



**Statement of Scott Corwin
Public Power Council**

**Residential Exchange Program
Public Meeting -- August 1, 2007**

Good evening, I am Scott Corwin, Executive Director of the Public Power Council (PPC) representing over 100 Northwest consumer-owned electric utilities in matters regarding the federal Columbia river power system and the Bonneville Power Administration (BPA). Our members take several business forms including municipal, public and peoples utility districts, mutuals, and cooperatives. The common link is that they operate on a not-for-profit basis and are owned by the customers to whom they must answer when it comes to policy or rate matters.

Context

PPC has worked on issues surrounding the residential exchange since before its inception in the Northwest Power Act of 1980. As in the past, debate around the residential exchange raises key issues, but not the only issues we face. The 1980 Act addressed some of the most fundamental power planning and resource questions facing the Northwest. Today, we are in the middle of BPA's Regional Dialogue process designed to clarify the power supply roles and responsibilities for the federal system over the next 20 years.

The issues around long-term power supply products, contracts, and rates will take a Herculean effort by all of us if we are to keep to the schedule outlined by BPA for contract signature by the end of next year. But, it is an effort critical to the region's ability to plan and provide rate stability to consumers. The Residential Exchange Program (REP) is necessarily tied with the other parts of the Regional Dialogue. BPA has been clear that contracts would be offered only when they are ready to be offered to all parties.

This is an important matter, and we have appreciated the interest in and guidance on the residential exchange issue from our Northwest Congressional delegation and Governors. They have urged that we resolve this matter in the region. That is good advice that we can, and should, follow.

Negotiations

We are in a situation currently that is unfortunate for customers of both public utilities and private utilities. There was a suspension of payments to the investor-owned utilities (IOUs), but no corresponding rate decrease to public power utilities. Public power consumers did not advocate for suspension of these payments, but we did maintain that our customers had been

overcharged since 2002 and that the payments to investor owned utilities should reflect a lower level under the law. The Ninth Circuit Court of Appeals, the second highest court in the land, agreed with us.

Even though the residential exchange settlements were found illegal, and public power has suffered significant rate increases associated with the agreements for over five years, we understand the need to try to reach an agreement that provides rate relief to preference customers and restarts payments to the IOUs while adhering to the Northwest Power Act's provisions. Since May, when the Ninth Circuit ruled, representatives of public power have worked constructively to implement the court's decision.

The negotiating team appointed to represent public power in discussions with IOU representatives has taken this process very seriously and has worked to move negotiations forward. I would like to thank them for their hard work on this, and I'd like to thank our counterparts for their time and effort on this. It is in the interest of all of us to resolve this matter as quickly as possible. This is the best way to restart payments to customers of IOUs, obtain the rate relief for our customers envisioned by the Ninth Circuit, and move expeditiously to other pressing issues we face.

Principles

As we entered negotiations, our caucus held certain fundamental principles in mind. First, we believe this issue should be resolved in the region in the least amount of time possible. In light of almost annual attacks from outside the region, our approach should keep in mind the need to preserve the benefits of the federal Columbia River power system for citizens of the Northwest because our regional economy is inextricably tied with this system. Second, it should be resolved in a way that can stand by itself and be sustained legally, politically, and administratively. Third, it should be resolved in a manner that provides rate relief to our customers as expected by the court.

The Balancing Act

The Northwest's federal hydropower system creates clean, low-cost electricity for the region. To ensure that the benefits of these projects flow directly to the general public, non-profit consumer-owned utilities purchase electricity from these projects. In return, these utilities pay for the costs of the federal system and sell the power at cost to their customers.

In the 1980 Northwest Power Act, Congress struck a careful balance of benefits of this system between public and private utilities and expressly reaffirmed consumer-owned utilities as BPA's preference and priority customers.

While the intent within the Northwest Power Act was to share some benefits through the residential exchange program, these benefits came with certain conditions. A deal was struck; it is a deal that should continue to be honored.

