

APA Timeline for Formal Process to Allocate Post-2017 Hoover Power

Summary and Request for Comments

For the past several months, the technical and legal consultants (Consultants) for the Arizona Power Authority (Authority) have engaged in a process of public review and discussion of various technical, legal, and policy issues related to the Post-2017 Hoover Allocation Process, referred to as the “Preliminary Process.” The Consultants have proceeded according to the Timeline for the Preliminary Process, dated October 17, 2014. The Consultants will complete a final draft document for the Authority’s consideration in mid-February of 2015. At that point, the Commission may initiate the regulatory process set forth in section R12-14-201 of the Arizona Administrative Code (A.A.C.), referred to as the “Formal Process.” In anticipation of the Formal Process, the Commission asks interested parties to provide input on the following issues related to a proposed timeline for the Formal Process.

The Authority’s regulations provide for a schedule that begins once the Authority decides that a supply of Long-term Power is available, gives notices of its intent to receive applications for electric service, and sets a due date for filing applications. Two mandates constrain this regulatory schedule. First, not later than 60 days after the Authority holds a public information Conference and presents a preliminary proposal, the Authority must hold a public comment Conference to receive oral and written comments on the preliminary proposal. A.A.C. § R12-14-201(A), (B). Second, not later than 60 days after the deadline for receipt of applications for Long-term Power, the Authority must notify interested parties of the names of the prospective Purchasers that are eligible to receive an allocation of Long-term Power and a proposed allocation to the eligible purchasers. *Id.* § R12-14-201(F).

The regulations do not mandate the order in which the Authority must proceed. One possible timeline, hereinafter “Option 1,” is to establish the deadline for applications; use the data in the applications to formulate the preliminary proposal; hold the public information Conference and present the preliminary proposal; hold the public comment Conference; and then issue the notice of eligibility and proposed allocation. Option 1 is advantageous because the Authority may base the preliminary proposal on data submitted in the applications. The disadvantage to proceeding in this manner is that all of the enumerated steps, including the submission of comments by parties and the evaluation and response to comments by the Authority, must occur within 60 days.

Another possible timeline, or “Option 2,” is to hold the public information Conference and present a preliminary proposal first, and schedule the public comment Conference *before* setting the deadline for applications. Proceeding in this manner might allow the Authority to continue the public comment Conference to some date after the application deadline. Then, the Authority could issue a notice of eligibility and proposed allocation within 60 days of the application deadline. Option 2 has the advantage of being more flexible because the Authority does not have to complete all the regulatory steps within 60 days. The disadvantage is that the preliminary proposal will not be based on data in the applications.

Both Option 1 and Option 2 are mapped out in the attached flow chart.

Related to the timeline for the Formal Process, the Authority must decide how to deal with parties, if there are any, that are in the process of forming new local agencies, most likely “districts” as that term is defined for purposes of Title 30 of the Arizona Revised Statutes (A.R.S.). (In public comments at Commission meetings, parties interested in the Post-2017 Hoover Allocation Process have indicated their intent to organize new districts and apply for an allocation of post-2017 Hoover power as a district.) Forming a new special district may take time. *See, e.g.*, A.R.S. §§ 48-2901 to 48-2923. The Authority must begin the Formal Process and complete the allocation of post-2017 Hoover power in the next few months in order to (1) execute power sales contracts with eligible entities that receive an allocation some time before October 1, 2017; (2) execute a fifty-year electric service contract with the Western Area Power Administration by October 1, 2017; and (3) plan and secure the necessary transmission arrangements to take delivery of Hoover power on October 1, 2017. Thus, a problem may exist in accommodating new districts, while still adhering to a reasonable allocation timeline.

