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UNITED STATES DEPARTMENT OF ENERGY

BEFORE THE  
COMMITTEE ON RESOURCES  
UNITED STATES HOUSE OF REPRESENTATIVES

TESTIMONY ON  
IMPLEMENTATION OF H.R. 4857 PROVISIONS  
TO INCLUDE IN CUSTOMER BILLINGS INFORMATION ON COSTS INCURRED  
TO COMPLY WITH THE ENDANGERED SPECIES ACT  
BY THE FEDERAL POWER MARKETING ADMINISTRATIONS

MARCH 16, 2006

Thank you, Madam Chairwoman and other members for inviting me here today to speak on H.R. 4857 and more specifically about the costs Western and its power customers incur as part of our responsibilities to protect and recover plant and animal species covered under the Endangered Species Act of 1973 and Western's role in working with the Fish and Wildlife Service and the generating agencies to mitigate impacts to and restore habitat used by threatened and endangered species.

Western is one of four Federal power marketing agencies under the Department of Energy. We market and transmit about 10,000 megawatts of electricity generated from 56 Federally-owned hydropower plants located primarily on the Missouri and Colorado rivers and from the Central Valley Project in California. Western also markets the United States' entitlement from the coal-fired Navajo Generating Station near Page, Arizona. Western sells power from these 15 separately authorized and managed projects at cost-based rates and delivers it using our 17,000-mile transmission system and the transmission systems of other utilities to consumers across the West.

In any given year, Western sells about 40 percent of regional hydropower in our 1.3 million square mile service territory that spans 15 western states. Western has allocated this Federal power to more than 750 customers including cities and towns, rural electric cooperatives, public utility and irrigation districts, Native American tribes and Federal and state agencies.

The Western Area Power Administration, the Bureau of Reclamation, and the Army Corps of Engineers incur various expenses related to complying with the Endangered Species Act (ESA). Such expenses include direct expenditures for personnel, operations & maintenance, capital projects, and studies related to the preservation and restoration of threatened and endangered species. An example is the temperature control device at Shasta Dam. This device is used to regulate downstream water temperature for the benefit of salmon and steelhead in the Sacramento River.

Western also incurs indirect costs attributable to the Endangered Species Act. Two types of indirect costs are: (1) replacement power purchases that Western buys to meet its contractual commitments when the Federal hydropower operations are constrained for ESA reasons, and (2) lost sales revenue when ESA operating constraints prevent the generation of hydropower when it is most valuable. For example, if on-peak water releases are limited for ESA reasons, hydropower that could have sold for a higher price during on-peak hours must, instead, be shifted to off-peak hours when power prices are lower, reducing the project's revenue.

Since FY 2000, Western has incurred on average approximately \$96 million per year in ESA-related expenses. Western's ESA costs, and the generating agencies' ESA costs related to power generation, are repaid by Western's customers through their power rates, unless Congress directs that such costs be nonreimbursable. The Colorado River Storage Project (CRSP) makes up roughly 85 percent of that estimate. In the case of the CRSP, which operates using a revolving fund, nonreimbursable costs affect the cash flow of the revolving fund even though such costs are not included in customers' power rates. This feature is unique to the CRSP; for other projects ESA costs assigned to power are fully reimbursable.

Since 1983, the CRSP Basin Fund has provided nearly \$275 million of non-reimbursable funding for environmental programs and compliance activities including increased purchase power to meet our contractual obligations. Non-reimbursable costs are funded from CRSP revolving fund cash flow. Since 1983, CRSP has also spent approximately \$46 million on reimbursable compliance activities. In addition, CRSP power customers bear the burden of additional power purchases for lost generation due to environmental activities.

Not all of the generating agency ESA compliance costs included in Western's rates are related to the Bureau of Reclamation and the Colorado River. For example, efforts to recover the pallid sturgeon, the least tern and the piping plover on the Missouri River are related to Corps of Engineers generation. Costs for ESA efforts on the Missouri River are in transition with the implementation of a new Master River Operations Manual and implementation of an adaptive management program for recovery of the species. Costs are expected to increase in the future. The EIS is not yet final on the Platte River which is facing similar recovery efforts on the same species and will see increased ESA costs in the future.

Costs related to wildlife habitat restoration, outside the scope of the ESA, may also be paid by Western's customers. For example, since the passage of the Central Valley Project Improvement Act in 1992, power beneficiaries have contributed over \$120 million to environmental habitat improvement. These costs are not always included in Western's power rates; they may be paid through direct assessments to customers. In the case of the Central Valley Project Improvement Act, environmental funding is accomplished through a monthly restoration fund bill.

Western also incurs ESA-related costs through the construction of transmission lines and related power delivery infrastructure. These costs might be an obligation of transmission customers, in which case they would not be fully recovered through bills to power customers.

It is my understanding that H.R. 4857 would require only reimbursable costs included in the monthly billing to the customers. Even though an ESA line item on our power customer's bill would not report the total cost of ESA compliance, our annual report to the Committee on Resources of the House of Representatives and the Committee on Environment and Public Works of the Senate, would include an estimate of all costs as described above for each of Western's projects.

In conclusion, the Administration shares the interest in accountability that prompts this legislation. Power bills result from complicated calculations and the public debate about what affects power rates often strays from hard numbers. H.R. 4857 would take a step toward clarifying the matter. There are many ideas in the legislation that are feasible and many concepts that are in line with the overall Administration policy in terms of properly reflecting the costs of regulation to the ratepayers. The Administration has no position on the legislation at this time, but there are many concepts in the legislation which the Administration would not oppose. The Administration is still studying the legislation as a whole and looks forward to participating in the broader debate as it unfolds.

Thank you, Madam Chairwoman. I would be pleased to answer any questions that you or the members may have.