

October 17, 2014

Mr. Michael Gazda  
Executive Director  
Arizona Power Authority  
1810 W. Adams St.  
Phoenix, AZ 85007

Re: Proposed Process for Schedule D Allocation

Dear Mr. Gazda:

Recently, the consultants hired by the Arizona Power Authority (APA) collected comments on a draft application for Hoover power. I have attached a copy of the comments filed by the Grand Canyon State Electric Cooperative Association (GCSECA) for your reference because it addresses a fundamental concern shared by all of the cooperatives in Arizona, the proposed subdivision of Schedule D power.

The attached letter raised numerous concerns with the proposed subdivision of Schedule D power. However, it did not explicitly point out that using Section 125 of Title 30 to allocate Schedule D power would **absolutely bar** the cooperatives from receiving Schedule D power. This is not a question of preference for Districts but an outright prohibition for the cooperatives.

In Section 125 of Title 30, the State legislature created a super-preference for districts *but also* capped the amount of power that the APA can award a cooperative based on the amount of power that a cooperative receives from other projects on the Colorado River. This cap effectively bars the cooperative members of Arizona Electric Power Cooperative, Inc. from being eligible for Schedule D power. This is a point that we have not focused on in prior correspondence with the Commission and one that recently became clear to us as we were substantiating our loads for the Western Area Power Administration Schedule D allocation process. I wanted to make sure you were aware of it.

As we have reviewed the legislative history of the Hoover Power Allocation Act of 2011, we have noted that cooperatives were intended to be eligible for Schedule D power without any restriction. There is no question about this. However, we can find nothing in the Act particularly with regard to Schedule D that limits the amount of power for which the cooperatives may file an application. Yet, the proposals to sub-divide Schedule D power do nothing more than exclude the cooperatives as eligible entities from the full pool of power before a single application is even filed. This is not a result that we believe Congress intended.

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Therefore, on behalf of the electric member ratepayers served by cooperatives in the State, I ask for your help in making sure that the cooperatives are fully eligible for all of the schedule D power. I ask that the APA allocate the Schedule D resource under Title 45.

I appreciate your consideration of our correspondence and remain available to answer any questions that you may have.

Sincerely,

A handwritten signature in black ink, appearing to read "Patrick Ledger", with a stylized flourish at the end.

Patrick Ledger

Chief Executive Officer

Attachment



# Grand Canyon State Electric Cooperative Association, Inc.

Your Touchstone Energy Cooperatives 

October 3, 2014

VIA EMAIL

Mr. Mike Gazda  
Acting Executive Director  
Arizona Power Authority  
1810 West Adams Street  
Phoenix, Arizona 85007

RE: Draft Application for Hoover Allocations

Dear Mr. Gazda:

On behalf of the Grand Canyon State Electric Cooperative Association ("GCSECA"), I am submitting comments on the draft application that the consultants to the Arizona Power Authority ("APA") have recently released. We appreciate the opportunity to provide written comments to supplement our oral presentation earlier this week.

As noted by Philip Bashaw at the consultant's workshop earlier this week, the cooperatives in Arizona continue to have concerns that the APA will sub-divide the power made available under Schedule D of the Hoover Power Allocation Act ("HPAA") in such a manner as to preclude the Cooperatives from receiving any benefit of this new resource to be administered by the APA. Indeed, the draft application explicitly asks whether an applicant is requesting "D2/A" or "D2/B" power. The implication of this distinction with regard to Schedule D power is that a portion of the power will be allocated under Title 30 while a portion will be allocated under Title 45.

We have previously documented for the APA that the subdivision of Schedule D power as suggested by the application lacks legal foundation, contravenes the intent of Congress, and unduly discriminates against Arizonans who were intended to benefit under the HPAA. Congress intended for the cooperatives to be fully eligible for the Schedule D power which requires an adjustment to the proposed application in order to honor the intent of Congress.

We have explained in prior correspondence that the APA should, if not must, rely on Title 45 to allocate the power made available under Schedule D. The facts supporting this approach are clear and straightforward:

- 1) Schedule D is a new power pool created by a new act of Congress;
- 2) Congress did not specify that a particular class of eligible customers should be afforded preferential treatment in the allocation process for Schedule D power;
- 3) Congress did not dictate that either the APA or Colorado River Commission of Nevada should parse the Schedule D resource to award more energy to a recipient of Schedule D power than another;
- 4) Title 45 provides the legal mechanism to allocate all power that does not relate to the original capacity of the Hoover project; and
- 5) The power made available under Schedule D did not exist prior to the uprating of the Hoover project 45 and thus cannot be considered a resource to be allocated under Title 30.

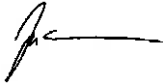
Nonetheless, advocates for the longstanding beneficiaries of the Hoover project have continued to advance an argument that would not only remove half of the capacity from the cooperatives but inexplicitly reserve three quarters of the energy for a preferred class of customer. Adopting such an approach would be discriminatory, illegal and deny many potential applicants the opportunity to compete for Schedule D power on a fair and equal basis. The energy made available under Schedule D must be shared on an equal and proportional basis to the available capacity. Moreover, all potential beneficiaries of Schedule D power in Arizona should have an equal and fair opportunity in the application process. This is a requirement Congress explicitly set forth in House Report 112-159.

We remain concerned that there have been representations that the proposed subdivision or failure to subdivide Schedule D will spur litigation. Litigation does not serve the interests of those who are seeking a Schedule D allocation. In particular, it has been observed that if the APA fails to allocate Schedule D, pursuant to the HPAA, the available power is returned to the Schedule A and B contractors. This would be a losing proposition for Arizona because a portion of the power dedicated to the APA would be sent to California and Nevada.

Over the past year, we have offered few critiques of the allocation process and resisted the temptation to try and steer particular outcomes from allocation process. As we have repeatedly noted, we seek an allocation process that is fair and transparent and provides an equal chance to receive eligible power supplies. We ask that the draft application be revised to eliminate the distinction between D2/A and D2/B. All eligible applicants should simply apply for Schedule D power without making a distinction.

We thank you again for your consideration of our comments and remain available to answer any questions that you may have.

Sincerely,

A handwritten signature in black ink, appearing to be 'John Wallace', with a long horizontal stroke extending to the right.

John Wallace  
Chief Executive Officer