

Attachment 1

February 12, 2015

INFORMATIONAL DOCUMENT FOR SPECIAL COMMISSION MEETING AND EXECUTIVE SESSION ON POLICY AND LEGAL ISSUES AFFECTING THE POST-2017 HOOVER ALLOCATION PROCESS

The Arizona Power Authority (Authority) has issued a public notice for a Special Commission Meeting on Policy and Legal Issues Affecting the Post-2017 Hoover Allocation Process (Special Meeting). The Special Meeting will be held on Tuesday, March 3, 2015, at 10:00 a.m., at the Authority's office, 1810 W. Adams Street, Phoenix, Arizona.

As a *preliminary* agenda, the Commission will focus and hear comments on the following policy issues:

1. Joint Applications: Whether to allow a single application for electric service from more than one Qualified Entity
2. Formation of New Districts: Whether to allow entities that are in the process of forming "districts" to receive a proposed allocation of post-2017 Hoover power subject to the condition that the district is fully formed by the date of execution of the power sales contract
3. Financial Considerations: Whether the Authority should require a letter of creditworthiness or comparable information as a condition of a power sales contract offered to a potential customer
4. Schedule C Power: Whether the Authority should adopt a "right of first refusal" structure for allocating Schedule C power, as outlined in the Final Draft Plan
5. Length of Contract Term
6. Modification or Termination Clause: The form of termination clause in power sales contracts
7. Minimum Allocation Requirement: Whether the Authority should adopt a position that if an allocation methodology does not yield a minimum allocation of 100 kilowatts (kW), then the entity does not receive any allocation, or adopt the position that the Authority will raise the allocation of an entity receiving less than 100 kW under the allocation methodology to 100 kW by decreasing other entities allocations' in some manner
8. Transmission Arrangements: Whether to approve the use of "benefit credit arrangements"

9. Power Purchase Certificates: Whether to allow automatic renewal of existing power purchase certificates if the applicant certifies there is no change in service territory
10. Treatment of Existing Customers
11. Reimbursement: Whether the Authority should adopt a reimbursement scheme where potential customers that do not currently receive post-1987 Hoover power pay some share of the Hoover Dam Repayable Advances already paid by the Authority, or costs incurred for the Post-2017 Hoover Power Allocation Process
12. Excess Federal Resource Test: The methodology for calculating whether an applicant has excess federal hydropower resources, e.g., whether to use Contract Rate of Delivery or Sustainable Hydropower for entities that have allocations of Colorado River Storage Project power

The Commission will hear comments on the following legal issues:

13. Red Book: Whether the Red Book constitutes a longstanding administrative interpretation, subject to deference
14. Definition of a District: Whether to adopt the interpretation in the Final Draft Plan of the definition of “district” under Title 30
15. Eligibility for Schedule B Power: Whether to adopt the interpretation of sections 45-1708 and 45-1710 of the Arizona Revised Statutes set forth in the Final Draft Plan, or adopt an interpretation consistent with Red Book

The Commission will also hear comments on the following issues that involve both policy and legal determinations:

16. Eligibility for D-2 Power: Whether an entity that received an allocation of post-1987 Schedule A or B power is eligible for an allocation of post-2017 D-2 power; whether an entity that receives an allocation of post-2017 Schedule A or B power is eligible for an allocation of post-2017 D-2 power; whether the Authority should make this decision as a policy or legal determination
17. Allocation of D-2 Power Under State Law: Whether the Authority should allocate D-2 power under Title 30, Title 45, or a combination thereof; whether the Authority should make this decision as a policy or legal determination

Although the Authority has not adopted any of the analysis or conclusions in the Consultant’s Final Draft Plan, the document briefs many of the issues and identifies the relevant considerations. Interested parties should look to the Final Draft Plan for more information.

The list is not exhaustive. *If a party believes that an important policy or legal issue is omitted from the list above, then it may provide written comments on the issue.* Written comments are due **February 25, 2015**, and should be submitted to Mike Gazda at mike@powerauthority.org. The Authority will review the written comments and add issues to the final agenda for the Special Meeting, as appropriate. The final agenda will be posted 24 hours in advance of the Special Meeting.

