

PACIFIC NORTHWEST STATE UTILITY COMMISSIONERS



**Idaho
Public Utilities
Commission**



**Montana
Public Service
Commission**



**Oregon
Public Utility
Commission**



**Washington
Utilities and Transportation
Commission**

May 25, 2007

Ms. Karin J. Immergut
United States Attorney

Mr. Steven O'Dell
Assistant United States Attorney
District of Oregon
1000 SW Third Ave Suite 600
Portland, Oregon 97204-2902

RE: Petitions for rehearing in *Portland General Electric Company, et al. v. Bonneville Power Administration*, Ninth Circuit No. 01-70003
And *Golden Northwest Aluminum, Inc., et al. v. Bonneville Power Administration*, Ninth Circuit Nos. 03-73426, 03-73037, 03-73753, 03-73775, 03-73779, 03-73786, 03-73820, 03-74002, 03-74651, 03-74801, 03-70286, 04-70382, 04-70546

Dear Ms. Immergut and Mr. O'Dell:

We are the regulatory commissioners of Oregon, Idaho, Montana and Washington, responsible for regulating the investor-owned electric utilities in our respective states.

On May 3, 2007, the Ninth Circuit Court of Appeals issued decisions in the above cases that severely impact millions of people in our four states. We understand the

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Bonneville Power Administration (BPA) is seeking permission to seek *en banc* rehearing in these cases. We strongly urge the Justice Department to give BPA such permission.

Under the Northwest Electric Power Planning and Conservation Act, residential and small farm customers of investor-owned utilities are entitled to share in the benefits of the low cost federal hydroelectric system through what is called the “Residential Exchange Credit,” or REC. These two Ninth Circuit decisions substantially undercut those benefits.

As a direct result of these decisions, we have pending before us tariff changes which eliminate the REC. The impact is a sharp and widespread increase in residential and small farm electric rates across the Pacific Northwest.

The widespread impact is readily apparent. More than three million households in the four Northwest states have been receiving residential exchange benefits up to now. Obviously, the number of men, women and children who are impacted is much higher. Most of these households face rate hikes of 9.3 percent to 16.8 percent (based on average usage). The households served by PacifiCorp in Idaho face rate increases of more than 25 percent, and PacifiCorp’s Idaho irrigator customers are facing a 51 percent rate increase. Across the four Northwest states, the total of these rate increases represent a loss of over \$330 million in REC benefits each year.

A standard for reconsideration *en banc* is that “the proceeding involves a question of exceptional importance.” FRAP 35(a). These cases easily meet this standard. Indeed, it is difficult to imagine decisions that would have a more direct impact on such a large number of people than these two court decisions.

Consequently, we strongly urge you to grant BPA permission to seek rehearing *en banc* in these two cases.

Respectfully submitted,

OREGON PUBLIC UTILITY COMMISSION:



Lee Beyer, Chairman
Commissioner



John Savage, Commissioner

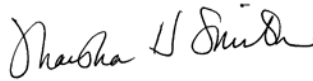


Ray Baum,

IDAHO PUBLIC UTILITIES COMMISSION:



Paul Kjellander, President
Redford, Commissioner



Marsha H. Smith, Commissioner



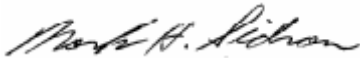
Mack A.

**On Behalf of the
MONTANA PUBLIC SERVICE COMMISSION:**



Greg Jergeson, Chair

**WASHINGTON STATE UTILITIES AND TRANSPORTATION
COMMISSION:**



Mark H. Sidran, Chairman



Patrick J. Oshie, Commissioner



Philip B. Jones, Commissioner