PACIFIC NORTHWEST INVESTOR-OWNED UTILITY COMMENTS ON LONG-TERM BPA REGIONAL DIALOGUE POLICY ISSUES

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CONTENTS

PACIFIC NORTHWEST INVESTOR-OWNED UTILITY[1] COMMENTS ON LONG-TERM BPA REGIONAL DIALOGUE POLICY ISSUES

SUMMARY

BPA's long-term power policies must preserve the value of the existing Federal Columbia River Power System (the "FCRPS") for the region and ensure that its value is equitably distributed throughout the region.

In order to preserve and equitably distribute the value of the existing FCRPS,

(i) BPA should limit the firm power sales made to Pacific Northwest firm requirement loads at its lowest cost-based rate to the firm capability of the existing federal power system.

(ii) BPA should offer to provide service to Pacific Northwest firm power loads in excess of the existing federal system capability at a higher tiered rate(s) that reflects the full cost of resources acquired to meet those additional loads.

(iii) BPA should offer to the PNW Investor-Owned Utilities for the benefit of their residential and small farm customers a Residential Exchange Program ("REP") settlement that provides an equitable and durable share of the value of the existing federal system. The PNW Investor-Owned Utilities propose that the BPA Administrator establish that share of the value at the amount by which the market price of power exceeds BPA's lowest cost-based rate multiplied by 2,200 aMW, but subject to a cap and floor that equal $350 million and $100 million, respectively, in 2011 dollars, and that are adjusted annually thereafter for inflation. Other settlement valuation mechanisms are possible.

Taking these three steps will provide BPA customers increased certainty over their load service obligations—thereby facilitating their ability to meet those obligations, help align the interests of BPA and its customers, help reduce BPA's risk profile, and strengthen BPA's ability to make its Treasury payment in full and on time. Residential and small

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[1] These comments are submitted on behalf of Avista Corporation ("Avista"); Idaho Power Company ("IPC"); NorthWestern Energy ("NWE"); PacifiCorp; Portland General Electric Company ("PGE"); and Puget Sound Energy, Inc.("PSE") (collectively, "PNW Investor-Owned Utilities").

farm consumers throughout the region will receive—and have—a stake in preserving the benefits of the low-cost federal system for the region.

BPA has recognized the importance of providing REP benefits to the residential and small farm consumers of the PNW Investor-Owned Utilities. *See* 70 Fed. Reg. 7,489, 7,495 (Feb. 14, 2005). The proposal set forth in these comments—which seeks to extend the basic approach of the existing REP settlement—promotes alignment of the interests of BPA's customers, manages the volatility and risk associated with wide swings in benefit levels, and avoids contentious and divisive disputes between BPA and the PNW Investor-Owned Utilities regarding implementation of the REP.

BPA's goal of implementing its long-term policy decisions through new long-term contracts, which would be effective beginning October 2008, is both realistic and appropriate. However, a BPA tiered rate methodology should be developed as soon as possible and applied to all contracts for new BPA service. Such methodology need not apply in the period through FY 2011 to existing service under existing contracts. The PNW Investor-Owned Utilities appreciate this opportunity to comment and look forward to working with BPA to develop its long-term policy.

RECOMMENDATIONS AND DISCUSSION

I. PRINCIPLES AND POLICY STRUCTURE

The Northwest Power Act[2] makes the benefits of the FCRPS available to all of the region's residential and small farm consumers, whether such consumers are served by public or investor owned utilities. Ensuring an equitable distribution of the FCRPS is critical to retaining these benefits within the region for current and future generations. BPA should therefore equitably distribute these benefits in a manner that does not unfairly discriminate against consumers based upon the ownership structure of their local electric utility.[3]

In order to preserve the benefits of the existing federal system[4] for the region, it is important to align the interests of the residential and small farm consumers throughout the region. Such alignment is best accomplished by providing federal power deliveries for all such consumers. However, the capacity of the existing federal system will be insufficient to satisfy the firm requirements of all such consumers. Further, there is a broad consensus between BPA and its customers that BPA should avoid diluting the value of the existing federal system by melding the cost of new resource acquisitions.[5] "[I]n February 2005, BPA set a policy direction to limit its power sales at the lowest cost-based rate to roughly the output of the existing Federal power system."[6] Given these limitations, we propose that BPA continue to provide the PNW Investor-Owned Utilities

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[2] Pacific Northwest Electric Power Planning and Conservation Act, Pub. L. No. 96-501, 94 Stat. 2697, 16 U.S.C. §§ 839-839h (1980) (the "Northwest Power Act").

[3] BPA's power preference customers are public bodies and cooperatives ("Publics"). *See* 16 U.S.C. § 839b. BPA power is to be provided for the benefit of the general public, and particularly of domestic and rural consumers. *See* 16 U.S.C. § 832c(a). In that regard, BPA "comprehends not only public power preference but also regional preference". Power Subscription Strategy at 6. BPA regional preference customers are BPA's direct service industrial ("DSI"), investor-owned utility, and Public customers.

