Statement of Patrick Ledger
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Before the House Natural Resources
Subcommittee on Water, Power, and Oceans

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Mr. Chairman and Mr. Ranking Member, on behalf of Arizona Electric Power Cooperative, I am appearing today to discuss H.R. 2371, the Western Area Power Administration Transparency Act. We welcome and support passage of this legislation as it bill will assist customers of the Western Area Power Administration (“Western”) understand the use of Western’s budget authority and how it is reflected in the bills we pay on a monthly basis. In many respects H.R.2371 builds on efforts by Western to improve transparency into the use of its budget authority and how the money Western spends is captured in the rates we pay for power and transmission service. This legislation also follows the commitment to transparency that Congressman Gosar has promoted in prior Congresses such as the requirement to disclose costs related to Environmental Species Act compliance.

Arizona Electric Power Cooperative is a not-for-profit wholesale power and transmission provider for six class A cooperative members with service territories in Arizona, California, and New Mexico. Based in Benson, Arizona, we own and operate 625 MW of installed capacity and over 620 miles of transmission lines. We are also a power and transmission customer of Western and interact with Western personnel on a daily basis. The staff members in the Desert Southwest (“DSW”) regional office are our partners in the truest sense and share our commitment to provide reliable electric service at the lowest possible cost consistent with sound business principles. Indeed, we rely on the assistance of any number of front line Western employees in the DSW office who strive every day to help us meet our mission as a consumer owned utility.

Anyone who has spent time in the rural portions of Arizona can attest to the fundamental need for electricity. It is not a luxury. It is a day to day lifeblood necessity for activities ranging from maintaining a livable climate to operating the wells that provide water supplies. If we consider the fact that a significant portion of our end use consumers live on fixed incomes or struggle to maintain a standard of living that exceeds the poverty line, the price of electricity assumes greater importance than it may otherwise.

Because Arizona Electric Power Cooperative is owned by consumers, we are fully accountable to all of our members and their ultimate member retail customers. In this regard, we have to account for all of our expenses including the costs of power and transmission service we pay to Western. No expense is too small to evade review by our members. This is not atypical. Cooperatives and other public power entities closely watch all costs because all expenses are borne by ratepayers.

The review of the rates we charge is subject to close scrutiny. We can account for all of our expenses, and where we can, we will reduce our costs to lower rates or at least maintain rate stability. When costs increase for Arizona Electric Power Cooperative, our board members who represent end use electric consumers demand accountability. In every aspect of our power supply program, I can explain with detail the components of a rate and the reasons why a rate has increased. However, there is one exception to this capability; I cannot fully explain in detail why rates from Western have increased.

The reason why I am at a lost to explain in depth why Western rates have increased is that I, and other Western customers, lack the details as to how Western utilizes its budget authority. Western rates are developed through a process that does not invite in depth review of the actual rate components. Instead, individual Power Marketing Administration ("PMA") customers need to engage Western in conversations to understand how a rate was created and why certain costs are included. To be clear, Western is willing to have discussions and there is no reticence in holding a meeting. However, what is missing from the presentations from Western and conversations with Western officials on the use of budget authority is the granularity that would help PMA customers understand why rates continue to increase. The promise to be transparent is not fully met simply by having a meeting.

The creation of the website The Source reflects a good faith effort to try and be more transparent. Yet, while we are offered an overview of rates for each region and copies of presentations made by Western management on "The Source", we are not provided the details that answer the questions that our members and their customers have. This is where the Western Area Power Administration Transparency Act would help fill the gap.

H.R. 2371 would require Western to provide detailed accounting for expenditures, capital costs, and staffing costs on a regional basis and including the Western headquarters office. In particular, the legislation would require a breakdown of these costs on a functional and budgetary level so that the power and transmission customers can assess how Western is executing its budget authority and how those expenses are showing up in rates. Further, the legislation would require Western to document the magnitude of these changes to that customers can track year to year changes.

When rates increase as they have in the DSW over the past several years, we want to know how much of the increase is attributed to the increase in staffing in either Full Time Equivalents ("FTEs") or contractors. As we have observed, the full costs of running the program at Western are not confined to FTE costs. At bottom, the proposed transparency legislation would help us answer many of these questions because it is also aimed at requiring a retrospective look beginning with 2008.

The question has arisen why the legislation starts with a 2008 starting period. Around that time period, we started seeing a growth in Western staffing and budgets that we had not witnessed in prior years. For example, we have heard of a 75% increase in FTE staffing at Western headquarters since 2008. Indirect costs for headquarters alone have risen by 45% from fiscal year 2011 to 2016. We have also seen projections that calculate total headquarters costs rising by more than 170% from 2007 to

2016. In my mind, this raises two important questions. First, are these figures accurate, and second, if true, what is the root cause of these increases?

