



Affiliated Tribes of Northwest Indians

October 31, 2006

Mr. Stephen Wright
Administrator
Bonneville Power Administration
905 N.E. 11th Avenue
Portland, OR 97232

Dear Mr. Wright,

Please allow this letter to serve as the comments of the Affiliated Tribes of Northwest Indians to Bonneville Power Administration's Long-Term Regional Dialogue Policy Proposal. We appreciate the time and dedication of your staff to compile the detailed and complex proposal for marketing the federal hydropower resources for 20 years beyond 2011. We appreciate the work you have done in the region to find solutions to the many complex issues.

We generally support the proposal's goals of ensuring that the benefits of the low-cost federal system are not diluted by melding unlimited amounts of higher cost power purchases into the system and creating greater certainty regarding the majority of the regional electricity resources. We do have a number of suggestions for improving and clarifying the proposal. We also have a number of grave concerns that *must be remedied* since they are foundations of the way our member tribes will interface with Bonneville as preference customers for the foreseeable future.

It is of clear importance to us that Bonneville establish policies that will *truly encourage* the formation of tribal utilities and truly allow utilities that have already formed to grow according to their existing plans. Bonneville is not exercising its trust responsibility to act on the behalf of tribes, nor is it acting consistent with the Energy Policy Act of 2005 if it does not create policies that meet this requirement of encouraging tribal utilities.

We appreciate the exception in the policy proposal for new "small utilities", however, as is described in the list below, this step needs change and refinement to make tribal utility formation and the long term success of tribal utilities workable. Indian tribes generally sacrificed many valuable resources in order to allow for the construction, maintenance and operation of the federal hydroelectric system, yet so many of these tribes have been

unable to become Bonneville customers because of the complicated steps necessary for utility formation under Bonneville policies.

There should be no limit to the amount of power available for the establishment of new small utilities. Further, to limit high water marks to initial loads makes new utilities uneconomical as they implement planned phasing of load growth. The deadlines for utility formation are totally unworkable. The three year notice provision before utility formation is simply not in line with the reality of forming a new utility. ATNI requests that rather than deadlines, the proposal facilitate new utilities by creating a process for contingent contracts so that forming utilities can be assured a source of federal power while they are going through the steps of meeting the standards for service. It is also clearly important to us that transmission for tribal utilities be equivalent to transmission for existing utilities, whether they are on the Bonneville system or whether they are transfer service customers.

Please find a complete list of ATNI's comments in the attached Exhibit. At our September, 2006 Mid-Year Conference, this list was the subject of a Resolution of our membership. Our membership strongly supported these comments, and in large numbers attended a comment meeting with Mr. Mark Gendron and other Bonneville representatives at the Conference to emphasize these issues. In addition, our staff has met with Bonneville representatives on numerous other occasions and has gone through these issues in detail. We acknowledge that some of the clarifications have been addressed pursuant to those meetings, however we include the complete list here for the record. We sincerely hope that we see the promised clarifications and the important policy changes in the next version of the proposal.

We are open to further discussions with you or we can arrange tribal consultations, if that is necessary. Thank you again for your time and the professionalism and dedication of your staff in sorting through these difficult matters. We look forward to a day in the time frame of these regulations where there are many more tribal utilities. New tribal preference customers will expand the professional relationships between Bonneville and the tribes, while at the same time continuing to honor and maintain the relationship of trust. Please contact Margaret Schaff at 303-443-0182 with any questions or requests regarding these comments.

Sincerely,



Ernest L. Stensgar, President
Affiliated Tribes of Northwest Indians

cc: Sonya Tetnowski, Bonneville Power Administration
Margaret M Schaff, Schaff & Clark-Deschene, LLC
ATNI Executive Board
file

