

“Definition of the Network Segment”

Presented by:

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On

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Proposal and Scope

- **NT Customers Proposal:**
 - BPA should not redefine the network segment
 - All facilities at 34.5 kV or above should remain in the network segment.
- **The PTP Coalition's June 13th presentation on FERC's seven factor test and the bulk electric system definition did not address the policy issue of whether the network segment should be redefined.**
- **Under BPA's organic statutes regarding BPA's mission and purpose, and FERC's statutory authority and precedent regarding BPA's transmission rates, it is clear there is no basis for redefining the network segment as proposed by the PTP Coalition.**

* Although a member of WPAG, Clark Public Utilities has not taken a position on this issue and does not join these comments.

BPA's Organic Statutes and Congressional Intent

- **BPA's current definition of the Network Segment is more consistent with BPA's organic statutes and Congress' intentions for the Agency than the PTP Coalition proposal.**
- **A primary Congressional purpose in creating BPA was to assure widespread distribution of low cost power from federal hydroelectric projects to the rural communities and farms of the Northwest.**
- **The Congressional record is replete with statements of this purpose.**

BPA's Organic Statutes and Congressional Intent (cont.)

- **Congresswoman Nan Wood Honeyman, OR:**

“I cannot too strongly stress what this means to the people of that entire area. We know what the agricultural and rural elements mean to this country. We cannot ask or expect these people to remain in rural areas to carry on the farming industry without the benefits and conveniences of modern improvements, without the modern comforts that come through the use of electrical appliances and are enjoyed by those in metropolitan districts. But they cannot use electrical appliances unless they can get cheap electric power that is to be developed at Bonneville . . . For this reason I favor the distribution of power over the widest possible area to the ultimate consumer at lowest cost possible.” Vol. 81 Congressional Record 7532 (July 23, 1937).

BPA's Organic Statutes and Congressional Intent (cont.)

- **Senator Charles L. McNary, OR:**

“This bill also provides, probably something unique, that the power shall be distributed as widely as possible . . . It is sought by this provision to make certain that any benefits which may accrue shall not be provincial in their application, but shall be distributed as far as is practicable . . . But we have placed no limitations on the area of distribution. The language encourages a wide and equitable distribution of the benefits of the rates which may be enjoyed by the people who live in the great Northwest section of the country.” Vol. 81 Congressional Record 8523 (August 9, 1937).

BPA's Organic Statutes and Congressional Intent (cont.)

- **To achieve this Congressional purpose of bringing low cost power to rural communities and farms of the Northwest, in the Bonneville Project Act Congress provided BPA with:**
 - The authority to build the necessary transmission facilities to electrify the rural communities and farm areas of the region. Bonneville Project Act § 2(b)
 - A directive that transmission and power rates be “fixed and established with a view to encouraging the widest possible diversified use of electric energy.” Bonneville Project Act § 6.
- **Congress intended BPA to encourage the widest possible diversified use of electricity by using a uniform rate (postage stamp) construct.**

BPA's Organic Statutes and Congressional Intent (cont.)

- **Senator James P. Pope, ID:**

“[T]his is one of the purposes of starting a project at Bonneville. Many parts of the great Northwest section are not now being reached and supplied with electric energy. Therefore, it is important that they should be reached, if possible, by fixing of rates as low as possible and by such other means as may be used to the best advantage to attain that much desired objective. *Therefore the term “uniform rates” appeals to me very much. In that manner I believe we will be enabled to extend the use of electric energy to a great many people who might not otherwise be able to have it.*” Vol. 81 Congressional Record 8527 (August 9, 1937).

BPA's Organic Statutes and Congressional Intent (cont.)

- **Bonneville Project Act § 6: “[R]ate schedules may provide for uniform rates or rates uniform throughout prescribed transmission areas in order to extend the benefits of the integrated transmission system and encourage the equitable distribution of the electric energy developed at the Bonneville project.”**
- **Consistent with this vision, the first BPA Administrator, J.D. Ross**
 - Initiated an aggressive transmission line construction program and
 - Established uniform "postage stamp" transmission rates for BPA so that all utilities regardless of location paid the same price for transmission over BPA lines.

BPA's Organic Statutes and Congressional Intent (cont.)

