

Colorado River Commission of Nevada

Public Meeting on Proposed Allocation Criteria for Marketing Nevada's Share of Hoover Schedule D Electric Power

September 12, 2014, Overton, Nevada

Attendees: Aaron Baker, City of Mesquite
Randy Ewell, Mt. Wheeler Power
Terry Romero, Overton Power District
Mendis Cooper, Overton Power District

CRC Staff: Jim Salo, Deputy Executive Director
Ann Pongracz, Legal Counsel
Craig Pyper, Hydropower Manager
Sarah Ritchie, Hydropower Specialist
Kaleb Hall, IT
Sandra Fairchild, Consultant to CRC

Jim Salo, Deputy Executive Director with the Colorado River Commission of Nevada (CRC) explained that the purpose of the meeting was to present and request comments on the CRC's proposed allocation criteria and the draft application for Schedule D Hoover power. He advised the audience that the meeting was being recorded to assist in capturing comments and questions.

Following staff introductions, Jim Salo provided a brief history of Hoover hydropower, the previous and current allocation process, including timeline, and CRC's proposed criteria and allocation process. Key points were:

- The Hoover Dam was authorized for construction by federal legislation in 1928. The actual construction occurred during the 1930's, with power customers required to pay most of the construction and maintenance costs. There is a very small contribution from the water customers. In the statutes, the purpose for the Hoover Dam is flood control, water storage, navigation purposes, and lastly for power generation.
- In the original legislation, it was contemplated that Nevada, Arizona, and California would each receive equal allocations of power, but it has never been achieved. California has always received a larger share of Hoover hydropower.
- The CRC was created in 1935 to secure and protect Nevada's interests in water and power from the Colorado River. The first contracts for power were in 1936 with Lincoln County Power District and Southern Nevada Power Company, a predecessor of NV Energy. Over the years, other contractors signed on. These first contracts expired on September 30, 1987. They were all timed to expire on the same date.
- In the late 1970's, Western Area Power Administration (Western) planned to extend CRC's Hoover power contracts beyond 1987 without increasing Nevada's share, then around 18

percent. Nevada filed a lawsuit in 1982 which was later joined by Arizona. Both Arizona and Nevada were seeking to get up to one-third of the allocation as originally envisioned in the 1930's. In the end, all three states were involved in the lawsuit.

- On a parallel path, a major increase in capacity and available energy, known as the Hoover Upgrading Program was being constructed. The Hoover Power Plant Act of 1984 allocated most of the additional capacity and energy to Arizona and Nevada. However, even with the increased allocation, Arizona and Nevada allocations were less than the one-third allocation originally envisioned. In the end, the availability of the increased capacity due to the Upgrading Program and the additional allocations to Arizona and Nevada, allowed the States to settle the lawsuit. The new power from the Upgrading Program was called Schedule B power and was made primarily to Arizona and Nevada. Schedule A power was the original power allocated in the 1930's.
- In the 1980's the CRC considered and came to the following decisions on the following criteria:
 1. Allocation by population. Criterion deemed to be too mechanical and limiting.
 2. Encourage and support rural area development and diversification. The Commission supported this criterion. Deemed as being important to the State of Nevada. The Commission supported rural economic development. As a result, some of the allocations that were made went to the rural areas of southern Nevada; Overton Power District, Valley Electric Association, and Lincoln County Power District.
 3. Require Nevada Power to "pass-through" the economic benefit of Schedule B power to their residential customers. The Commission supported a "pass-through" – this criterion provided a peaking resource for the benefit of a large number of residential customers.
 4. Industrial development and diversification. This criterion, which applied to existing Basic Management Industrial complex customers (located near Henderson, NV), was supported by the Commission.
 5. Reduction of groundwater pumping as a goal. The Commission determined this criterion would not provide the "greatest possible benefit to the State."

The 1987 contracts were for a 30-year period; they expire September 30, 2017. In anticipation of the need to extend contracts beyond 2017, the existing federal Hoover customers from the three states started working jointly to discuss contracts and terms and conditions that would be applicable after 2017. There was a strong consensus to go back to Congress which resulted in the passage of the Hoover Power Allocation Act of 2011 (HPAA).

The HPAA states that existing federal Hoover customers (CRC in Nevada) would be offered contracts after October 1, 2017 at 95 percent of their current allocation for a term of 50 years. Under Nevada state law and current contracts, existing customers will be made an offer for an allocation of Hoover power at 95 percent of their current allocation for a 50 year term. The current customers have the option to accept or reject the offer. The remaining 5 percent will be made available to new allottees under Schedule D Hoover power. Under state law, the CRC will decide who gets an allocation in Nevada

and which criteria would be used to allocate to new customers. Any entity that currently receives Hoover power cannot get Schedule D.