[4] The existing federal system consists of the electricity produced by the federally owned hydroelectric dams on the Columbia River and Snake River systems, as well as the output of Energy Northwest's Columbia Generating Station (formerly known as WPPSS Plant No. 2) and other long-term resources that have been acquired by BPA and that are currently in operation or under development.

[5] Bonneville Power Administration's Policy for Power Supply Role for Fiscal Years 2007-2011, Administrator's Record of Decision, dated February 2005 ("Short-Term ROD") at 80.

[6] BPA May 11, 2005 Letter. (BPA's goal is to have the long-term contracts and rates needed to fully implement this policy direction ready to go into effect as early as October 2008 or no later than October 2011.)

for their residential and small farm customers an equitable share of the benefits of the existing federal system through financial payments. Although financial payments do not achieve maximum alignment of interests, a satisfactory alternative solution has not been identified.

Under the Northwest Power Act, the PNW Investor-Owned Utilities are entitled to substantial REP benefits for their residential and small farm customers. The level of REP settlement benefits under our proposal strikes a reasonable balance between competing views of what constitutes equitable treatment of our residential and small farm customers, while at the same time avoiding dilution of the value of the existing federal system through melding the cost of resource acquisitions. In addition, it should be noted that the payments under our settlement proposal are lower than the forecasted level of payments under a properly-determined REP.

The value of the existing federal power system increases when market prices rise faster than BPA rates, and its value decreases as market prices drop faster than BPA rates. Benefits for our residential and small farm customers based on a fixed percentage of the existing federal system increase and decrease with market prices and are an equitable method of sharing the value of the existing federal system. However, placing limits on the upward and downward movement of these payment levels, i.e., providing benefits under an REP settlement with a cap and a floor reduces risk and helps provide certainty for BPA and its customers, while providing a reasonable range of REP settlement benefits. Given that this is a long-term settlement, however, the caps and floors should be indexed to account for inflation.

BPA should develop and offer long-term contracts consistent with the principles and approaches outlined in these comments. These long-term contracts would include agreements for providing REP settlement benefits to residential and small farm customers of PNW Investor-Owned Utilities and power sales contracts for BPA's Public customers. These agreements would

(i) durably and equitably allocate the benefits of the existing federal system, which will give all BPA customers a stake in working together to preserve the benefits of, and to promote the most efficient operation of, the federal facilities; and

(ii) ensure that the costs of any new BPA resources to meet new or increased BPA load are borne by that load.

The REP settlement agreements with the PNW Investor-Owned Utilities would provide for the long-term settlement of their REP claims in return for an equitable and durable share of the benefits of the existing federal system for their residential and small farm customers. The BPA power sales contracts with Publics would establish fixed, long-term entitlements to purchase power from the existing federal system at BPA's Tier 1 rate (perhaps using BPA's current long-term contracts as a starting point for the determination of such entitlements).

Also, BPA should adopt a long-term rate methodology under which customer loads in excess of such customer's allocation from the existing federal system are served at a rate that includes the full cost of power acquired to meet those additional loads. Our proposal is predicated on BPA's adoption of such a methodology. BPA should adopt without delay this long-term rate methodology and incorporate this methodology into its new long-term power sales contracts and REP settlement agreements, in order to:

(i) reduce the risk that BPA will be overcommitted to resource acquisitions in the future;

(ii) help BPA control the costs of future resource acquisitions; and

(iii) facilitate, consistent with BPA's statutory framework, regional planning and development of economic resources to meet load in the region by providing greater certainty as to the load BPA will meet with the low-cost existing federal system resources.

II. PROPOSAL FOR RESIDENTIAL EXCHANGE PROGRAM SETTLEMENT

A. Introduction

The Northwest Power Act, adopted in 1980, makes the benefits of the FCRPS available to all of the region's residential and small farm consumers. This section sets forth a proposal for determining such benefits under post-FY 2011 long-term contracts. This proposal would help retain the benefits of the existing federal system for the region and reduce uncertainty for BPA and its customers. Appendix A to these comments sets forth further details regarding the REP and REP settlements.

B. Settlement of the REP for FY 2002-2011

Historically, BPA's implementation of the REP has triggered numerous disputes before the Administrator, the Federal Energy Regulatory Commission ("FERC") and the courts. These disputes involved the key elements that affect the level benefits under the REP: BPA's ASC[7] Methodology, utilities' ASCs, "in lieu transactions," and BPA's PF Exchange Rate (including the section 7(b)(2) rate step).

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[7] Average system cost ("ASC").

