



# Mid-West Electric Consumers Association

4350 Wadsworth Blvd., Suite 330, Wheat Ridge, CO 80033

Tel: (303) 463-4979 Fax: (303) 463-8876

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Transmission Infrastructure Program  
Western Area Power Administration  
P.O. Box 281213  
Lakewood, CO 80228-8213

## **Comments on the Proposed Adoption of a Transmission Infrastructure Program**

The Mid-West Electric Consumers Association appreciates the opportunity to comment on the Western Area Power Administration's ("Western" or "WAPA") two Federal Register notices: Notice of Proposed Program and Request for Public Comments, and Notice of Availability of Request for Interest (FRN), published March 4, 2009 (pp. 9392-9393).

The Mid-West Electric Consumers Association was founded in 1958 as the regional coalition of over 300 consumer-owned utilities (rural electric cooperatives, public power districts, and municipal electric utilities) that purchase hydropower generated at federal multi-purpose projects in the Missouri River basin under the Pick-Sloan Missouri Basin Program ("Pick-Sloan").

The two Federal Register notices seek to begin implementation of provisions of Title III of the Hoover Power Plant Act of 1984 established by §402 of the American Recovery and Reinvestment Act of 2009. One FRN seeks expressions of interest in participating in the new program authority. The other FRN seeks input on program design.

With over 7,000 miles of transmission in Pick-Sloan and more than 3,000 miles in the Loveland Area Projects (LAP), Mid-West's members have a vital stake in the development of new transmission under Western's new §402 authority and the treatment of Western's existing transmission system in relation to §402 activities.

Mid-West understands that Western is under pressure to move quickly to implement this new authority; but fears that the celerity with which Western is moving could compromise the program's effectiveness. It is counter-intuitive for Western to be seeking expression of interest in a new program while at the same time seeking input on program design and implementation.

The Notice of Proposed Program and Request for Public Comment only reiterates the statutory language, with one exception, which notes Western will favor parties bringing some of their own financing to the table. Other than that, Western's customers and other parties have no more information on how Western might choose to implement this program. Similarly, the public meeting convened by Western on March 23 did not provide any further information or program analysis by Western. Western was only seeking comments from attendees (both in person and electronically).

This is not a request to “go slow” or unnecessarily delay program implementation; but to proceed at a pace that will assure proper implementation of a program that is new territory for Western – in both program content and financing procedures.

Transparency is critical for Western’s new program and financing authority. In light of the very open-ended Federal Register notice and its lack of any further detail, Western’s response to the comments on its FRN should not be the end of the public process in developing and defining this new program authority. Mid-West asks that Western continue the public process and provide an opportunity for additional discussion and dialogue with Western. Mid-West believes that Western – by working with its customers and other parties – will be able to fashion a program that works for everyone and avoids ambiguity and misunderstanding.

**Project Funding:** Though listed as the first element in Western’s proposed program, it is difficult to understand how Western would decide to fund a project without having made any evaluation of that project. Project Funding should probably come after Project Evaluation, particularly in light of some aspects of Project Evaluation that might affect Project Funding.

Otherwise, as written, this section of the FRN states that the only criterion for selecting projects to be funded is, “the reasonable likelihood that the project will generate enough transmission service revenue to repay the principal investment, all operating costs and the accrued interest.”

Mid-West is troubled by the very soft language on financial repayment expectations, though we do recognize this reiterates statutory language. Mid-West’s members pay a cost-based rate for federal facilities that fully recapture federal costs. Since Western has not clarified this language in its Federal Register notice, does that mean Western intends to use a different methodology in setting rates for transmission projects constructed under this authority?

The “Policies and Practices” of this section only requires that Western isolate costs associated with projects funded under this authority. The project costs need not only to be isolated in Western’s accounting, but also must be assigned to the rate and repayment responsibility of parties using the new project.

**Project Evaluation:** Again, the criteria to be used in evaluating projects merely mimic the statutory language without further explanation. First and foremost, Western’s evaluation must assure that a new project:

- will not adversely affect transmission rates for existing Western firm power and/or transmission customers;
- will not adversely affect the existing transmission system’s operations or reliability;
- will not adversely affect services to Western’s firm power customers.

Western’s FRN on Project Evaluation notes that the project should facilitate the delivery of renewable energy resources to market, but does not require that a renewable energy project have a market customer. While Mid-West does not expect a project to be built before inclusion in this program, to make best use of federal dollars and to ensure project viability and repayment capability, it would seem prudent for the proposed renewable energy project to have a customer(s) lined up.

