

marketing plan which is not the intent of the Program. Therefore, Western is not proposing to adjust or increase current customer allocations.

Other comments received suggested supporting renewable resources as an other appropriate purpose for the resource pool. Comments suggested that any commitment of the resource pool to support renewable resources through allocations should be subject to existing laws, regulations, and guidelines set forth in previous marketing initiatives, specifically the requirement that any applicant must meet preference status. Western agrees that any use of the resource pool must comply with existing laws, regulations, and guidelines, and must be made to preference entities. Western has allocated power to the majority of eligible preference entities within the P-SMBP-ED marketing area. Should a renewable resource program be developed using power from this resource pool, Western would be withdrawing power from entities across the region to develop a very small renewable program available to these same entities. Western believes the best manner to support renewable resources with this power is to allow existing customers to retain the power that may be available after allocating to new customers. This will allow all preference entities across the marketing area to leverage this power and use existing allocations to support renewable resources if they so choose. Western recognizes that many customers are already demonstrating support of renewable resources through their investments in various wind projects across the P-SMBP-ED marketing area near Moorhead, Minnesota; Lincoln, Nebraska; Grand Forks, Minot, and Valley City, North Dakota; and also in Chamberlain and Howard, South Dakota. Wind projects are being developed and implemented by Western's customers regardless of any potential new allocation from this resource pool.

Use of the Post-2005 Resource Pool

Based on examination of the Letters of Interest, Western has determined the resource pool should be made available to new preference customers and is not proposing to use a share of the resource pool for other appropriate purposes. Allocations to new preference customers shall be made in accordance with the P-SMBP-ED Final Post-1985 Marketing Plan (45 FR 71860) (Post-1985 Marketing Plan) and the Program. Western intends to carry forward the key principles and criteria that were

established in the Post-2000 Resource Pool, except as modified herein.

The Proposed Post-2005 Resource Pool Allocation Procedures

These proposed procedures for the P-SMBP-ED address (1) eligibility criteria; (2) how Western plans to allocate the resource pool in accordance with the Program to eligible applicants as new preference customers and not for other appropriate purposes; and (3) the terms and conditions under which Western will sell the power allocated.

I. Amount of Pool Resources

Western proposes to allocate up to 1 percent (approximately 20 megawatts) of the P-SMBP-ED long-term firm hydroelectric resource available as of January 1, 2006, as firm power to eligible new preference customers. Firm power means capacity and associated energy allocated by Western and subject to the terms and conditions specified in the Western electric service contract.

II. General Eligibility Criteria

Western proposes to apply the following general eligibility criteria to applicants seeking an allocation of firm power under the proposed Post-2005 Resource Pool Allocation Procedures.

A. Qualified applicants must be preference entities as defined by section 9(c) of the Reclamation Project Act of 1939, 43 U.S.C. 485h(c), as amended and supplemented.

B. Qualified applicants must be located within the currently established P-SMBP-ED marketing area.

C. Qualified applicants must not be currently receiving benefits, directly or indirectly, from a current P-SMBP-ED firm power allocation. Qualified Native American applicants, who did not receive an allocation from the Post-2000 Resource Pool, are not subject to this requirement.

D. Qualified utility and non-utility applicants must be able to use the firm power directly or be able to sell it directly to retail customers.

E. Qualified utility applicants that desire to purchase power from Western for resale to consumers, including cooperatives, municipalities, public utility districts, and public power districts must have met utility status by January 1, 2003. Utility status means the entity has responsibility to meet load growth, has a distribution system, and is ready, willing, and able to purchase Federal power from Western on a wholesale basis.

F. Qualified Native American applicants must be a Native American tribe as defined in the Indian Self

Determination Act of 1975, 25 U.S.C. 450b, as amended.

III. General Allocation Criteria

Western proposes to apply the following general allocation criteria to applicants seeking an allocation of firm power under the proposed Post-2005 Resource Pool Allocation Procedures.

A. Allocations of firm power will be made in amounts as determined solely by Western in exercise of its discretion under Federal Reclamation Law.

B. An allottee will have the right to purchase firm power only upon the execution of an electric service contract between Western and the allottee, and satisfaction of all conditions in that contract.

C. Firm power allocated under these procedures will be available only to new preference customers in the existing P-SMBP-ED marketing area. This marketing area includes Montana (east of the Continental Divide), North Dakota, South Dakota, and specific areas in western Iowa, western Minnesota and eastern Nebraska. The marketing area of the P-SMBP-ED is Montana east of the Continental Divide, all of North and South Dakota, Nebraska east of the 101° meridian, Iowa west of the 94½° meridian, and Minnesota west of a line on the 94½° meridian from the southern boundary of the state to the 46° parallel and thence northwesterly to the northern boundary of the state at the 96½° meridian.

D. Allocations made to Native American tribes will be based on the actual load experienced in calendar year 2002. Western has the right to use estimated load values should actual load data not be available. Western will adjust inconsistent estimates during the allocation process.

E. Allocations made to qualified utility and non-utility applicants will be based on the actual loads experienced in calendar year 2002. Western will apply the Post-1985 Marketing Plan and the Program criteria to these loads. Western will carry forward key principles and criteria established in the Post-2000 Resource Pool, except as modified herein.

F. Energy provided with firm power will be based upon the customer's monthly system load pattern.

G. Any electric service contract offered to a new customer shall be executed by the customer within 6 months of a contract offer by Western, unless otherwise agreed to in writing by Western.

H. The resource pool will be dissolved subsequent to the closing date for executing firm power contracts. Firm