- **BPA's obligation to establish rates to encourage the "widest possible diversified use" was included in each subsequent act that together with the Bonneville Project Act constitute BPA's "organic statutes"**
 - Flood Control Act of 1944 § 5: "the Secretary of Energy... shall transmit and dispose of such power and energy in such manner as to encourage the most widespread use thereof at the lowest possible rates to consumers consistent with sound business principles..."
 - Transmission System Act § 9: the Administrator shall fix and establish rates "with a view to encouraging the widest possible diversified use of electric power at the lowest possible rates to consumers consistent with sound business principles..."
 - Transmission System Act § 10: "[R]ates and charges for transmission...may provide, among other things, for uniform rates or rates uniform throughout prescribed transmission areas.
 - NWPA § 7(a)(1): "[R]ates shall be established in accordance with section 9 and 10 of the [Transmission System Act] . . . , section 5 of the Flood Control Act of 1944."

BPA's Organic Statutes and Congressional Intent (cont.)

- **Pursuant to this mandate, BPA has built and maintained a system that has encouraged the widest possible use of Federal energy.**
 - This included constructing the transmission facilities that the PTP coalition proposes to now remove from the Network segment.
 - Many of the customers served by these facilities are among BPA's oldest customers.
 - Some of these facilities have been a part of BPA's system as long as the customers they serve have been BPA's customers.
 - This relationship and the development of these facilities are outgrowth of policies, power sales agreements and rate designs dating back decades.

BPA's Organic Statutes and Congressional Intent (cont.)

- **The PTP Coalition's proposal to redefine the network segment is contrary to BPA's duty to encourage the widest possible diversified use of electric power at the lowest possible rates.**
- **Specifically, the proposal would remove transmission facilities that primarily serve BPA's rural and smaller customers from the network segment and charge them separately for those facilities.**
- **For those customers, it would eliminate the postage stamp transmission rates concept that is at the linchpin of BPA's obligation to set transmission rates that effectuate the widest possible diversified use of federal power at the lowest possible rates.**

BPA's Organic Statutes and Congressional Intent (cont.)

- **Instead of one rate they would pay two rates and**
- **Those two rates together could be twice as much as they currently pay for transmission service over the same facilities over which they have always taken such service.**
 - For example, if the delivery charge recovered the full revenue requirement allocated to that segment, delivery segment customers would pay a total NT rate of \$1.665/kW-mo and a Delivery Charge of \$2.177/kW-mo.
 - It would expand the number of rural and small utilities impacted by this pancake rate.
 - This would be a large step away from BPA's statutory mission and duty, and a step backwards in setting BPA rates.

Applicable FERC Statutes and Policies

- **Under NWPA § 7(a)(2), FERC's review of BPA's power and transmission rates is limited to determining whether BPA's proposed rates are:**
 - Sufficient to assure repayment of federal investment in FCRPS after first meeting BPA's other costs (§ 7(a)(2));
 - Based on BPA's total system costs; and
 - Insofar as transmission rates are concerned, equitably allocate the costs of Federal transmission system between Federal and non-Federal power utilizing the system.
- **FERC's authority does not include the power to modify BPA's rate design or cost allocation decisions. *Central Lincoln Peoples Utility Dist. v. Johnson*, 735 F.2d 1101, 1115 (9th Cir. 1984).**
- **How to set rates to encourage the widest possible diversified use of energy at the lowest possible rate is BPA's task. *Id.***

Applicable FERC Statutes and Policies (cont.)

- **FERC does have two additional authorities regarding BPA's transmission rates that were enacted after the NWPA:**
 - In instances where FERC orders BPA to provide transmission service, it must assure that “no rate for the transmission of power on the system shall be unjust, unreasonable, or unduly discriminatory or preferential, as determined by the Commission.” Federal Power Act § 212(i)(1):
 - FERC may also require BPA to provide transmission services “at rates that are comparable to those that [BPA] charges itself.” Federal Power Act § 211A.
- **These subsequent statutes did not repeal BPA's duty to use its rates to encourage the widest diversified use of federal power at the lowest possible rates.**
- **BPA adopted the current segmentation policy in the 1996 Power and Transmission Rates ROD.**
 - Reduced the number of segments from nine to six.
 - Including the current definition of the network segment, i.e. facilities at 34.5 kV and above.

Applicable FERC Statutes and Policies (cont.)

- In 1996, BPA requested that in addition to confirming and approving BPA's transmission rates under the NWPA, that FERC find that those rates also satisfied § 212(i)(1) of the FPA.
- Although FERC recognized that the FPA does not require it make such a finding independent of an order directing BPA to provide transmission service, it agreed to do so.
- Order Confirming and Approving the 1996 Rates on a Final Basis (80 FERC P 61,1118), FERC made the following three findings:
- First, BPA's transmission rates and segmentation policy equitably allocated transmission costs between federal and non-federal users.

