State Water and Power Plan, and that such power resources and the use of the energy therefrom must be developed in order to provide effective support for and implementation of the state's water program. A.R.S. §45-1701. The CAP is an integral part of the State Water and Power Plan—indeed, CAP is the only active water project in the Plan—and as stated by the APA, Hoover uprating power must be employed to support the CAP. In doing so, the APA supports what has been and remains the principal driving force behind the Arizona economy—CAP water. Indeed, as no doubt envisioned by Arizona's leaders when they enacted the State Water and Power Plan, the CAP has been responsible for the creation of millions of jobs in the state, and over \$1 trillion in gross state product (GSP), including almost 50% of GSP in recent years.<sup>1</sup>

CAWCD is supportive of the APA's stated position that Title 45, specifically A.R.S. §45-1710, allows the APA to enter into contracts with municipalities, districts, and other public bodies for the sale and transmission of Schedule B power under the State Water and Power Plan, and that the language in A.R.S. §45-1708(B) is not a limitation on the types of entities that are eligible to contract for Hoover uprating power. Moreover, A.R.S. § 45-1708(B) provides that power from projects included in the State Water and Power Plan shall be sold “in such manner and upon such terms and conditions . . . necessary or

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<sup>1</sup> James, Evans & Madly, *The Economic Impact of the Central Arizona Project to the State of Arizona*, L. William Seidman Research Institute, Arizona State University W.P. Carey School of Business (2014).

advisable to effectuate the purposes of this article.” Those purposes include developing adequate water supplies for irrigation and municipal use, developing and utilizing Arizona’s full entitlement to Colorado River water, including financing the necessary infrastructure, and developing and using the state’s power resources to support and implement the state’s water program. These are the very purposes for which the CAP was authorized and CAWCD was formed. Therefore, not only is CAWCD eligible to contract for Hoover Power as a municipality<sup>2</sup> to effectuate the purposes of the State Water and Power Plan as contemplated in A.R.S. 45-1710, but it was the intent of the legislature to utilize Hoover uprating power to effectively support and sustain the CAP as an integral part of the State Water and Power Plan.

The APA also accurately reiterates the importance of its financial considerations. The APA states that the relevant statutes and regulations that govern its operations make it clear that the APA must operate as a self-sufficient agency. To that end the APA used its powers under Title 45 to issue multiple bond series as funding sources, pledging its power sales contracts for post-1987 Hoover power as security. The APA states in its Plan that, given its obligations based on bonds issued previously and in the future pursuant to its statutes, this financial interest will weigh heavily in its allocation decisions for Schedule B Power.

The APA's primary source of payment of principal and interest on the bonds it issued to fund costs of the Uprating Project is derived from amounts required to be paid by contractors under their power sales contracts. To that end, CAWCD has been far and away the largest single source of these payments. CAWCD has paid the largest single share of the costs of the Hoover Uprating Project, and holds the largest single share of Hoover Power, representing over 27% of all Hoover Power allocated to and sold by the APA. By comparison, SRP, the second largest contractor of Hoover Power, holds about 14%. As of the middle of December 2013, the APA operating year rates paid by CAWCD totaled \$1,042,680 out of rates paid by all contractors totaling \$2,837,699. CAWCD paid over 36% of the APA's total rates and charges, and is the most important source of revenues for the repayment of the APA's bonds. Further, because of CAWCD's status as the largest single contractor of Hoover Power, a detailed description of its audited financial statements was included in Appendix C-1 in the APA's 1993 Official Statement to the funding bonds. Additionally, detailed CAWCD audited financial statements were required in connection with the issuance by the APA of its 2014 Series Power Resources Revenue Bonds. It would be fundamentally wrong if CAWCD, having paid for most of the costs of the Uprating Project, did not receive all of the Hoover B power currently allocated to it, less the 5% set aside agreed to by the existing APA customers.