The Commission may convene an executive session, at the Special Meeting on March 3, 2015, in the Authority's office at 1810 W. Adams Street, Phoenix, Arizona, pursuant to Arizona Revised Statutes, section 38-431.03(A)(3), (4), for the purposes of discussing and consulting with the Authority's legal counsel for legal advice on the issues noted on the final agenda.

At the Special Meeting, the Commission may determine a preliminary position on each of the legal and policy issues to be included in the Preliminary Proposal. If any issue remains unaddressed at the conclusion of the Special Meeting, then the Commission may determine a preliminary position at the regular meeting on March 17, 2015.

The Authority emphasizes that any position that the Commission may take is *preliminary*. As a result of the strict timeline in the Authority's regulations, the Authority must try to obtain information in advance of declaring that Long-term Power is available and calling for applications in order to meet the regulatory 60-day timeline. The Authority believes that accepting comments, discussing the issues in a public meeting, and taking a preliminary position will provide the most open and transparent process. Interested parties may continue to comment on the policy issues as the Authority proceeds with the Formal Process.

COMMISSION

Stephen M. Brophy
Chairman

Joe A. Albo
Vice Chairman

Dalton H. Cole
Russell L. Jones
Richard S. Walden



Arizona Power Authority
1810 W. Adams St Phoenix, AZ 85007
(602)368-4265 Fax (602)253-7970

STAFF

Michael A. Gazda
**Interim Acting
Executive Director**

Susan E. Angulo
Executive Secretary

DRAFT AGENDA

ARIZONA POWER AUTHORITY SPECIAL COMMISSION MEETING AND EXECUTIVE SESSION MARCH 3, 2015

The Commission may, pursuant to A.R.S. § 38-431.03(A)(3)-(4), elect to hold an Executive Session for any agenda item at any time during the meeting to discuss or consult with the Authority's legal counsel for legal advice on matters listed on this agenda. Items on this agenda may be discussed out of the order reflected below, unless they have been specifically noted to be set for a time certain. One or more members of the Commission may participate by telephonic, video, or Internet communication.

The Authority does not discriminate on the basis of a disability regarding admission to public meetings. Persons with a disability may request reasonable accommodation, such as a sign language interpreter, by contacting Julie Denham, (602) 368-4265. Requests should be made as early as possible to allow time to arrange the accommodation.

The *preliminary* agenda for the meeting is as follows:

- A. CALL TO ORDER
- B. PLEDGE OF ALLEGIANCE
- C. ROLL CALL
- D. PUBLIC COMMENTS ON POLICY AND LEGAL ISSUES AFFECTING THE POST-2017 ALLOCATION PROCESS
 1. Joint Applications
 2. Formation of New Districts
 3. Financial Considerations
 4. Schedule C Power
 5. Length of Contract Term
 6. Modification or Termination Clause
 7. Minimum Allocation Requirement

8. Transmission Arrangements
9. Power Purchase Certificates
10. Treatment of Existing Customers
11. Reimbursement
12. Excess Federal Resource Test
13. Red Book
14. Definition of a District
15. Eligibility for Schedule B Power
16. Eligibility for D-2 Power
17. Allocation of D-2 Power
18. Other Policy and Legal Issues that May Be Raised by Members of the Public

E. COMMISSION'S PRELIMINARY POSITION ON POLICY AND LEGAL ISSUES
([possible action](#))

F. MOTION TO GO INTO EXECUTIVE SESSION

- Pursuant to A.R.S. § 38-431.03(A)(3)-(4), discuss or consult with its legal counsel issues related to or arising from the Arizona Power Authority's Hoover Post-2017 State Allocation Process and how the Arizona Power Authority should approach these issues and other legal matters.

G. EXECUTIVE SESSION

Upon a majority vote, the Commission may hold an Executive Session, which is not open to the public, for the following matters:

- Pursuant to A.R.S. § 38-431.03(A)(3)-(4), discuss or consult with its legal counsel issues related to or arising from the Arizona Power Authority's Hoover Post-2017 State Allocation Process and how the Arizona Power Authority should approach these issues and other legal matters.

H. RETURN TO OPEN SESSION

I. MOTIONS ON ITEMS DISCUSSED IN EXECUTIVE SESSION ([possible action](#))

J. ADJOURNMENT