The Act established a method of calculating the REP benefits under §5(c) and §7(b) that includes a rate ceiling to protect preference customers. Section 7(b)(2) provides that customers are entitled to rates as if "no purchases or sales by the Administrator" under the REP were made. This protection was a key compromise expressly recognized in statute, in both the House and Senate Committee reports, and by the Ninth Circuit.

Ninth Circuit Ruling

In strong terms, in both of the cases decided May 3, 2007 by the Ninth Circuit, the Court cited clear violations of the provision of law providing the “rate ceiling” to preference customers.

In fact, the court stated that BPA “may enter into REP settlement contracts with IOUs, but only on terms that will protect the position of its preference customers, consistent with §5(c) and §7(b). In short, it must exercise its §5(c) power according to the NWPA.”

The balance struck in the NW Power Act should be honored. In doing so, it should be recognized that the public utilities have been paying more than their share of that deal for over five years. This is the heart of the Ninth Circuit’s rulings. BPA’s settlement authority cannot undermine the clear direction in the law at the expense of its customers. But, one can acknowledge this and still agree that there is ample opportunity to reach an amicable approach to implement the program moving forward.

Response to Arguments

It was predictable that there would be reaction when BPA suspended payments, even though no one requested the suspension and even though there are solutions at hand for determining a level of benefits in order to restart payments as outlined by BPA. But, we are compelled to correct some of the things we have heard in recent months that add an unhelpful tone to this debate.

First, I’ve heard others argue that the BPA customers “won’t share” the benefits of the federal system. This is false. We did not advocate the suspension of payments. We recognize that there is a correct level of benefits to IOU customers that can be reached under the law. The 1980 Act was an agreement to share benefits, but *with* important limitations that cannot just be ignored. The REP had been in the range of \$150 million or less annually in nominal dollars through most of the years prior to the settlements in question. What we objected to were settlements outside of the law that caused payments to increase suddenly to well over \$300 million annually.

Second, we hear the complaint that a “majority of the region’s population gets a minority of the benefits” of the federal system. What is missing there is the fact that the customers of consumer-owned utilities who rely on BPA have been putting up billions of dollars to pay for this system since inception in the 1930s, just as customers of IOUs pay for the hydro and other projects from which they benefit. Also, this “minority of the benefits” statement involves a questionable assumption that values the entire federal system at market even though, had that system not been available over the decades, public utilities would have acquired an array of resources in its place.

Also, keep in mind that the “minority” of the population here, customers served by consumer-owned utilities with federal power, is about two million accounts and over 40% of the population. Again, the right to buy this power is granted to utilities with consumer ownership with the understanding that their core mission is to serve those consumers at cost. The historical roots behind this run deep, even pre-dating the famous speech in Portland by President Roosevelt when he spoke of providing this power to consumer-owned utilities to provide a “yardstick” by which the service and rates of all utilities could be measured.

Third, we've heard a lot about financial impacts to customers of IOUs who have seen the suspension of this credit for a couple of months. But, we have not heard much about the impacts to customers of public power who have lived with significant rate increases not for a couple of months, but *for five years*. About 60% of the increase we saw was due to these illegal settlements that created a large obligation on BPA going into one of the worst periods of history for the Northwest energy industry.

In addition, from an equity standpoint, it should be noted that, in some areas, benefits paid to IOUs have the effect of taking money from residential ratepayers of public utilities and giving it to neighboring investor-owned utilities whose residential ratepayers then have a rate lower than the public power ratepayers paying for the subsidy.

I highlight these rate matters because it is important that the other side of this discussion have a voice. The hardship to our customers, especially businesses and farms where power is a major part of their cost of production, has been prominent and BPA has an ample record attesting to that from the process they ran when the rate increases went into effect. That said, now we need to step forward and resolve the current lose/lose predicament experienced by all customers, and move towards a solution that can stabilize this into the future.

Conclusion

Resolution of the complex issues surrounding the residential exchange is difficult for all involved, but we continue to believe it can and should be resolved amicably in the region. Public power representatives are dedicated to creating sustainable solutions that are within the law and are in the interest of all the region's electricity ratepayers.