### **Alternatives One Through Six**

CAWCD supports the existing customer proposal which maintains the status quo for the existing customer group, subject to the set aside of 5% of capacity and associated energy for new entrants. Current APA customers expended a tremendous amount of effort coming

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<sup>2</sup> CAWCD's own enabling legislation and the Arizona Constitution make clear that CAWCD is a municipal corporation "to the extent of the powers and privileges conferred by this chapter or granted generally to municipal corporations by the constitution and statutes of the state." A.R.S. 48-3701; Ariz. Const., Article 13 Section 7.

to a reasonable consensus to carve out 5% of their current Hoover power allocations for new entities in order to secure passage of the Hoover Power Allocation Act of 2011. CAWCD holds firm to its commitment in this regard. Alternatives that reduce CAWCD's allocation are especially concerning (see alternatives 5, 6 and the "possible modification" of alternative 1). These alternatives would substantially decrease the energy needed for CAP to maintain its pumping loads and are not consistent with the declared purpose of the State Water and Power Plan to use power resources and energy to provide *effective* support for and implementation of the state's water program as set out in A.R.S. 45-1701(4).

APA's rationale for the proposed alternatives that reduce CAWCD's allocation, either in 2017 or thereafter, is unclear. CAWCD's need for power will not diminish even though deliveries of CAP water to non-Indian agriculture will decline over time. Energy and capacity remain essential for the movement of CAP water for the continued use and benefit of the state. The CAP water that is currently used by non-Indian agriculture is already committed to other users, both M&I and Indian. A reduction of energy and capacity would significantly hamper CAWCD's ability to accomplish its mission and is contrary to the stated purposes of the State Water and Power Plan. There is nothing in the Hoover Power Plant Act, the Amended Navajo Marketing Plan, or Title 45 which supports such a reduction to the CAP.

In any event, the key consideration in allocating power to CAWCD under Title 45 is the continued operation of the CAP. While it supplies only about 6% of the energy used by the CAP, Hoover power is nonetheless critical to CAP's ability to meet regulatory requirements for ramping, regulation and reserves ("ancillary services"), without which CAP could not operate. Such ancillary services are not commercially available: CAWCD published an RFP for ancillary services in recent years, but could find no party willing to provide them. As the level of Lake Mead declines, and with it the available capacity of the Hoover power plant, the peril to CAP increases. According to the APA website, the installed Hoover capacity of 2079 MW drops to 1371 MW at a lake level of 1050', 1046 MW at a level of 1000', and a mere 696 MW at 950'. Even at maximum levels, it is not clear that anything less than CAWCD's current allocation of Hoover power (less 5%) will support operation of the CAP.

Hoover power provides a critical resource for the CAP, reduces the need for CAWCD to purchase other energy to meet CAP pumping needs, allows CAP to meet grid reliability requirements, and enhances the value of Navajo Surplus for purposes of marketing under Section 107 of the Hoover Power Plant Act. Reducing the amount of Hoover power available to CAWCD, as set forth in alternatives 5 and 6, would significantly hamper CAWCD's ability to deliver CAP water and would be contrary to the Hoover Power Plant Act, the Amended Navajo Power Marketing Plan, and the State Water and Power Plan.

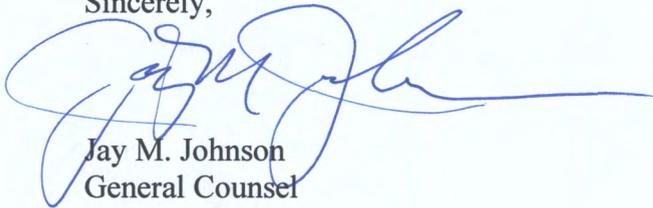
### **Other Issues**

**Schedule C Power.** CAWCD supports addressing the allocation of Schedule C excess energy concurrently with Schedules A, B, and D-2 power allocations for the same contract term.

Term of Agreements. CAWCD supports long-term agreements for Hoover power. Long-term agreements provide certainty for all parties, are consistent with existing and possible future bond terms dependent on customer revenue, and are appropriate for CAWCD given its long-term repayment obligation, water service delivery contracts, and the future of Navajo Generating Station.

CAWCD looks forward to a continuous and open dialogue with the Commission during this allocation process. Should you need any additional information to assist in this effort, please do not hesitate to contact us.

Sincerely,



Jay M. Johnson  
General Counsel  
Central Arizona Project