BPA and the PNW Investor-Owned Utilities have entered into REP settlement agreements for the current FY 2002-2011 period. Through these agreements, BPA and the PNW Investor-Owned Utilities have resolved their differences regarding implementation of the REP during that period.

Under the terms of the current REP settlement agreements, PNW Investor-Owned Utilities will receive, for the benefit of their residential and small farm consumers, between $100 million and $300 million per year in monetary payments for the period of FY 2007-2011. These payments are calculated based on the amount by which the market price exceeds the PF rate, multiplied by 2200 aMW. Under the settlements for the period FY 2002-2011, the allocation of payments to each PNW Investor-Owned Utility for its residential and small farm customers was made consistent with the recommendations of the Pacific Northwest State Utility Commissions. In addition, under the terms of the current REP settlement agreements, the PNW Investor-Owned Utilities will receive no firm power during the FY 2007-2011 period.

C. Proposed REP Settlement Benefits for PNW Investor-Owned Utility Residential and Small Farm Consumers Under Post-2011 Long-Term Contracts

BPA should extend the current FY 2002-2011 REP settlement, modified as follows. As in the current REP settlement agreements, the settlement beginning in FY 2012 should continue to be based upon 2,200 aMW. This is less than one-half of the residential and small farm consumer load currently served by the PNW Investor-Owned Utilities. The PNW Investor-Owned Utilities serve about 4,700 aMW of the 7,800 aMW of regional residential and small farm load. Particularly in light of this, allocating less than 2,200 aMW of benefits of the existing federal system for the residential and small farm consumers served by PNW Investor-Owned Utilities could not be considered equitable. The only way to see equity in 2,200 aMW is to acknowledge that it is a tradeoff against uncertainties associated with the Northwest Power Act.

Under the proposal, benefits would be the product of 2,200 aMW multiplied by the amount by which the market price exceeds BPA's lowest cost-based (i.e., Tier 1) rate.[8] The benefits would be subject to an annual, inflation-adjusted cap of $350 million (in 2011 dollars) and an annual, inflation-adjusted floor of $100 million (in 2011 dollars).[9] It is anticipated that these payments will be distributed among the PNW

[8] For example, the proposed benefits would be $350 million with a market price $18.16 greater than the Tier 1 PF rate (e.g., a market price of $48.16 per MWh and a Tier 1 rate of $30.00 per MWh). The proposed benefits would be $100 million with a market price $5.19 greater than the Tier 1 PF rate.

[9] This cap and floor are equivalent to $283 million and $81 million, respectively, in 2002 dollars.

Investor-Owned Utilities for the benefit of their residential and small farm customers based on an allocation jointly recommended by the Pacific Northwest State Utility Commissions. *See* Joint Letter of Pacific Northwest State Utility Commissions dated May 26, 2005. As discussed below, all of the PNW Investor-Owned Utilities are forecasted to have an ASC in 2012 that is in excess of the forecasted BPA PF Exchange Rate. (In that regard, we anticipate that the Commissions' recommended allocations would promote a broad geographic distribution of existing federal system benefits, thereby helping to ensure broader regional support.) The amount of the benefits under our proposal is less than the amount[10] of benefits we believe the PNW Investor-Owned Utilities are entitled to for the benefit of our residential and small farm customers under the Northwest Power Act.

The economics of our proposed settlement are predicated on the availability of 2200 aMW settlement benefits for the PNW Investor-Owned Utilities and the sale of the power from the existing federal system to the Publics at Tier 1. The economics and the basic balance sought by our proposal would not be realized if the costs of additional resources or additional REP payments were included in the Tier 1 rate. Such additional REP payments to any eligible BPA customers would dilute the value of our proposal for our residential and small farm customers, as it would dilute the value of Tier 1 for the Publics.

In other words, the REP settlement proposal in these comments limits the access to BPA's lowest-cost, Tier 1 Rate for the benefit of the residential and small farm customers 2,200 aMW (regardless of load growth); similarly, the proposal is based on the assumption that the access to BPA's lowest-cost, Tier 1 Rate for the benefit of BPA's Public customers is limited to a purchase of the output of the existing federal system (regardless of load growth).

Access to BPA's lowest-cost, Tier 1 Rate through the REP by the Publics at that rate would undermine the balance sought through our proposal—to the detriment of BPA's Tier 1 Public customers and the residential and small farm customers served by the PNW Investor-Owned Utilities.

By extending the existing REP settlement, the proposal described in these comments incorporates and builds upon the region's experience. Using the current REP settlement as the foundation of our proposal reduces the uncertainty inherent in moving to a new settlement methodology. On the other hand, failure to settle the REP would effectively turn back the clock to the 1980s and 1990s, trigger the resumption of

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[10] The PNW Investor-Owned Utilities recognize that such amount may be subject to dispute and believe it is appropriate to settle these disputes through the proposal advanced in these comments.

contentious REP implementation disputes between BPA and the PNW Investor-Owned Utilities,[11] and require BPA and its utility customers to add additional staff.

