

January 29, 2015

**Comments of
Moyes Sellers & Hendricks
on**

**APA Timeline for Formal Process to Allocate Post-2017 Hoover Power
and Formation of New Special Districts**

At its January 20, 2015 regular meeting, the Commission took oral comments and requested written comments from interested parties regarding two issues: (1) which timeline the Commission should follow for the formal allocation process; and (2) how the Commission should handle potential applicants that are in the process of forming new special districts.

Below are brief supplemental comments on these two issues by Jay I. Moyes and Jason Y. Moyes, of Moyes Sellers & Hendricks, Ltd., offered on behalf of Aguila Irrigation District, Electrical District Number Eight, Harquahala Valley Power District, McMullen Valley Water Conservation & Drainage District, Tonopah Irrigation District and City of Safford.

APA Formal Process Timeline

The discussion at the January 20 meeting centered around timeline “Option 1” or “Option 2” as set forth in Attachment 1 for Agenda Item H.1. Essentially, Option 1 requires that applications from interested parties be submitted at the outset of the formal process, whereas Option 2 requires submission of applications near the end, after the Commission has issued a Preliminary Proposal and conducted public information and comment conferences. Although some mention of a “hybrid” of these two options was discussed at the meeting, the hybrid approach has not been fully developed or presented in writing.

We believe that Option 1 is the best option. The timeline should be structured so that complete applications with verifiable application data are used to prepare the Commission’s Preliminary Proposal, as opposed to the “voluntary information” submitted to date. Those entities that have chosen not to participate in the informal process or have failed to submit voluntary data must be brought to the table promptly in order to avoid duplication and inefficiency in the balance of the process.

Without the full picture of the exact number of applicants and their load data, the Commission cannot expect to produce a meaningful Preliminary Proposal. Similarly, any public information or comment conferences will be of limited value. Using real applications and data will, of course, necessitate that the Commission make a number of critical policy decisions and legal determinations prior to the call for applications, in order to then complete the formal process within the statutory 60 day window after applications are due.

New Special Districts

Only those entities that legally exist and are no longer subject to challenge or appeal as to the validity of their existence should be considered as applicants. As others have pointed out, the process for creating a new special district can take considerable time and is fraught with uncertainty. Mere speculation that a district will be successfully created prior to execution of a power sales contract is not a reasonable basis for applying for an allocation of post-2017 Hoover power. The Commission should know exactly who the players are before making its Preliminary Proposal.

Thank you for consideration of these additional comments.