Exhibit

1. New Small Utilities - we appreciate the exception for small utilities, however the way the proposed HWM is to be set will generally prohibit their formation.
 - a. There is a limited amount of power for new small utilities. We prefer the original proposal which would exempt new small utilities from the ceilings. New small utilities will likely be few in number and their formation is very important to ATNI. There should be an exception for all new small utilities beyond the 50 mw/rate period limit. New small utilities should not have to compete with each other or “race” when issues are often complex and timing is outside of the utility’s control. Flexibility should be added to the 20 year limit of 250aMW for all new small utilities. 20 years is a long time.
 - b. The maximum amount of Tier I power allocated to a new small utility, their High Water Marks (HWM), should be allowed to grow as the utility grows, with reasonable limitations. Currently all planned new tribal utilities will be initiated with small loads with plans for growth over time. To limit HWMs to initial loads makes these utilities infeasible.
 - c. The deadlines in the proposal are generally not workable for new utilities and will prohibit formation.
 - d. Clarification of the fallback position: we understand that under the fallback position, new publics will be allowed Tier 1 power under the proposal, however this power will be allotted from the current customers’ amount of power rather than through an augmentation of the federal system. (The fallback could be read to mean that in the event the region does not achieve consensus, new publics will not be allowed any Tier 1 power. This is unacceptable and contrary to BPA’s statutory requirements.) We prefer that this part of the fallback proposal be stricken from the report. It is not productive.
 - e. Clarification of the transmission proposal for new utilities: we understand that new utilities will be treated the same as existing customers. (The current transmission provider does not have a veto over utility formation, which is unacceptable.) Transmission for new utilities should not be different than transmission/transfer service for existing utilities.
 - f. One suggestion is that sales of surplus energy should not be used to lower Tier 1 rates. Tier 1 rates already are based on low costs and will be stable and predictable if the 7100 MW FBS is the cost base. Irrigation rate mitigation is already an ongoing practice that is proposed to be permitted with surplus firm power. Funds from surplus power sales should be placed in an account whose purpose is to offset the costs to serve loads of new preference utilities a Tier 1 rate. This policy would 1) be consistent with BPA obligations for widespread use of the federal resource, 2) remove the incentive to lower customers’ Tier 1 rate by squeezing the fish and wildlife program to produce more surplus power.

2. Fish and Wildlife

- a. The determination of the amount of federal power available for allocation should be done only after the completion of the FCRPS Biological Opinion remand process. BPA should provide a clear commitment in conjunction with this proposal that they will fully implement the NPCC Fish and wildlife program or the FCRPS biological opinion.
- b. We support BPA's decision not to implement a Cost Review Board. We note that it will require the use of tribal resources for our participation in the proposed cost control committee.
- c. BPA must stop suggesting it can not offer sufficient wind firming services because fish-survival programs limit the system's capacity. At a minimum, BPA should state that there are many obligations on the hydro system that limit flexibility and no single component constrains the system.

3. Yakama Power

- a. We would like BPA to consider an exception for the HWM for Yakama Power. While Yakama Power is an existing utility, it only began operation within this year, and so is still a "new" utility. It has a plan to ramp up over time and at 2010 levels its load under the current plan is expected to be 3-7 MW. Their full plan would require a 42 MW load. It may not be advantageous for any party in the Yakama region to have their plan accelerated so that more of this load is being served by 2010. We would hope that their HWM could be allowed to grow under the tribal plan. As in the case of other new utilities, the transfer service issues also limit Yakama Power's ability to expand under their current plans.
- b. The annexation policy could be clarified to assist us coming to terms with this issue.

4. Transfer Service

- a. Technical meetings on Transfer Service clearly premised the discussions that all changes in policy would take place in 2011 and be implemented along with Regional Dialogue. The proposal now changes that premise by saying numerous policy suggestions will be implemented "upon finalization of the Regional Dialogue policy". The discussion in the working group meetings would have been very different had we known it was the intention to move the implementation dates forward. This creates a true hardship for small utilities and could make utility operation financially infeasible.
- b. The direct assignment guidelines are unclear. ATNI will support existing tribal utilities and new utilities to have transfer service that is comparable to service from the BPA system and consistent with exiting contractual obligations, and transfer service that upholds the intention of the contracts already in place.
- c. Clarification of Transfer Service for Annexed Load – the proposal could be read to mean that BPA would arrange and pay for transfer service for annexed loads only upon written confirmation from the gaining and losing utility that they both agree to the annexation gives service providers a veto

on new utilities. This is unacceptable. {It also appears to be directed solely to one existing situation at Yakama Power.} We can think of no policy reason for this condition. (See 1(e) above).

5. Conservation and Renewables

- a. We support conservation and renewables and the creation of products for integration of renewables.
- b. The renewable provisions should not be limited to wind, as biomass is also a growing resource that may need some integration
- c. The Energy Policy Act of 2005 contains a tribal PMA purchase power authority. We would like to see a policy implementing this provision developed with consultation among interested tribes.
- d. BPA has suggested a cap of \$21 million to facilitate acquisition of new renewable resources. While this may be an agreed upon budget number in this rate case, it should be a minimum and not a cap.
- e. BPA should continue its ongoing regional integration work with developers and utilities to overcome barriers that can raise costs and jeopardize achievement of the regional targets.
- f. While BPA has pledged to get what it considers “its share” of the regional conservation goal, it must do more to protect consumers and minimize the risks associated with an allocated system. BPA should commit to helping its customer utilities acquire all the cost-effective energy savings from their communities, not just the portion based on how much is purchased from BPA and should require a specific commitment from each utility to do so in its contract.

6. Standard Contract Language

- a. Standard contract language could be improved. We support draft contract being circulated prior to finalization of language.
- b. While utilities would assume BPA’ load growth responsibilities, the Regional Dialogue makes no explicit provision for passing on BPA’s legally mandated clean energy priorities for load growth. Specific protections for clean energy, fish and consumers must be included in the new contracts.