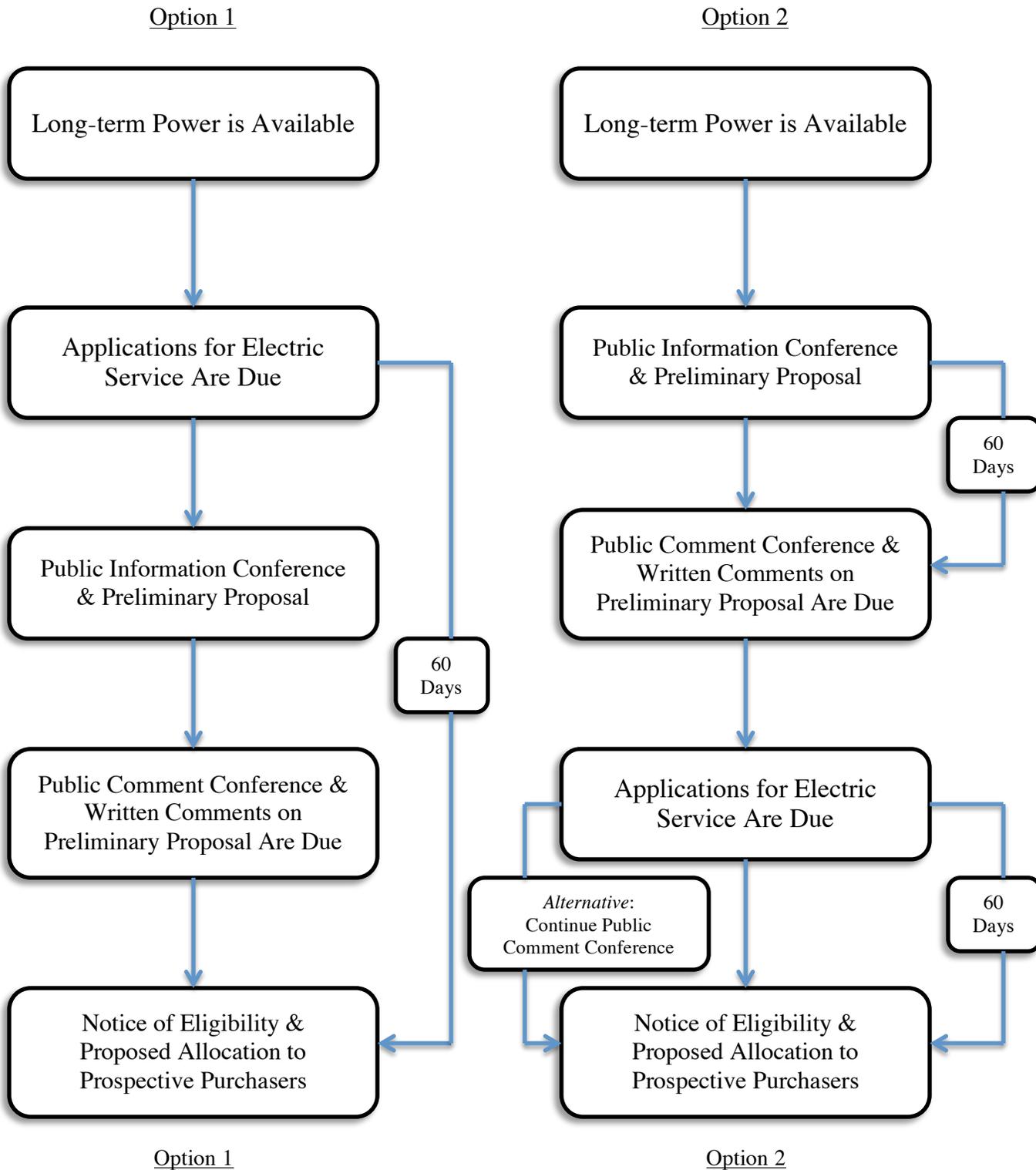
With this context, the Commission asks interested parties to provide input on the following issues:

- (1) Regarding the timeline for the Formal Process, should the Authority proceed in the order according to Option 1 or Option 2?
- (2) Regarding the formation of new special districts, how should the Authority manage parties in the process of forming new special districts:
 - (a) Set a deadline for completion of the formation process that occurs before the due date for applications;
 - (b) Allow entities in the process of forming new special districts to apply for an allocation of post-2017 Hoover power on the condition that the special district is formed prior to execution of a power sales contract;
 - (c) Proceed in another manner?

The Commission will accept comments on these two issues at the January 20, 2015 meeting. The Commission will not be taking action on these issues at the January 20, 2015 meeting, but would like to use this opportunity to begin the discussion. Written comments on these two issues should be submitted to Mike Gazda at mike@powerauthority.org, no later than **January 29, 2015**. Following the submission of written comments, the Commission anticipates taking action at the February 17, 2015 meeting.

Following the period provided for oral comments at the January 20, 2015 meeting, the Commission may convene an Executive Session pursuant to A.R.S. section 38-431.03 in the Authority’s office, 1810 W. Adams Street, Phoenix, Arizona, for the purposes of discussion with counsel for legal advice on these issues. The Executive Session will not be open to the public.

Formal Process Timeline



- Advantage: The preliminary proposal is based on data in applications.
- Disadvantage: The Authority has 60 days to analyze data in applications, produce preliminary proposal, receive and evaluate comments, and generate the final allocation.

- Advantage: The timeline is more flexible.
- Disadvantage: The preliminary proposal is not based on the data in the applications. Instead, the preliminary proposal is phrased as an allocation methodology.