Western has told customers anecdotally, that headquarters costs have increased because of regulatory compliance, a growth in construction programs, cyber and fiscal security needs, and an upgrade of its financial system. We do not deny that Western has responsibilities to meet, many of which have become real and present in recent years. Many of the same cost drivers have arisen for Western's customers as well. In fact, I would posit that a utility wrestling with the pantheon of environmental laws and actual load responsibility has faced more cost drivers in recent years than Western. Nonetheless, we hear how Western needs to hire fifty two more full time employees to meet reliability responsibilities and note that our own organizations have met these same obligations with one or two new hires, or retrained existing employees.

At a time when Western has increased rates for Arizona Electric Power Cooperative by 32% over the past five years, we have been able to minimize the impact of those increases through cost cutting and reductions in force. Of course, this is not an easy dialogue to have in rural areas where unemployment can run higher than national averages. To tell an employee that you need to eliminate his job because the federal government has hired more people to do a similar job does not sit well. But it is even more difficult to convey this message when you do not have the complete picture from Western on why jobs are added, rates are escalating, and costs appear to compound into the future.

To be sure, Western is a large and complex organization. In fact, the multi-layered and wide range of Western's operations invite the type of guidance from Congress that H.R. 2371 provides. Yet, the type of financial disclosure required by the proposed transparency legislation would require some effort to implement it. Customers whom I have consulted have agreed that the time and expense to set up the website with more robust materials, and continue to update it would be beneficial. We believe we can help identify areas in which customer collaboration with Western can help reduce costs in the near and long term.

This is perhaps the most fundamental benefit that the transparency legislation offers. With better information broken down in key components – and with a historic perspective – customers can have a better dialogue with Western. If we are more aware of the cost drivers, and if we can have an honest conversation with Western on whether those expenses should be borne by hydropower and/or transmission customers, we can reach solutions to common problems that much more easily. Indeed, as I noted earlier, there are many fine individuals in the Western DSW office with whom we closely work. There is no barrier to having communications with Western, only opportunities to improve the content of those discussions. By working together, Congress, Western and the federal power customers can address the multiple goals of the federal hydropower resource in the Desert Southwest Region and maximize the benefit of the system for all.

It is also important, to understand how H.R. 2371 would fit within the overall Federal Power Program as well. By history and tradition, the Federal Power program has operated from longstanding Congressional policy that sought to promote the widespread use of power generated at publicly financed facilities by selling such power in the first instance to a class of non-profit entities, *i.e.*, cooperatives and municipally owned utilities that are also described as preference customers. Within this concept, Courts have discerned that sales to “preference customers” encouraged a yardstick competition by which all utility rates could be measured, a benefit to all regional consumers.[1] As explained in an opinion issued by the U.S. Court of Appeals for the Second Circuit:

> Congress, while concerned with meeting the needs of rural and domestic consumers, believed that all interests could be best be served by giving the local entities the right to decide on ultimate retail distribution of the preference power sold to them. This belief was founded on the so-called 'yardstick competition' principle, which assumes that if the municipal entities (as distinguished from the end-users) are supplied with cheap hydropower their lower competitive rates will force the private utilities in turn to reduce their rates, with resulting benefits to all, including rural and domestic consumers.”[2]

Federal facilities, such those that serve customers of Western and DSW, should therefore operate to meet a significant Congressionally mandated policy which anticipates that selling presumably lower cost hydropower to non-profit public bodies such as rural electric cooperatives will allow them to reduce their rates and act as “yardstick” to encourage lower rates by others. As explained by former Federal Energy Regulatory Commission Chairman Lee White, “[t]he preference clause [applicable to federal power] is, most simply, a recognition that public owned resources belong the nation’s people, and should be distributed directly to the people where it is possible to do so.”[3]

Fundamentally, H.R. 2371 continues the tradition of yardstick competition by allowing for a dialogue that will ensure that the rates remain as low as possible to provide low cost price signals that can stimulate wholesale price competition. In fact, this is an area which we encourage Western to monitor closely. When many contractors recently signed contracts for the Hoover Power, the price met or exceeded prevailing power rates at nearby trading hubs. With many low cost renewable resources becoming available within regions served by Western, this may be a trend that likely cannot be ignored.

However, in recent years, we have been told that Western rates are low and within range charged by many of its customers, so there should be no complaints. To be clear, yardstick competition is not a comparison of Western rates against the rates charged by its customers. The focus, therefore, is whether the rate is cost based, and when those costs are increasing substantially year-to-year, whether those cost increases are reasonable and appropriate. This is part of the goal of H.R. 2371, to provide the insight into the costs that Western incurs so that we can be assured that the rates are on a cost basis and are reasonable and appropriate.

On behalf of the electric ratepayers who receive the benefits of Western power and transmission services in the Southeast, we thank Congressman Gosar for the leadership with this

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[1] Power Authority of State of N.Y. v. FERC, 743 F.2d 93 (2nd Cir. 1984).
[2] Id at 105 (internal citations omitted).
[3] Municipal Electric Utilities Assoc. of N.Y. v. Power Authority of the State of N.Y., 21 FERC ¶ 61,021, 61,134 (1982).

legislation. We also appreciate the attention that the Chairman has devoted to this legislation and welcome the opportunity to work with the Subcommittee to answer questions and improve the legislation as appropriate.