“In past filings, Bonneville has divided its transmission system into nine segments. In the current filing, Bonneville has combined some costs, and has divided its system into six segments. This change does not alter the allocation of costs between the production and transmission functions. We conclude that Bonneville has reasonably allocated its transmission costs between the Federal (Bonneville's power customers) and non-Federal (transmission customers) users of the system and that the proposed transmission rates comply with section 7(a)(2)(C) of the Northwest Power Act.”

Applicable FERC Statutes and Policies (cont.)

- **Second, BPA's transmission rates and segmentation policy were comparable**
- **Third, BPA's transmission rates and segmentation policy were not unjust, unreasonable or unduly discriminatory or preferential.**

“As we noted earlier, Bonneville's transmission rates are based on the actual cost for each of the six segments of the grid. Bonneville has used this cost allocation method for designing transmission rates for all transactions since 1981, although it has in this case varied the number of segments. In addition, Bonneville will take transmission service under its open access tariff for its power sales. We find, therefore, that Bonneville's proposed transmission rates including those proposed to be charged under its open access tariff (which we concurrently review in Docket No. NJ97-3-000, *are not only comparable to what it charges other customers, but also both conform to applicable Federal laws as discussed above, and are not unjust, unreasonable, or unduly discriminatory or preferential. In short, they meet the standards of section 212(i)(1) of the Federal Power Act.*”

Applicable FERC Statutes and Policies (cont.)

- FERC made similar findings with respect to the segmentation policy in an Order issued in 2001 for BPA's 2002 transmission rates. 95 FERC P 62,094.
- In 2005, FERC's approval of BPA's 2006 transmission rates found BPA's transmission rates, including the segmentation policy, to both equitably allocate costs between federal and non-federal users and "satisfy the Commission's comparability standards applicable to non-public utilities." 112 FERC P 62258 (Issued September 29, 2005).
- Notably, FPA § 211A was added by the Energy Policy Act of 2005, effective August 8, 2005, over a month before FERC's order.

Applicable FERC Statutes and Policies (cont.)

- **BPA's current transmission rates and segmentation policy is consistent with applicable FERC policies**
- **BPA need not adopt the PTP Coalition's proposal or apply the FERC seven factor test to ensure compliance with FERC policies.**
- **FERC has already determined that BPA's segmentation policy meets the applicable FERC standards, and simultaneously the current segmentation policy allows BPA to meet its own responsibility to set rates that encourage the widest possible diversified use of federal power.**
 - This achieves a balance between competing policies and obligations that would not be realized by the PTP Coalition's proposal.

Additional Considerations

- **BPA's interface is always wholesale, always metered.**
 - Unlike jurisdictional utilities, BPA is not a vertically integrated utility and has no retail customers.
 - In vertically integrated utilities, the reallocation of costs from transmission to distribution takes those costs from one large rate pool (transmission) to an even larger rate pool (retail).
 - That would not be the case if BPA adopted the PTP Coalition proposal.
 - That proposal would essentially double the rate paid for transmission by a small segment of BPA's customers consisting primarily of its small and rural utilities.
 - ✓ Rate shock.
- **34.5 kV was adopted as the transmission voltage in some areas because at the time BPA was coordinating with the Bureau of Reclamation which used a standard transmission voltage level of 34.5 kV**

Additional Considerations (cont.)

- **Other federal entities like BPA maintain one postage rate for all transmission facilities regardless of voltage level(s).**
 - TVA
 - WAPA
 - SWAPA

Conclusion

- **The definition BPA currently uses for its network segment strikes the appropriate balance between**
 - BPA's obligation to set rates that encourage the widest possible diversified use of energy
 - BPA's obligation to equitably allocate the costs of Federal transmission system between Federal and non-Federal power utilizing the system
 - FERC's comparability standards
 - FERC's standards that rates not be unjust, unreasonable, or unduly discriminatory or preferential
 - Congress' intent that BPA provide and transmit electric energy to the Northwest's rural communities and farms at a low cost using uniform or "postage stamp" rates.

Conclusion (cont.)

- **The PTP Coalition's proposal would upend this delicate balance, to the benefit of BPA's larger and urban transmission customers.**
- **This benefit would come at the expense and to the detriment of BPA's smaller and rural customers.**
- **This is contrary to the mission and purpose that Congress intended for BPA.**
- **The other PMAs and TVA that perform the same role as BPA (transmission providers that serve utilities that serve end use customers) charge a postage stamp rate for transmission.**
- **For these reasons BPA should not pursue the PTP Coalition's proposal.**