D. Absent a Settlement of the Residential Exchange Program, Annual Benefits for the Residential and Small Farm Customers of the Investor-Owned Utilities Are Expected to Exceed the $350 Million Cap In Our Proposal

Using the most recent data available, the PNW Investor-Owned Utilities estimate that REP benefits determined in accordance with the Northwest Power Act would, making reasonable assumptions, exceed $350 million annually for the period commencing with FY 2012. Indeed, based on some of those assumptions, it is reasonable to conclude that REP benefits would not be reduced by the section 7(b)(2) rate step and would be $600 million or more annually for the period commencing with FY 2012.[12]

These estimates assume, for example, revisions of the ASC Methodology. The PNW Investor-Owned Utilities believe the ASC Methodology must be revised and hereby request that BPA institute a process to do so. Estimated ASCs for the PNW Investor-Owned Utilities for 2012 are discussed in greater detail, and set forth in Table 1, in attached Appendix A. These ASCs are generally reflective of the increasing costs associated with factors such as hydro relicensing, resource acquisition, changing depreciation schedules, and increases in fuel costs. Based on these ASCs, each of the PNW Investor-Owned Utilities is forecasted to have an ASC greater than BPA's PF Exchange rate for the period commencing with FY 2012. Although there is some perception in the region that there are low-cost PNW Investor-Owned Utilities that would—absent settlement—not be eligible to participate in the REP during the period commencing FY 2012 by virtue of their low ASCs, such perception simply does not reflect the reality of increased costs faced by various PNW Investor-Owned Utilities.

E. The Proposed REP Settlement Benefits as a Share of the Total Value of the FCRPS Are Reasonable.

The share of the value of the existing federal system that would, under a wide range of market price assumptions, go to the residential and small farm consumers in the region served by investor-owned utilities under the proposal outlined above is

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[11] As noted above, these disputes would involve matters such as BPA's ASC Methodology, utilities' ASCs, "in lieu transactions," and BPA's PF Exchange Rate, and the section 7(b)(2) rate step.

[12] Similarly, in 2002, the PNW Investor-Owned Utilities estimated REP benefits for FY 2007-2011 determined in accordance with the Northwest Power Act would be approximately $400 million per year.

substantially less than the 60% share of such consumers served by the investor-owned utilities. This 60% would receive 24% of the value of the existing federal system if the benefits for the residential and small farm customers of the PNW Investor-Owned Utilities are between the cap and the floor, when value is determined by the amount by which market price exceeds the BPA Tier 1 Rate.[13] Even under a wide range of market scenarios, BPA's Public customers receive more than three-quarters of the value of the existing federal system under the proposal. (See Appendix A.)

F. The Proposed REP Settlement Benefits Are Reasonable as Compared With Those Provided to Residential and Small Farm Consumers of Investor-Owned Utilities Under Prior and Current Agreements

The following chart illustrates average annual benefits from the existing federal system provided by BPA under prior and current agreements for residential and small farm consumers of the PNW Investor-Owned Utilities.[14] The historic averages of financial benefits received for the residential and small farm customers of the PNW Investor-Owned Utilities fit within the $350 million cap and the $100 million floor of the proposal. Indeed, the historical average benefits are essentially at the proposed cap, which suggests that, if anything, the proposed cap is arguably too low.

