

Customers. CRDs and Extension CRDs are obsolete and not applicable under the 2015 reallocation. Western is committed to its mission to provide wide-spread use of its power resources. Removal of this criterion will not prevent Western from equitably allocating its resources among potential customers.

Comment: Three commentors suggested modifying the criterion's formula to be based on Base Resource percentages rather than Extension CRDs.

Response: If Western were to modify the criterion to be based on Base Resource percentages as the commentors suggest, Western believes that the criterion is unfairly restrictive and may not ensure full subscription of its power resources. Western does not want to continue to put any type of criterion in place that unfairly limits the ability of any existing customers to apply for an allocation of the 2015 Resource Pool.

Comment: A commentor supported deleting the criterion and replacing it with a new criterion under which only Existing Customers who have a substantial percentage of qualified renewable energy in their power portfolio would be qualified to apply for a 2015 Resource Pool allocation.

Response: Although Western supports those customers who have substantial qualified renewable energy assets, a renewable portfolio is not a criteria to receive an allocation. Western feels that to put such a restriction on preference entities may unfairly limit some from receiving an allocation of Base Resource.

Comment: A commentor suggested modifying the criterion to recognize the relative size of a Western allocation compared to a customer's load.

Response: Western believes the best method to ensure full subscription of its resources is to maintain wide discretion in the Eligibility Criteria. However, in determining allocations, Western may consider various factors relative to the allocation including the size of a customer's load compared to its existing allocation.

Establishing the 2015 Resource Pool Size

Western has established the pool size for its 2015 Resource Pool taking into consideration all of the comments received during the comment period. The 2015 Resource Pool will be established by reducing all customers' Base Resource by exactly 2 percent. In choosing to set the Resource Pool at 2 percent, Western is creating the largest possible resource pool allowed under

the Marketing Plan and promoting the most wide-spread use of its resources.

Revisions to the Eligibility Criteria

Western has revised the Eligibility Criteria taking into consideration the comments received during the comment period and public forums. The revision is summarized below.

The Eligibility Criterion provides that:

Existing Customers may apply for a resource pool allocation if their Extension CRD, set forth in Appendix A [of the Marketing Plan **Federal Register** 64 FR 34417], is not more than 15 percent of their peak load in the calendar year prior to the Call for Applications, and not more than 10 MW is no longer applicable.

Western believes this criterion is out-of-date because Western no longer uses CRDs or Extension CRDs. In addition, Western no longer allocates its resources via a fixed power amount but, rather, allocates a percentage of its generation. Using a 10-megawatt limit on a fixed amount of power as a prerequisite to applying for power is not practical under the current Marketing Plan. Therefore, Section IV.B.2.g. is deleted from the Marketing Plan.

Authorities

The Marketing Plan for marketing power by SNR after 2004, published in the **Federal Register** (64 FR 34417) on June 25, 1999, was established pursuant to the DOE Organization Act (42 U.S.C. 7101-7352); the Reclamation Act of June 17, 1902 (ch. 1093, 32 Stat. 388), as amended and supplemented by subsequent enactments, particularly section 9(c) of the Reclamation Project Act of 1939 (43 U.S.C. 485 h(c)); and other acts specifically applicable to the projects involved. This action falls within the Marketing Plan and, thus, is covered by the same authority.

Regulatory Procedure Requirements

Environmental Compliance

In compliance with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321, *et seq.*); the Council on Environmental Quality Regulations for implementing NEPA (40 CFR Parts 1500-1508); and DOE NEPA implementing regulations (10 CFR Part 1021), Western completed an environmental impact statement (EIS) on its Energy Planning and Management Program. The Record of Decision was published in the **Federal Register** (60 FR 53181, October 12, 1995). Western also completed the 2004 Power Marketing Program EIS (2004 EIS), and the Record of Decision was published in the **Federal Register** (62 FR 22934, April 28, 1997). The Marketing Plan falls

within the range of alternatives considered in the 2004 EIS. This NEPA review identified and analyzed environmental effects related to the Marketing Plan. This action falls within the Marketing Plan and, thus, is covered by the 2004 EIS.

Determination Under Executive Order 12866

Western has an exemption from centralized regulatory review under Executive Order 12866; accordingly, no clearance of this notice by the Office of Management and Budget is required.

Dated: December 15, 2008.

Timothy J. Meeks,

Administrator.

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FEDERAL COMMUNICATIONS COMMISSION

Sunshine Act Meeting; Open Commission Meeting Via Conference Call; Tuesday, December 30, 2008

December 23, 2008.

The Federal Communications Commission will hold an open meeting via a conference call regarding Commission announcements, Tuesday, December 30, 2008, which is scheduled to commence at 11 a.m.

Meeting participants can listen to the "audio only" of the meeting by:

- Visiting Room TW-C305, at 445 12th Street, SW., Washington, DC (sign language interpreters, open captioning, and assistive listening devices will be provided on site);
- Calling 1-888-603-9685 and using pass code 3950472. Call in capacity may be limited depending on the volume of calls. Callers may call the toll free number up to ten minutes before the scheduled meeting time; or
- Accessing the FCC's Audio/Video Events Web page at <http://www.fcc.gov/realaudio> (with open captioning over the Internet).

Additional information concerning this meeting may be obtained from Audrey Spivack or David Fiske, Office of Media Relations, (202) 418-0500; TTY 1-888-835-5322.

Federal Communications Commission.

William F. Caton,

Deputy Secretary.

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