



Jennings, Strouss & Salmon, PLC
Attorneys at Law

1350 I Street, NW - Suite 810
Washington, D.C. 20005-3305
Telephone: 202.292.4738
www.jsslaw.com

Debra Roby
Direct Dial: 202.464.0539
Direct Fax: 202.292.4743
droby@jsslaw.com
Admitted only in Washington, DC

Via Email: staff@powerauthority.org
mike@powerauthority.org

April 28, 2014

Mike Gazda
Executive Director
Arizona Power Authority
1810 W. Adams Street
Phoenix, AZ 85007-2679

Re: Hoover Post-2017 Reallocation, Comments on Draft Plan

Dear Mr. Gazda:

Page Utility Enterprises ("PUE"), on behalf of itself and the City of Page ("Page"), appreciates the opportunity to comment on the "Public Information and Comment Draft Plan, Hoover Power Allocation, Past-2017" ("Draft Plan"). PUE respectfully submits the comments below for the Arizona Power Authority's ("Authority") consideration.

A. Data Collection

Included with these comments is an updated/revised voluntary data collection sheet for Page. Page is requesting 6,000 kW of Hoover power, which was not reflected in the voluntary data sheet previously submitted.

The work session revealed that entities have different interpretations of the information requested on the voluntary data sheet. This renders the data collected unreliable in its current form. Given the variation in interpretation (e.g., what is meant by "load"), Page believes that the information utilized should be independently verifiable (based upon metered data, for example). The Authority should revise the data collection sheet to provide clarity in the data sought and instructions or illustrations for each data field (i.e., standardize the calculation for the unit of measurement, define what is meant by load, define how load must be measured and where measured.)

B. The Draft Scenarios

Of the six scenarios provided in the Draft Plan, four scenarios reflect the *status quo* for entities receiving Schedule B Power. It is not clear whether this was an intentional pairing or whether the contractor was primarily focused on the different allocations for Schedule A, which had no impact on Schedule B. Page is concerned that pairing the scenarios as depicted in the Draft Plan may become viewed as a recommendation by the consultant that, for each of the various Schedule A scenarios, the Schedule B “status quo” scenario associated with a particular Schedule A scenario must necessarily follow. This should not be the case. Page, by virtue of its electric utility, currently receives a very small allocation of Schedule B power. Any scenario that maintains the *status quo* or reduces Page’s allocation does not serve the public interest or further the Authority’s policy objectives.

Page’s peak demand is approximately 29 MW. Its existing Hoover allocation is 1.04 MW with an associated 1,173 MWh of energy. Maintaining the *status quo* does not give appropriate recognition to the needs of Page’s electric utility. An evaluation of the 1986 allocation shows that very little attention was given to municipal electric utilities. For example, four of the eight existing Schedule B contractors are municipal electric utilities. Those four municipals together obtained a total of 6.45 MW, or only 3.4%, of the total capacity that was made available to Schedule B contractors. While a majority of Schedule B power and energy was allocated to Central Arizona Water Conservation District (“CAWCD”), three other districts also obtained Schedule B power. Of those three districts that received a Schedule B allocation, each also received a substantial allocation of Schedule A power. Yet, Page’s allocation of Schedule B power was substantially less than the Schedule B allocations that each of these districts received.

Page struggles with the problem of isolation. Access to hydropower energy is crucial to maintaining Page’s power resources and its economic viability. Page would like to be on a level playing field with districts and receive an allocation of both Schedule A and Schedule B power, like some districts received. Indeed, Page would prefer Schedule A power, given it has a greater amount of energy associated with it, as compared to Schedule B power. However, Page is disadvantaged by the fact that, by statute, the Authority must give priority under Schedule A to districts. The same is not true for Schedule B. As noted in the Draft Plan, the Authority has broad discretion to allocate available Hoover Dam power supplies. The Authority should make a policy decision that the disparity that occurred in 1986 is not repeated in the post-2017 process and that Page’s electric utility is given priority under Schedule B.

C. Policy Considerations

Increasing the allocation of Hoover Power to Page's electric utility will result in furthering the Authority's policy objectives, including a more equitable allocation to more remote areas of Arizona, contracting with entities that have the ability to set and collect rates, fees and charges from its customers, and diversifying the Authority's customer base.