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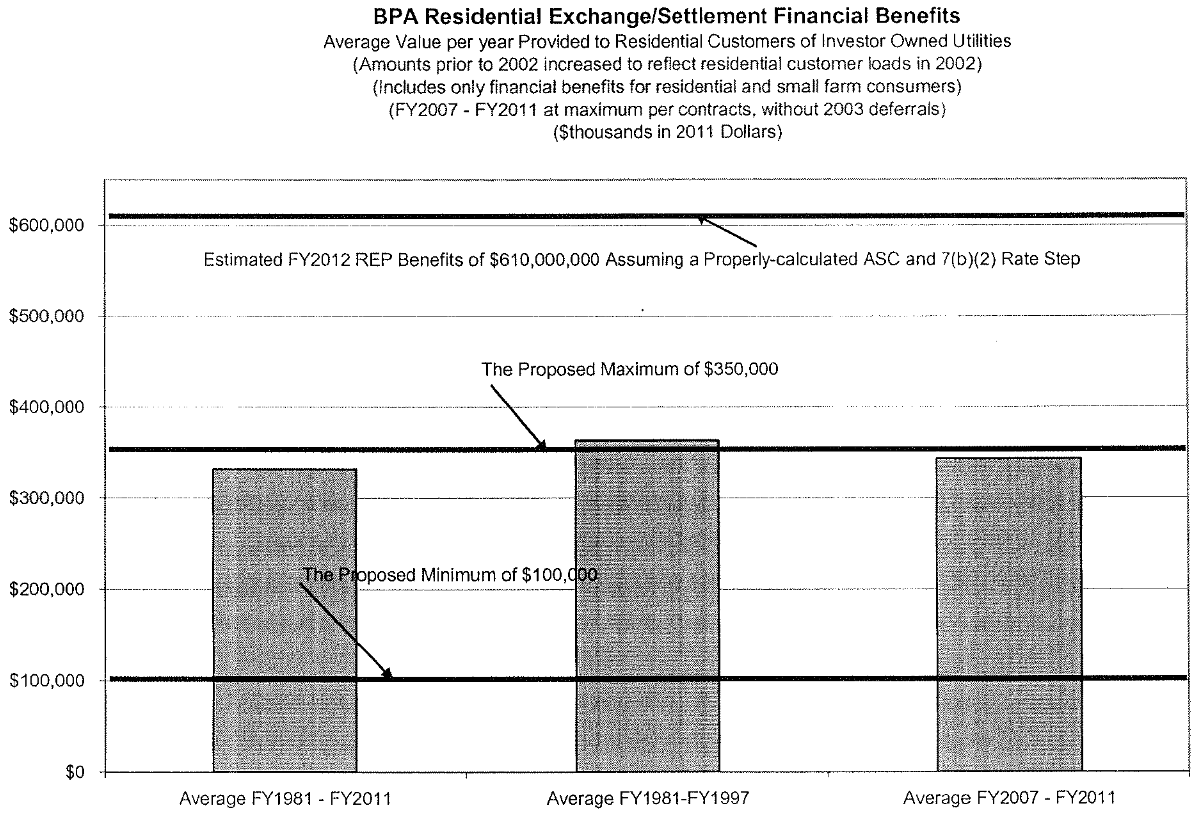
[13] The benefits for the 60% of the consumers served by the investor-owned utilities would be less than 60% of the value of the FCRPS whenever the market price exceeds BPA's Tier 1 rate by more than $2.62 per MWh.

[14] This chart illustrates the average annual benefits provided by BPA during various periods. This chart reflects financial or monetary benefits only and does not reflect any level of benefits for actual power deliveries under the current agreements.

BPA Residential Exchange Financial Benefits[15]

Average Value per Year Provided to Residential and Small Farm Consumers of Investor-Owned Utilities



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[15] The financial or monetary benefits shown above reflect two adjustments that are necessary to appropriately compare the level of these benefits during various periods:

- Adjustment for the effects of inflation by converting all of these benefits to 2011 dollars.
- Adjustment of benefits for years prior to 2002 to reflect what those benefits would have been if provided at the same rate to the residential and small farm customer load in 2002 (i.e., the benefits for any year prior to 2002 are increased by the same percentage as the increase in load between that year and 2002).

Amounts include only financial or monetary benefits for residential and small farm consumers. Amounts for FY 2007-2011 are included at maximum for those years per contracts, without 2003 deferrals.

III. SERVICE TO BPA PUBLIC CUSTOMERS[16]

A. BPA Should Adopt a Long-Term Tiered Rate Methodology

BPA should adopt a long-term tiered rate methodology that provides power to its Public customers from the existing federal system at BPA's lowest cost-based (i.e., Tier 1) rate and should provide the PNW Investor-Owned Utility REP settlement described above using the same Tier 1 rate. The BPA Tier 1 rate would be applied for BPA service to meet the net requirements of regional Publics up to the firm output of the existing federal system and would be based on the cost of that system and the cost of the 2,200 aMW PNW Investor-Owned Utility REP settlement described above. Any BPA service to Publics other than the above-described Tier 1 service (including any service to new Publics or to Public load annexed from investor-owned utilities) would be at the BPA Tier 2 rate(s) that reflect the full cost of acquiring resources to provide such service.

BPA should not meld additional resources with the existing federal system. Consistent with this, BPA is proposing a long-term tiered rate policy, recognizing that it "would help reduce BPA's firm power rates by sharply limiting the past practice of acquiring power and melding its costs with the lower cost of the existing system, thereby 'diluting' the low-cost existing system with higher-cost purchases." Short-Term Policy Proposal at page 25; 69 Fed. Reg. 43,399, 43,408 (July 20, 2004). The July 2004 GAO Report[17] at page 22 also recognized this issue:

> BPA's costs rose dramatically as the agency purchased large amounts of power, at average prices much higher than the costs of power from the federal power system, and took other steps to meet its obligations. BPA's rate structure, which did not charge incremental rates equal to BPA's costs of acquiring additional power, contributed to the rising costs because it did not give customers adequate incentives to conserve or seek power from alternative sources. . . .