Western notes that it may choose to use outside expertise in evaluating §402 projects. As a means of managing personnel costs and work loads, Mid-West agrees that Western should be able to use outside consultants in making evaluations. However, to ensure the transparency of the process, Western should require potential contractors to disclose potential conflicts of interest – i.e. instances where the contractor has done or is doing work for an entity seeking participation under this new authority – before awarding any contracts.

Western does not define what constitutes “in the public interest.” Mid-West believes that definition of public interest should include:

- no adverse impacts on Western’s rates or operations in meeting its core mission responsibility – marketing and delivery of federal hydropower;
- minimizing environmental impacts;
- minimizing rights-of-way requirements;
- minimizing, to the extent possible, use of federal eminent domain authority, and, where needed provides fair and adequate compensation for rights-of-way so acquired;
- siting to accommodate more than one renewable energy project(s); and
- siting to meet other transmission needs in the area.

Western’s Project Evaluation Policies note that Western will establish additional evaluation factors as necessary. Mid-West agrees – particularly given the paucity of criteria and lack of specificity in this initial FRN. To ensure transparency, Western should initiate a public process for developing such additional evaluation factors.

**Project Development and Operations and Maintenance:** Western should employ a transparent process in developing projects under its new authority, to:

- provide opportunity for additional participation by other parties;
- demonstrate separation of new project costs from Western’s existing transmission systems; and
- demonstrate protection of Western’s existing transmission system – both financial and operational.

Western notes that it will consider projects under this new authority separately from its responsibilities under its Open Access Transmission Tariff (OATT); will give higher priority to these new projects than its current OATT responsibilities or “*related interconnection agreements* [emphasis added].”

Mid-West thinks this section of the FRN requires further analysis and consideration. Mid-West does not agree that Western’s newly authorized activities should take precedent over Western’s ongoing obligations. To do so does more than suggest that Western is relegating its core mission to secondary importance. Furthermore, in administering this new authority, Western must coordinate with the many ongoing regional transmission planning activities throughout its territory to ensure the best siting and use of new transmission.

**Project Rates and Repayment:** This section fails to incorporate a key element of the statutory language that states: “Revenue from the use of projects under this section *shall be the only source of revenue* [emphasis added] for – (A) repayment of the associated loan for the

project; and (B) pay of expenses for ancillary services and operations and maintenance (§301(c)(3)).” Similarly, the “Principles” noted at the beginning of the FRN do not note this limitation on use of Western’s revenues. Why?

Mid-West does not support Western using other revenues to provide financial support for §402 projects; and the statute, in fact, prohibits it.

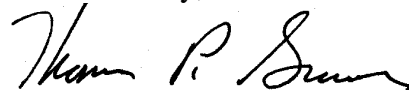
This section also references Western setting transmission rates, but does not limit that description to §402 projects. Why? Again, the statutory language cited above is very clear as to Western’s obligations and responsibilities on repayment. Mid-West does not think that costs or rates for §402 projects should be bundled in with other Western transmission actions. The statute is clear; Western’s proposed “Program Rates and Repayment” are not: Western’s firm power customers are not to be the pack mules to bear additional costs of §402 projects that participants are unable or unwilling to shoulder.

The Federal Register notice does not address policies or procedures relating to treatment of debt incurred by Western for a project under development that fails to materialize or a finished project that does not fully recover its costs. Again, the statutory language is clear and unequivocal. Such unpaid amounts “*shall* be forgiven [emphasis added].”

Mid-West raises this point because at a recent hearing before the House Natural Resources Subcommittee on Water and Power in response to a question, Western Administrator Tim Meeks suggested that, in the event of a failure to repay a U.S. Treasury loan made pursuant to §402, Western might seek an appropriation to repay the debt.

Under current law, Western does not have the authority to do so. As noted earlier, the sole source of funds to repay the federal debt incurred in undertaking §402 projects is revenues derived from the transmission rate of each project. If Western were to seek appropriations to pay for unrecovered costs, there is no assurance that those costs would be deemed non-reimbursable or that Western’s firm power customers would not end up paying for these §402 costs unrelated to the marketing and delivery of federal hydropower.

Sincerely,



Thomas P. Graves  
Executive Director