



FACT SHEET

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New Notification Requirements for PMAs

The Issue

Recent changes in congressional notification requirements have hampered the ability of the Western Area Power Administration and other federal power marketing administrations (PMAs) to make timely purchases in energy markets to fulfill their contractual commitments to their firm power customers.

Background

The federal power marketing administrations are responsible for the marketing and transmission of hydropower generation at federal multi-purpose projects. That power is sold to consumer-owned electric utilities, municipal electric utilities, states, tribes and federal facilities under firm power contracts.

Customer load and federal hydropower generation in a multi-purpose project are not always in balance. During droughts – when low water reduces generation – and down stream flooding events – when releases must be sharply curtailed to avoid exacerbating flooding – the PMAs must purchase power in energy markets to make up this lost generation in order to meet their contractual obligations to their customers. Before making these power purchases in energy markets, the PMAs track costs and projections, as well as aggregating and timing their purchases, to get the best possible price. Firm power customers are responsible for repaying the cost of the PMAs' power purchases, with those costs rolled into the firm power rates.

A recent change in congressional notification requirements has affected the PMAs' ability to act expeditiously in making needed power purchases, needlessly raising costs and, subsequently, the rates paid by federal power customers.

In the FY 2010 Energy and Water Development appropriation act (Public Law 111-85), section 311 requires the Secretary of Energy to notify the House and Senate Committees on Appropriations three days in advance of any new contracts or intention

to enter into contracts or other transactions where the amount is one million dollars or greater.

This mandatory lag between intention to sign a contract and actual execution has, on at least one occasion, increased the cost of federal power purchases, needlessly adding costs that the PMAs' firm power customers must repay. Late last year, Western was prepared to enter into a power contract, but, after meeting the requirements of section 311, found that purchase cost \$4,000,000 more than it would have been had Western been able to execute the contract immediately.

Mid-West views congressional oversight of the federal power program as an important component of managing federal power program assets. However, given the time sensitivity of energy market pricing, Mid-West believes that this provision was not intended to cover purchase power activities of the PMAs.

The Solution

Mid-West urges Congress to exclude federal power marketing administrations' purchases of power or transmission services from the notification provision of section 311 in the FY 2011 Energy and Water Development Act. A proposed revision of section 311 that would avoid these unintended consequences is (new language is in bold face):

“Sec. 311 Except as provided below, None of the funds made available by this Act may be used to make a grant allocation, discretionary grant award, discretionary contract award, Other Transaction Agreement, or to issue a letter of intent totaling in excess of \$1,000,000 or to announce publicly the intention to make such an award, including a contract covered by the Federal Acquisition Regulation, unless the Secretary of Energy notifies the Committees on Appropriations of the Senate and the House of Representatives at least 3 full business days in advance of making such an award or issuing such a letter; *Provided,* That if the Secretary of the Department of Energy determines that compliance with this section would pose a substantial risk to human life, health, or safety, an award may be made without notification and the Committees on Appropriations of the Senate and the House of Representatives shall be notified not later than 5 full business days after such an award is made or letter issues; **Provided further, that purchases of power or transmission services made by the federal Power Marketing Administrations shall not be subject to the notification requirements of this Section.”**