Craig Pyper discussed the timeline for CRC's proposed allocation process. The process is a two-step process. The first step was issuance of proposed criteria and a draft application form for public review and comment. The goal of the public meetings held on September 11-12 is to provide an overview of CRC's responsibilities for allocating the Schedule D Hoover power and to solicit input from interested parties regarding the criteria to be used for making allocations available to new allottees and the draft allocation form. Public comments are due on September 17, after which time Staff will review the comments and provide the proposed allocation criteria and recommendations to the Commission. The second step in the process is when the proposed allocations and application form, will be provided to the Commission at either the regularly scheduled October 14 or November 13 meeting.

The Commission will issue a decision in either October or November. They may accept, accept with changes, or reject Staff recommendations. If the Commission accepts the proposed criteria and application, or accepts with modifications, Staff will conduct another round of public meetings to discuss the approved criteria and application with interested parties. Following the public meetings, Staff will issue a call for applications, with completed applications by the deadline specified. After receipt of all applications, Staff will review each application and determine if and how the request meets the CRC's "greatest possible benefit to the state" statutory requirement. Staff anticipates the Commission will reach a decision no later than March 2015.

The draft allocation criteria developed by Staff was derived from broad policy goals and objectives of the Governor and legislature; i.e. economic benefit, education, and support to state, local and tribal government. The overarching criterion, which is based in Nevada State statute, requires the CRC to consider those criteria that would fulfill the "greatest possible benefit to the state" mandate. However, this mandate is subject to various interpretations. Staff encourage interested parties provide other criteria that should be considered and the rationale behind the recommendation.

Craig Pyper stated that the CRC will be allocating 11.5 megawatt (MW). How the allocation will be divvied up is still uncertain. Again, the over-arching criterion is allocation of Schedule D Hoover power for the greatest possible benefit to the state. Applicants will be encouraged to provide rationale as to how the receipt of this power will help the CRC achieve this goal.

Some of the criteria factors considered by Staff included in-state job creation, exports of made-in-Nevada products, new or expanded community or education programs, new or increased tax revenues for governmental agencies, and reduction of expenses for governmental entities.

The eligibility requirements presented are based on policy considerations and recently adopted rulemaking under Nevada Administrative Code 538. Eligibility considerations include whether the entity is a public entity or a for-profit or non-profit private entity; the amount of federal hydropower currently being used – directly or indirectly; the amount of actual load in 2011, 2012 or 2013; and an entity's ability to receive delivery of Hoover Schedule D power on October 1, 2017. The entity cannot be a current Hoover Schedule A or B contractor, they must have an annual peak load of at least 1 MW, they must be able to receive energy directly or indirectly through its local utility at a delivery point authorized by the Commission, and they must be an entity to which the Commission is authorized by law to sell electricity or provide transmission or distribution service. Also, all applicants would be subject to a

creditworthiness review. The CRC is a customer-funded agency, which means the agency does not receive any tax payer revenues (monies from the State General Fund). The CRC is a pass-through agency whereby the costs of power is directly passed on to the customer with appropriate additional costs e.g. debt service and administrative agency costs. Currently the CRC does not have a working capital account.

If an Applicant is offered a contract, they must pay a proportionate share of Nevada's Lower Colorado River Multi-Species Conservation Program (MSCP) costs, debt service costs, and other repayable advances; they must participate through the CRC in the Boulder Canyon Project Implementation Agreement; they must meet the requirements for an Integrated Resource Plan or receive power through an electric utility that does; and provide collateral, if required. In the future, the CRC may create a cash working capital fund or require prepayment for power purchased in order to reduce the risk of non-payment. This requirement will be a future action considered at a Commission meeting and the CRC will seek customer input prior to the decision. In Nevada Power's service territory, new applicants must pay their share of applicable fees, tariff rates and charges pursuant to Nevada Revised Statute 704.787.

The Applicant would also be subject to the jurisdiction of the State of Nevada courts or U.S. courts. If a contract is offered, the Applicant must contract with the Commission within 90 days of being offered an allocation or the power may be re-allocated.

The CRC's draft application is based on Western's application, but was refined based on CRC's requirements. Due to the CRC's obligations under the state's open records law, data provided to the CRC is available for public review. If this is an issue for any applicant, please contact Staff to discuss options for confidentiality. A disclaimer about the CRC's open records obligations will be added to the final application.

Questions, Comments, and Responses

Aaron Baker with the City of Mesquite commented that as part of Western's process they did not receive an allocation because they were a customer Overton Power District which already receives a federal hydropower allocation; this knocked the City of Mesquite out of Western's process. Overton's Hoover allocation was more than a certain percentage; over 6.8 percent. So technically, Western reviewed the City of Mesquite's application and came to the conclusion that the city already received 6.8 percent. By the time they subtracted out the load by 25 percent (the percentage of hydropower Overton Power District receives) and considered the City of Mesquite's requested load, it knocked the City of Mesquite out of the process. **So is the CRC looking at similar criteria for allocating CRC's Schedule D allocation?** Staff has not proposed this criterion for the CRC's process. Craig Pyper suggested the City of Mesquite include their concerns in a comment letter to the CRC for consideration. At this time, it is unknown what criteria the Commission will adopt.