Page is one of the youngest communities in the United States, located approximately five hours north of Phoenix. Page began its existence as Bureau of Reclamation Government Camp in 1957, housing the construction workers and their families who were building the Glen Canyon Dam. In 1958, approximately 242 square miles of Navajo Reservation lands were exchanged for a larger tract in Utah, and the Government Camp moved across the Colorado River to the town site, named "Page" in honor of the Bureau of Reclamation Commissioner, John C. Page. From 1958 until 1975, Page was a federal municipality or "enclave," much like Boulder City, Nevada. Page did not become an Arizona municipal corporation until 1975. To this day Page is home to citizens who are descendants of those who built the Hoover Dam and have a family connection.

From the early 1960s until 1986, Arizona Public Service Company (APS) was the provider of retail electric service for Page. APS continued to provide retail service to Page until 1985, when the citizens of Page authorized the City to condemn the APS facilities in and around the municipal boundaries. In the meantime, the 1986 Hoover allocation process was already well underway. Various legal rulings prevented Page from taking possession of the system until May 1986. Page ultimately executed its contract with the Authority in September 1986 for Hoover Schedule B power, less than four months after the City took possession of the utility assets. The electric utility was quite literally in its infancy when the 1986 allocations took effect. Since then, and as described below, the electric utility has become a model for operating a municipal electric utility.

1. The electric utility has the authority to set and collect rates, fees and charges from its customers

Page has been and remains an excellent contractor with the Authority. Page currently operates its municipal electric system through its agent, PUE, which is a division of the City government. PUE was adopted to allow the electric utility to operate as a "self contained" and "self sustained" utility. Through the creation of PUE, the City Council has delegated the responsibility over the operation, management, and control of the City's utilities to the City's Public Utilities Board and the Utilities General Manager. The Board, Utilities General Manager and staff are independent of the City Manager and City administrative staff. This ensures that the utility is managed and staffed by those whose priority is the utility.

PUE operates under an enterprise fund system, which establishes a separate accounting and financial reporting mechanism for utility services. The revenues and expenditures of the electric utility are separated into the utility's own fund, with its own financial statements, rather than being commingled with the revenues and expenses of other City government activities. The Utilities General Manager prepares an annual operating budget to cover the cost of maintaining and operating the electric utility, including a proper and necessary allowance for depreciation, debt service, and adequate reserves in accordance with industry standards and generally accepted accounting principles appropriate for utilities.

The Draft Plan states that "a contractor's ability to make payments under a power sales contract is of paramount importance...." Draft Plan at 26. The Draft Plan also states that the Official Statements for the Authority's bond issues note that a contractor's ability to make payments under its power sales contract depends on the contractor's ability to collect rates, fees and charges from its customers. *Id.* PUE has the authority to set and collect rates that cover the costs of the utility. Additionally, by ordinance, the utility may not transfer any surplus funds to the City's general fund, which protects the utility revenues from being used to subsidize the City's general fund. This structure provides the level of certainty needed by the Authority. It also ensures that the utility operations are managed in a prudent and cost-effective manner, that utility assets are properly maintained, and that the utility operates with the goal of providing reliable service to the community at the lowest reasonable cost. All of these attributes make Page and its electric utility an attractive contractor to the Authority that warrants priority consideration for an increased allocation of Hoover power.

The Draft Plan also identifies a potential vulnerability of the Authority in that most of its contractors are districts with agricultural customers, making the contractors' ability to pay dependent upon the agriculture industry. Unlike other of the Authority's contractors, Page's economy is not dependent upon agriculture, which provides some level of diversity to the Authority's customer base.

2. Page provides vital services to a remote geographic region of Arizona

Page and PUE serve a vital role to the residents of northern Arizona, serving not only those within but also beyond the City's corporate boundaries. Some examples of the services the electric utility provides are as follows:

- Page has owned and operated its electric distribution system since 1986. It must plan for the current and future electric needs of its residential, municipal and industrial customers.
- Page is a winter peaking utility, experiencing approximately 20% greater demands in the winter than its summer peak.

