



October 17, 2014

Chairman and Members of the Commission
of the Arizona Power Authority and
Michael Gazda, Acting Administrator
1810 West Adams Street
Phoenix, Arizona 85007

Re: Consultant Misinterpretation of Congressional Creation of D
"Power and Energy" From Hoover

Dear Chairman, Members of the Commission and Mr. Gazda:

The consultants and some others involved in the post 2017 marketing of Hoover "D" have misrepresented the recent Hoover legislative history.

It is completely clear that Congress created the Schedule "D" power and energy and intended it be marketed to Cooperatives and others without any strings. Congress effectively created a "pizza" of power and energy, labeled it Schedule "D" and told the APA to sell the "pizza".

The Arizona Power Authority is supposed to market the "D" power having respect for the Congressional legislative history that clearly intends equitable distribution to Municipalities and Cooperatives.

There are no district Hoover applicants (current allottees or prospective applicants for Schedule A and B) that have any basis for alleging there is a "string" of Schedule A or Schedule B power concerning this piece of "cheese, jalapeno and pepperoni pizza" labeled Schedule D.

The sophistry that has appeared as comment and analysis in the record concerning "tracking" the cheese, jalapeno and the pepperoni so that the clearly expressed intent of Congress can be frustrated is tragic.

We hope the Commission will see through this effort at constructing a flawed cobweb of legal theories. The Authority has been directed by Congress to market what Congress has created. Admittedly, if there was Schedule D that could not be sold, upon returning it to the Power Authority an argument might be made that those who contributed the "cheese" should get some back and those who contributed the

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“jalapeno” and “pepperoni” should get some back. But in that case, the reasoning would be based on the concept of “failure to sell the pizza”.

Navopache Electric hopes the Commissioners will cut through what almost appears to be legal arguments based on “chicanery”.

There is also some effort being made to tell irrigation and electrical districts that are not currently contractors for Hoover that they should not apply for Schedule A or Schedule B, but instead should apply for Schedule D. A plain reading of Arizona Revised Statue 30-125(a) and its legislative history and its marketing history would clearly indicate that irrigation and electrical districts have always been intended to be eligible applicants for Schedule A and Schedule B power. For 2017, all districts are the equivalent of “new” districts to be treated equitably and fairly. Navopache Electric does not contest that.

Very truly yours,

NAVOPACHE ELECTRIC COOPERATIVE, INC.

By  _____

Michael A. Curtis, General Counsel

Cc: Client
GCSECA