Mendis Cooper with Overton Power Company stated that some of the concerns they have is that when you look at the impact and some of the other things that are listed as a criteria, most of those things are in favor in the larger entities that are located in Nevada Power's service territory and it pushes out those in the rural areas. He suggested there needs to be a little extra consideration for the rural areas. They were surprised to see some of the much larger jurisdictions in the Vegas area receive an allocation from Western. The percentage of their power bill budget is significantly different than those in the rural area.

Staff suggested comments be provided that describe how an allocation of Schedule D Hoover power could benefit a rural area.

In regards to the discussion about additional fees that must be paid by new Schedule D Hoover Power customers, the question was asked if the City of Mesquite receives 1 MW of power, do they have to pay \$13,000 a year in fees on top of their power costs. Yes, but for only the first 5 years. The current contractors receiving the benefits of Hoover have been paying for capital improvements at the power plant to maintain it. New allottees will be picking up their share of these capital improvement costs. Depending on the value and cost of an Applicants current power costs, some costs may not pencil out for a couple of years. It depends on their current electric rates and arrangements with their host utility. The CRC does not envision that Hoover Schedule D power will be an entities total power supply.

An applicant will pay nothing up front until a contract is signed. Payment for the first month's delivery of power will be after the fact. A bill would be due on November 1, 2017 for delivery of power in October, 2017. Because the CRC is a customer funded agency and are not proposing step-up provisions for customers to pay for other customers in default, the CRC may be reviewing other options to reduce the risk of non-payment. No options have been adopted yet. However, it may be a possibility by 2017. There are no fees to apply for Schedule D Hoover allocation and all the other repayment requirements with Western won't be done until after the contracts are signed.

Fees in addition to Hoover power are:

1. CRC administrative fee of (currently) \$0.000707 charged per kwh of delivered energy charged monthly;
2. Lower Colorado MSCP charged monthly;
3. Payments for the bond that the State financed to replace the high interest federal debt for the Hoover Visitor Center and the Air Slots. The federal debt used to be included in the Base Charges but was paid off by current Hoover customers; and
4. Repayable Advances is a one-time charge, but can be paid interest-free over five years. Repayable Advances are to reimburse the current Hoover customers for improvements they have previously paid for, or are currently paying for, but will lose a portion to the new Schedule D customers.

When will the CRC nail down all the various additional costs on top of the rate to obtain Hoover Schedule D power? Craig Pyper stated that the CRC is currently in the process of calculating all the costs. Assuming Western's costs are complete, the CRC should be able to provide these additional costs fairly soon. Any costs developed now will be based on current costs. The CRC can estimate 2017 costs, but there may be additional costs depending on the work plan. The CRC is in the process of updating the 2015 rates. Once that's complete, better estimates will be available. Costs for repayable advances may go up. It's currently \$140,000,000 spread among the three states, which means new allottees are sharing 5% of the \$140,000,000. By 2017, costs may go up due to improvements (for example, installation of wide head turbines) currently being made at the dam. **UPDATE SINCE THIS MEETING:** Western currently estimates the Repayable Advances to total \$150,000,000 by the end of 2017. All Schedule D customers will be responsible for 5% of this, or \$7.5 Million. Divide this total from all Schedule D allocations of 103,700 kW and that gives an estimated \$72,324 per 1,000 kW of Schedule D allocation. This can be paid interest-free over a 5 year period.

During this process, will the CRC do a similar process as Western; will they take into consideration the amount of hydropower the applicant already receives? The CRC does not anticipate utilizing a similar process as Western. However, the final decision will be made by the Commission. If the commenter feels the CRC should use or not use a similar process, then these comments and the rationale behind the recommendation should be provided to the CRC.

Let's say an entity wants to reserve an allocation to attract future business for economic benefit; can they request the allocation and pass this on to the future customer that comes into their service territory? They would have to be a customer that the CRC is legally able to service (per NRS 704.787). Staff suggested the commenter provide information how this concept would be developed and structured. Also, need to describe how it would help the CRC fulfill their mandate to distribute Schedule D Power for the greatest possible benefit to the state.

Could they sell it to the power company? The CRC's legal authority to provide electric power is limited to customers identified in NRS 704.787. Staff suggests the commenter provide details on how this concept would be developed and structured, and describe how it would help the CRC fulfill its mandate to distribute Schedule D Power for the greatest possible benefit to the state. Further, such a project would likely need to be online before Oct. 2017, or very soon thereafter. No speculative future allocations are anticipated.

According to the application, you have to show that you have an existing load. What if you can show that you use to support a certain load, or there is a potential load in the future? Staff has not proposed potential future load in our proposed allocation criteria or on our draft application form. If the commenter feels the CRC should consider this concept, the recommendation and the rationale for its adoption should be provided to the CRC. The proposed application form has a comment section for the applicant to provide additional details and information for the Commissions consideration.