- Page's electric utility provides service to several customers outside its corporate boundaries including, but not limited to, the Glen Canyon National Recreation Area (GCNRA) – National Park Service and its concessionaires.
- Page's electric utility serves an area of the Navajo nation. Specifically, Page provides power to the Navajo Nation Concessionaire (Antelope Point Marina), some residents on the Navajo Nation, and the Navajo Nation Parks & Recreation facility (Antelope Canyon).
- Page's wastewater utility, a customer of Page's electric utility, provides sewer service by accepting and treating wastewater generated on the Glen Canyon National Recreation Area (GCNRA) and Navajo Nation concessionaire.
- Page's water utility, another customer of the electric utility, provides potable water service to the Bureau of Reclamation-Glen Canyon Dam, located outside Page's corporate boundaries. The water utility also provides potable water service to the Native American Village of LeChee located on the Navajo Nation.
- Page's electric utility serves the Page Unified School District, located within Page's corporate boundaries, which also serves approximately 1300 square miles of the Navajo Nation's K-12 education needs.
- The area in and around Page has become known as a top tourist destination, attracting an estimated two million visitors per year. Page's service area includes such tourist facilities as Wahweap Marina and Antelope Point Marina on Lake Powell, and Lee's Ferry and Marble Canyon in the Glen Canyon National Recreation Area, as well as a small part of the Navajo Reservation.

These examples demonstrate the dedication of Page's electric utility not only to the residents of Page, but to the surrounding area. Page provides electric service to all of its customers on a comparable basis. Meaning, whether the customer is within or beyond Page's corporate boundaries, the terms of service and rate schedules are the same. Those within the corporate boundaries do not receive special rates, including the City of Page itself. The City is a customer of the electric utility that receives and pays for utility services on the same basis as other customers of the electric utility. Access to federal hydropower energy is crucial to maintaining Page's power resources and its economic viability.

In 2006, in an effort to obtain an additional power resource, Page applied for an allocation of Parker Davis capacity, which at the time was under a reallocation process. Page's application was denied. While no reason was given for the denial,

Page suspects it was because Page was considered an Upper Basin entity, even though Page serves customers in the Lower Basin.

Page's proximity to the Navajo Generating Station (NGS) makes it susceptible to a common misperception that it receives power from the NGS. The NGS was constructed by a conglomerate of utilities in the mid-1970s. Located just five miles from the NGS site, Page's population quadrupled nearly overnight, and, consequently, Page's demand for power and energy dramatically increased. The NGS is critical to Arizona, and specifically to the central Arizona project, as acknowledged last month by Congressman Paul A. Gosar during a hearing before the Natural Resources Subcommittee on Water and Power. <http://gosar.house.gov/press-release/acting-commissioner-says-navajo-generating-station-critical> (last visited April 28, 2014). Although NGS is located within a few miles of Page, there is no interconnection between NGS and Page. Thus, Page receives no power from NGS. However, it is home to those who work at this critical generating facility. As such, Page is responsible for providing services that are vital to these workers, powering their homes, providing water and wastewater services, educating their children, etc., without which, the NGS could not function as it does today.

D. Eligibility Criteria For Schedule B

The Draft Plan states that entities eligible for Schedule B allocations include "municipalities, districts and other public bodies, as defined in ARS 45-1702, but not groundwater replenishment districts under Title 48, Chapter 27." Draft Plan at page 22. This proposed criteria for eligible entities is less restrictive than the criteria used in the 1986 allocation process. For the 1986 allocation process, the Authority concluded that "public utilities *providing electrical service* and districts *organized to provide electrical service*" (emphasis added) were eligible to receive a Schedule B allocation. The Draft Plan suggests that the this eligibility criteria was too restrictive, and now proposes that the eligibility for Schedule B power for post-2017 allocations not be restricted to entities that provide electrical service. *Id.*

The Draft Plan does not provide an analysis for the departure from the Authority's prior implementation of title 45. Rather, the Draft Plan refers simply to ARS 45-1710 and states that this section must be read with ARS 45-1708(B). The Draft Plan states that ARS 45-1710 "empowers municipalities, districts, and other public bodies (excluding certain groundwater replenishment districts), to contract for Hoover uprating power." But this is not what section 1710 actually states. Section 1710 refers to section 1708 generally, and not to 1708(B) specifically. Nowhere in section 1710 is the word "Hoover" or the phrase "Hoover uprating power" used.