BPA has determined to

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[16] The issue of service to BPA Public customers can only be addressed in an overall policy that ensures the equitable distribution of value of the existing federal system to all residential and small farm customers in the region.

[17] United States General Accounting Office, Report to the Subcom. on Energy and Water Development, Comm. on Appropriations, House of Representatives, Bonneville Power Administration: Better Management of BPA's Obligation to Provide Power Is Needed to Control Future Costs, GAO-04-694 (July 2004) ("July 2004 GAO Report").

> pursue its proposed policy direction to limit its sales of firm power to its Pacific Northwest firm requirements loads at its lowest cost-based rates to approximately the firm capability of the existing Federal system. This policy will be refined as an integral part of BPA's proposed long-term Regional Dialogue Policy. . . .
>
> It should help reduce BPA's firm power rates by sharply limiting the past practice of acquiring power and melding its costs with the lower cost of the existing system, thereby 'diluting' the low-cost existing system with higher-cost purchases.
>
> It should limit BPA's risk of having a power supply deficit with too little time to acquire resources as was the case during the West Coast electricity crisis of 2001.
>
> It should provide greater assurance that necessary electric infrastructure will be developed. . . .

Short-Term ROD at 81. This policy is best accomplished by:

(i) ensuring that the benefits of the existing federal system are durably and equitably allocated, thus giving all BPA customers a stake in working together for the most efficient operation of the federal facilities, and

(ii) ensuring that the costs of any new BPA resources to meet new BPA load are borne by that load.

This approach will reduce the risk that BPA will be overcommitted in the future and will help BPA control the costs of future power purchases by defining the rights to purchase the firm output of the federal system. This approach will, consistent with BPA's statutory framework, facilitate planning and development of economic resources to meet load in the region by providing greater certainty as to the load BPA will meet with the low-cost existing federal system resources. In other words, resources can best be planned in the region if BPA's customers (i) have a clear understanding of the long-term rate structure under which BPA will provide power to serve their loads, and (ii) BPA's long-term rate structure provides for the sale of BPA power to meet incremental loads at the full cost of the incremental resources that BPA must acquire to serve new load.[18]

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[18] This approach is also consistent with "Recommendations for Executive Action" at page 38 of the July 2004 GAO Report.

Allocation of costs under a BPA tiered rate methodology requires BPA to clearly identify and separate PBL's costs. BPA should ensure that PBL customers who place additional load on PBL bear the cost of power acquired by PBL to serve that load.

B. BPA Should Not Delay Development and Adoption of a Long-Term Tiered Rate Methodology

BPA's customers need greater clarity about their federal power supply so that they can plan effectively for the future and make long-term power supply commitments. Successful resource planning is a long-term process that requires long-term BPA policy clarity. Timely adoption of a durable BPA tiered rate methodology is fundamental to BPA's implementation of successful long-term initiatives.

BPA has proposed to establish by October 2008 a long-term rate methodology to accompany its long-term contracts. It is imperative that BPA not delay development and adoption of a long-term rate methodology for service of incremental loads at the cost of new resources to serve those loads--BPA should not wait until 2008 but rather should rather adopt such a methodology as soon as possible, for application to new service and new contracts after June 30, 2005.[19]

If BPA delays implementation of such a methodology, there is a significant likelihood that BPA will be exposed to the costs and risks of serving a significant amount of new load at a melded rate. That would expose BPA to costs and risks such as those experienced when it faced a power supply deficit as it did during the West Coast electricity crisis of 2001.

Delaying adoption of such a rate methodology will fail to provide BPA's customers incentives to conserve or seek power from alternative sources, as the region faces the prospect of needing new conservation and generating resources. BPA concluded in its Short-Term ROD that there should "continue to be appropriate incentives to develop adequate amounts of conservation and renewables." Short-Term ROD at 82. Similarly, BPA has stated that its policies should "encourage regional actions that ensure adequate, efficient, and reliable transmission and power service."[20] BPA's customers need to understand BPA's rate policies for meeting loads placed on the agency in excess of the capabilities of the existing federal system. Such understanding will assist BPA's

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[19] January 1, 2006, in the case of small Publics that serve less than 10 aMW, up to 30 aMW in total.

[20] Bonneville Power Administration's Policy Proposal for Power Supply Role for Fiscal Years 2007-2011 dated July 7, 2004 ("Short-Term Proposal") at 4.

customers in planning and developing new resources needed to meet load growth over the long term.[21]

The Short-Term ROD concluded at 22-23 that service by BPA at its lowest-cost PF rate during the FY 2007-2011 period would be available for new Publics that meet BPA's standards of service and request firm power under section 5(b) of the Northwest Power Act by June 30, 2005 (January 1, 2006, in the case of small Publics that serve less than 10 aMW, up to 30 aMW in total). The Short-Term ROD further indicated at 22 that "[l]ong-term applicability of PF plus incremental cost-based rate to such new public agency utilities will be part of subsequent long-term Regional Dialogue discussions and future rate cases."

