

**ARIZONA  
TRIBAL ENERGY ASSOCIATION**

*Sent Via Electronic Mail to CRSPMCadj@wapa.gov*

May 5, 2008

CRSP Management Center  
150 E. Social Hall Avenue, Suite 300  
Salt Lake City, UT 84111

**RE: CRSP Rate Increase Comments**

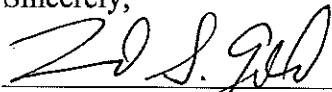
To Whom It May Concern:

Please accept these comments on behalf of only the Arizona Tribal Energy Association (Association) members listed below regarding the CRSP rate increase presently proposed by the Western Area Power Administration (Western). The Association members submitting these comments are Aha Macav Power Service, Ak-Chin Energy Services, the Gila River Indian Community Utility Authority, the Tohono O'odham Utility Authority and the Yavapai-Apache Nation.

These members appreciate Western's efforts during the public process and for responding to their requests for information. The Association looks forward to working with Western on this and future activities.

Thank you for your attention to these remarks.

Sincerely,



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Leonard S. Gold, President  
Arizona Tribal Energy Association

cc: ATEA Members  
Amy Mignella, ATEA Administrator

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1. Rate Increase

The Association does not support the proposed rate increase. Neither applicable law nor administrative policy support the rate increase presently proposed.

A. Federal Law

The Association notes that approximately 60% of the proposed increase appears to be due to "apportionment" expenses, associated with presently non-existent, unauthorized projects. As set out in Title 43, Section 620d(e) of the U.S. Code, Western is directed to deposit "excess revenues" collected from its rates into the Basin Fund for apportionment between upper basin states. The Association does not agree, however, that this language, any other applicable law or any federal directive supports the exercise of this practice as an end in itself.

Title 43, Section 620d(e) further provides that "revenues so apportioned shall be used only for the repayment of construction costs of participating projects or parts of such projects . . ." As no construction has occurred or is even planned with regard to approximately \$368 million generated in the power repayment study by 2025 for apportionment purposes, there is no "repayment" obligation and no associated apportionment funds should therefore be included in the power repayment study and proposed rate adjustment. The Association would not object to collecting funds to repay project costs once a project or projects are constructed and operating.

B. 1983 Agreement

In addition, the 1983 Agreement between the Bureau of Reclamation and Western (Agreement) provides that "future CRSP participating projects should not be included in the power repayment study unless the Bureau . . . made a good faith showing of a reasonable expectation that a project or a separable feature thereof would be constructed." In the present case, the above-noted dollar amount does not stem from any such showing.

The Agreement further provides that "repayment requirements for projects in an indefinite status [will] . . . not control the rate under consideration." As the "apportionment" segment of the proposed rate is approximately 60% of the total increase at issue, the Association argues that "indefinite" projects are "control[ing]" the rate being considered and that, as a result, any proposed increase must exclude this component.

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Finally, the Agreement requires that “[p]articipating projects or separable features thereof shall not be included in the rate setting years of the power repayment study unless a definite plan report is prepared, water rights are substantially acquired, environmental clearances are obtained and repayment contracts with water users are signed.” Western has failed to indicate that all or even some of these criteria have been met. Further, Western has not shown that there are Indian projects, the Animas-La Plata project or any Congressionally-appropriate construction funds tied to the \$368 million generated in the power repayment study in 2025 as required by the Agreement.

For these reasons, the Association does not support any rate increase at the present time. Again, the Association wants to emphasize that it would not oppose inclusion of repayment of participating projects or separable features as long as all of the above conditions have been satisfied.

**2. Stepped Rate**

If Western does impose an increase, however, the Association supports the proposed stepped rate that creates no increase for FY '09 with a potential maximum 18% increase in FY '10, to be determined through a process that provides all CRSP customers with the opportunity to review the data and revised power repayment study prepared by Western to support the FY '10 adjustment, if required. The business year of each member is already in progress with the corresponding budgeting cycle closed, making an increase taking effect in October 2008 very difficult to accommodate. Budgetary planning can be more easily modified to incorporate an increase in October 2009.