Section 1710 is a general provision that authorizes and empowers all municipalities, districts and other public bodies to enter into contracts with the authority "as provided in section 45-1708...."

Section 1708 is titled "Contracts." Section 1708(A) allows the Authority to enter into and carry out contracts with water users for the delivery of Colorado River water through the facilities of the central Arizona project. Section 1708(B) allows the Authority to enter into and carry out contracts for the sale and transmission of power from power projects included in the state water plan. However, 1708(B) contains very specific provisions that state very clearly that the power to be sold and transmitted to an entity that provides electrical service.

1708(B) provides that "power from such power projects included in the state water and power plan *shall be sold at wholesale only...*" (emphasis added). This applies not only to Hoover power, but to all projects included in the state water and power plan. This is the first and clear indication that power sold under this provision *must* be to an electric utility. Selling at wholesale means that the entity purchasing the power from the Authority must further distribute the power. A municipal that does not provide electrical service cannot further distribute the power. Only an electric utility is in a position to further distribute power. Any other sale would constitute a retail sale, which is prohibited by 1708(B). Expanding the eligibility criteria for Schedule B power by eliminating the restriction that the municipality provide electrical service, as the Draft Plan proposes, violates this clear and unambiguous provision.

There is additional language in 1708(B) to support the criteria adopted in the 1986 allocation process. 1708(B) goes on to state,

Any public utility providing electrical service and any district organized to provide electrical service may enter into such contracts with the authority for the sale and transmission of power and energy by which such public utility or district is obligated to make payments in amounts which shall be sufficient to enable the authority to meet all its costs allocable thereto, including interest and principle payments ... (emphasis added).

This language further cements the restriction that power from the state water and power plan be sold exclusively at wholesale. References to the terms "public utility" or "district" refer back to the first instance which uses the phrase "public utility providing electrical service and any district organized to provide electrical service." There is yet additional language in 1708(B) (not quoted above but incorporated by reference) that one typically finds in contracts that are issued in connection with bond issuances, in which the revenues from utility are pledged to pay back the bonds. All of this language contained in 1708(B) is specific and consistent with the proviso that the power be sold by the Authority at wholesale only. It is also consistent with the Authority's recognition in the Draft Plan that the Authority places "paramount" importance on the potential contractor's ability to set and collect rates with their own customers at levels sufficient to cover the costs of the Authority's contract with the contractor. This language in 1708(B) must be

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given meaning, and was given meaning in the 1986 allocation process. Yet, the Draft Plan ignores this language entirely and would render it meaningless.

Contrary to the suggestion in the Draft Plan, the 1986 interpretation does not render section 1710 meaningless. By its terms, section 1710 (a general provision) is subject to the language in 1708(B)(which contains specific provisions). Reading 1708(B) and 1710 together, it is clear that section 1710 allows municipalities, districts and other public bodies to enter into contracts for the sale and transmission of power with the Authority "as provided" under 1708(B). But, 1708(B) *further* provides that those municipalities, districts and other public bodies that may contract with the Authority (as provided in 1710) must *also* provide electrical service in order to contract for power under 1708(B).

A municipal or district that does not operate an electric utility is not purchasing power at wholesale, but at retail. Expanding or changing the criteria to allow a municipal or district that does not provide electrical service to contract for Schedule B power is directly at odds with the specific language in 1708(B), which requires the sale and transmission of power resources in the state's water and power plan, including Hoover, be sold to eligible purchasers at wholesale. For these reasons, the 1986 allocation process was correct in adopting eligibility criteria for Schedule B power that municipalities and districts must provide electrical service to qualify.

Page appreciates the time and effort the Authority and its contractors put into the Draft Plan. Page is available to answer any questions you may have in connection with these comments.

Sincerely,



Debra Roby

cc: Bryan Hill, General Manager, Page Utility Enterprises