

Categorical Exclusion (CX) Determination

Proposed Action: **Pick-Sloan Missouri Basin Program – Eastern Division – 2021 Power Marketing Initiative Proposal**

The 1985 P-SMBP--ED Marketing Plan (1985 Plan) was published in the *Federal Register* (45 FR 71860, October 30, 1980) and provided the marketing plan principles used to market P-SMBP--ED firm hydropower resources. The Firm Electric Service (FES) contracts associated with the 1985 Plan were initially set to expire December 31, 2000. The Energy Planning and Management Program (EPAMP) final rule published in the *Federal Register* (60 FR 54151, October 20, 1995) Subpart C extended and amended the 1985 Plan. EPAMP extended the firm electric power contracts associated with the 1985 Plan through December 31, 2020, and established the Post-2000, Post-2005, and the Post-2010 power marketing initiatives. The current Marketing Plan is inclusive of the 1985 Plan as extended and amended by EPAMP and the Post-2000, Post-2005, and Post-2010 power marketing initiatives.

Western's 2021 Power Marketing Initiative (2021 PMI) proposes to extend the current Marketing Plan with amendments to the Contract Term and Resource Pools principles.

This CX incorporates material from DOE/EIS 0182 and supporting documentation according to the Council on Environmental Quality (CEQ) Regulations for Implementing the National Environmental Policy Act (NEPA), Section 1502.21. The EIS is available upon request.

Location: The Upper Great Plains (UGP) Region includes all or parts of the following states: Montana, North Dakota, South Dakota, Minnesota, Iowa, and Nebraska.

Description of Proposed Action:

Western's 2021 PMI proposes to extend the current Marketing Plan with amendments to the Contract Term and Resource Pools principles. The Marketing Plan principles that are proposed to be amended as well as the Marketing Plan principles that are proposed to be extended are as follows:

Amended Marketing Plan Principles:

1. **Contract Term:** A 30-year term contract term would be used for FES contracts. The FES contract term would begin January 1, 2021, and expire December 31, 2050.
2. **Resource Pools:** The 2021 PMI would provide for resource pools of up to 1 percent of the marketable resource under contract at the time for eligible new preference entities at the beginning of the contract term (January 1, 2021) and again every 10 years (January 1, 2031, and January 1, 2041).

Extended Marketing Plan Principles:

Extension of the current Marketing Plan includes all provisions and principles not specifically addressed in the preceding section (Amended Marketing Plan Principles). The following key principles are included below for reference purposes:

1. Marketable Resource,

2. Marketing Area,
3. Load Factor Limit and Withdrawal Provisions, and
4. Marketing Future Resources.

Regulatory Requirements for CX Determination

The DOE guidelines for compliance with the Regulatory Requirements for the National Environmental Policy Act at 10 CFR 1021.410 (b), require the following determinations to be made in order for a proposed action to be categorically excluded from the National Environmental Policy Act (NEPA) review:

- 1) The proposed action fits within a class of action listed in Appendix B to Subpart D. To fit within the classes of action in Appendix B, a proposal must be one which would not:
 - a) Threaten a violation of applicable statutory, regulatory, or permit requirements for the environment, safety, and health, including requirements of DOE and/or Executive Orders.
 - b) Require siting and construction or major expansion of waste storage, disposal, recovery, or treatment facilities (including incinerators) but the proposal may include categorically excluded waste storage, disposal, recovery, or treatment actions.
 - c) Disturb hazardous substances, pollutants, contaminants, or Comprehensive Environmental Response, Compensation, and Liability Act – excluded petroleum and natural gas products pre-existing in the environment as such to cause uncontrolled or unpermitted releases; or
 - d) Adversely affect environmentally sensitive resources. Environmentally sensitive resources include, but are not limited to, (i) Property (e.g. sites, buildings, structures, objects) of historical, archaeological, or architectural significance designated by Federal, state, or local governments or property eligible for listing on the National Register of Historic Places; (ii) Federally-listed threatened or endangered species or their habitat (including critical habitat), Federally-proposed or candidate species or their habitat, or state-listed endangered or threatened species or their habitat; (iii) Wetlands regulated under the Clean Water Act (33 U.S.C.1344) and floodplains; (iv) Areas having a special designation such as Federally and state-designated wilderness areas, national parks, national natural landmarks, wild and scenic rivers, Federal and state wildlife refuges, and marine sanctuaries; (v) Prime agricultural lands; (vi) Special sources of water (such as sole-source aquifers, wellhead protection areas, and other water sources vital in a region); (vii) Tundra, coral reefs, or rain forests.
- 2) There are no extraordinary circumstances related to the proposal which may affect the significance of the environmental effects of the proposal;
- 3) The proposal is not connected (40CFR 1508.25(a)(1)) to other actions with potentially significant impacts, is not related to other actions with cumulatively significant impacts (40 CFR 1508.25(a)(2)), and is not precluded by 40 CFR 1506.1 or 10 CFR 1021.211.

Results of Review

In accordance with DOE environmental regulations (10 CFR 1021), Western has reviewed the proposed action in terms of the level of NEPA review needed. Based on this review, Western has determined the proposal is encompassed within a class action listed in Appendix B to Subpart D (10CFR 1021.410).

Appendix B of Subpart D lists actions not normally requiring the preparation of either an Environmental Impact Statement (EIS) or an Environmental Assessment (EA), provided the actions do not adversely impact environmentally sensitive resources. Actions specifically authorized for categorical exclusion include B4.1: Establishment and implementation of contracts, marketing plans, policies, allocation plans, or acquisition of excess electric power that does not involve: (1) the integration of a new generation resource, (2) physical changes in the transmission system beyond the previously developed facility area, unless the changes are themselves categorically excluded, or (3) changes in the normal operating limits of generation resources.

Biological Resources

There are no biological resources affected by the proposed action.

Cultural Resources

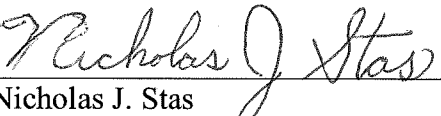
There are no cultural resources affected by the proposed action.

Number and Title of Categorical Exclusion Applied

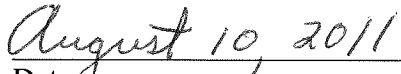
B4.1: Establishment and implementation of contracts, marketing plans, policies, allocation plans, or acquisition of excess electric power that does not involve: (1) the integration of a new generation resource, (2) physical changes in the transmission system beyond the previously developed facility area, unless the changes are themselves categorically excluded, or (3) changes in the normal operating limits of generation resources.

Determination

Based on my review of information provided to me concerning the proposed action as NEPA Compliance Officer, I have determined that the proposed action fits within the specified class of action, the other regulatory requirements set forth above are met, and the proposed action is categorically excluded from further NEPA review.



Nicholas J. Stas
NEPA Compliance Officer



Date