The PNW Investor-Owned Utilities recommend that BPA proceed without delay to adopt a long-term BPA rate methodology and avoid reliance on a short-term (e.g., two- or three-year) targeted adjustment clause ("TAC") mechanisms that fail to specify that loads subject to a TAC will transition to BPA's Tier 2 Rate(s). Loads of new Publics and loads of Publics annexed from investor-owned utilities that are subject to the TAC during the FY 2007-2011 period should be served at BPA's Tier 2 Rate(s). This will help carry out BPA's established policy direction of limiting its firm power sales at the lowest cost-based rate (to its regional firm requirements load (under section 5(b) of the Northwest Power Act) to roughly the firm capability of the existing federal system. A BPA temporary TAC rate (e.g., for service to municipalized or annexed loads by Public customers) that permits new or annexed Public loads to transition to Tier 1 is inconsistent with and would undermine BPA's contemplated long-term tiered rate methodology and undermine BPA's ability to achieve objectives that led BPA's decision to pursue such a methodology.

C. BPA's Long-Term Tiered Rate Methodology Need Not Apply to Existing BPA Service Under Existing Contracts

BPA's tiered rate methodology need not apply to service to BPA customers during FY 2007-2011 under existing contracts to meet their existing loads (including their normal load growth during such period). However, adoption of the rate methodology for any new BPA service or BPA new contracts, whether during or after FY 2007-2011, will avoid driving up BPA's power costs and will provide needed certainty regarding BPA's role and rates that will facilitate resource development.

However, consistent with the Short-Term Rod, the BPA tiered rate methodology need not apply with respect to service to new Public customers (and service to Public

[21] Prompt adoption of BPA's long-term tiered rate methodology would also have the advantage of providing additional time to resolve legal challenges to the methodology should they arise.

customers for load annexed from investor-owned utilities), if and to the extent the Publics meet BPA's criteria for such service and enter into a BPA contract for such service prior to June 30, 2005 (January 1, 2006, in the case of small Publics that serve less than 10 aMW, up to 30 aMW in total).

D. BPA Must Ensure That Customers Cannot Circumvent the BPA Tiered Rate Methodology Through Other Devices

A workable tiered rate proposal must be "leak proof." That is, BPA must be diligent in ensuring that Tier 2 loads truly face Tier 2 prices in order to ensure Tier 1 customers the benefits of Tier 1 service. Accordingly, BPA will need to address technical details required to prevent customers from converting Tier 2 service to Tier 1 service and to prevent the shifting of Tier 2 costs to the Tier 1 rate—whether through the REP or through use of other mechanisms. These protections of Tier 1 service are achievable, but BPA will need to work with its customers to assure that the critical implementation requirements and protections of Tier 1 service have been fully thought out.

E. BPA's Long-Term Tiered Rate Methodology Should Be Adopted, and Confirmed and Approved by FERC, Under Section 7 of the Northwest Power Act

BPA should develop and adopt a tiered rate methodology as discussed above in a proceeding under section 7(i) of the Northwest Power Act. The adoption would be accomplished by a BPA final action that is subject to confirmation and approval by FERC, and for which judicial review in the Ninth Circuit Court of Appeals is available.

There is precedent for BPA's long-term adoption of such a rate methodology. For example, BPA in 1987 adopted the IP-PF Rate Link Methodology in a proceeding under section 7(i) of the Northwest Power Act. *See* 51 Fed. Reg. 24197, 24199 (July 2, 1986). FERC confirmed and approved extension of that methodology on February 3, 1992, noting that "since the IP-PF Rate Link Methodology provides Bonneville with load planning certainty and its DSIs customers with rate predictability, both positive attributes, the requested extension of the IP-PF Rate Link Methodology is approved." 58 FERC ¶ 62,101 (Feb. 3, 1992). Thus, a long-term BPA rate methodology has been previously confirmed and approved by FERC. Moreover, in approving such methodology, FERC noted that BPA load planning certainty and BPA customer rate predictability are positive attributes. Development of the BPA power tiered rate methodology as a final action will also help provide the framework for timely resolution of any legal challenges that might be raised regarding such final action.

IV. BPA SERVICE TO DIRECT SERVICE INDUSTRIES AND BPA NEW LARGE SINGLE LOAD POLICY

BPA's existing New Large Single Load ("NLSL") Policy has promoted stability regarding BPA's service for large industrial loads in the region, including the plants, primarily aluminum smelters, of BPA's long-time DSI customers. Generally, a new load of 10 aMW or greater is a NLSL, and the rate for BPA power sold for service by a preference customer to such load is the "Section 7(f)" rate.[22] BPA's NLSL Policy should not (and under the Northwest Power Act cannot) be changed so as to allow a Public to purchase power from BPA at the PF (section 7(b)) rate[23] for service to a DSI load moved to the Public's system. BPA service to a local Public for a DSI load at the PF rate would conflict with applicable statutes and BPA's NLSL Policy. It would also increase the uncertainty about the load-serving obligations of both BPA and its Public customers.

Shifting DSI loads to a Public's system would increase that Public's net requirement under section 5(b) of the Northwest Power Act. This increase could threaten to disrupt the balance, discussed above, that the region is trying to establish through a long-term allocation and BPA tiered rate methodology. Further, a shift of DSI plant load to a local Public would increase the Public's net requirement and would not necessarily decrease (and may well increase) BPA's exposure to costs and risks due to load fluctuations. Such a shift would eliminate BPA's ability to directly contract with DSIs for power sales and include in those contracts provisions that seek to ameliorate the effect of load fluctuations on BPA and its other customers.

In any event, any DSI benefits provided by BPA should permit BPA to use DSI stability and other reserves. As stated by the Northwest Power and Conservation Council, "'[i]f power is to be made available to DSIs, the amount and term should be limited, the cost impact on other customers should be minimized, and *Bonneville should retain rights to interrupt service for purposes of maintaining system stability and addressing temporary power supply inadequacy*.'" (Emphasis added.)[24] In that regard, all BPA sales to DSIs under section 5(d) of the Northwest Power Act, whether pursuant to their initial long-term contracts or otherwise, are required to provide reserves for firm power loads within the region.[25]

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[22] 16 U.S.C. § 839e(f).

[23] 16 U.S.C. § 839e(b)(1).

[24] Short-Term Proposal at 14; 69 Fed. Reg. 43,399, 43,404 (July 20, 2004).

[25] *See* 16 U.S.C. § 839c(d)(1)(A) and § 839c(d)(3).

BPA should explore using the Industrial Firm Power (section 7(c)) Rate ("IP Rate"),[26] which is the traditional BPA rate for DSIs, as the basis for providing service to the DSIs. The IP Rate has the advantage of reflecting a credit for reserves. Using the IP Rate also avoids issues that may arise with the use of a section 7(f) rate, such as NLSL issues and the issues regarding the availability of a section 7(f) rate(s) to various BPA customers.

V. BPA RESOURCE ADEQUACY STANDARDS

Much of the confusion regarding resource adequacy is due to uncertainty regarding BPA's load-serving obligations. As discussed above, a properly designed allocation and long-term BPA tiered rate methodology will clarify for BPA's customers the amount of power available from BPA at a rate based on the cost of the existing federal system. This will promote resource adequacy by facilitating resource planning and ensuring that those who place additional loads on BPA (rather than independently acquiring resources), pay BPA's full cost of serving those loads.

VI. BPA COST CONTROL, DISPUTE RESOLUTION AND CONTRACT DURABILITY

A. PBL Cost Control

BPA is faced with the challenge of managing the costs under its control, so as to maximize the benefits of the existing federal system. Despite the 2000-2001 wholesale power market price fluctuations, BPA's current rates are among the lowest wholesale rates in the region. The long-term prospects for BPA's power rates are excellent. BPA has a solid base of low-cost hydroelectric resources in the existing federal system. There is little question that BPA's lowest cost-based power rate will continue to be among the lowest wholesale rates in the region.

BPA should seek to provide service in the most cost-effective manner, consistent with its statutory obligations. In this regard, BPA and its customers should build on the experiences of the BPA Customer Collaborative and the Power Net Revenue Improvement Sounding Board. An effort should be made to look at what has worked in the past, enhance it, and formalize it as appropriate.

In developing BPA Power Business Line ("PBL") cost control mechanisms, it should be recognized that there are four general categories of PBL costs: (i) fish and wildlife costs, (ii) system augmentation costs, (iii) other internal costs, and (iv) other external costs. Instead of trying to develop a "one-size fits all" approach to PBL cost

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[26] *See* 16 U.S.C. § 839e(c).

control, it may be more effective to develop PBL cost control approaches that are tailored to each of these categories.

Fish and wildlife costs. Determining the appropriate level of PBL fish and wildlife costs requires identifying cost-effective actions based on clear, consistent goals founded in objective science. This can best be done in a broad forum that includes PBL customers and other stakeholders and that fosters a broad understanding of objective measures of the need for and effectiveness of various mitigation measures.

System augmentation costs. PBL's costs can increase dramatically if it is required to augment its system by acquiring power to serve increased loads. BPA can effectively control its augmentation costs with a long-term tiered rate methodology and allocation that ensures the rates for additional loads placed on PBL reflect the full cost of the power acquired by PBL to serve those loads.

Other internal costs. These costs include costs of employees, overhead, transmission acquisition, conservation, renewable resources, federal debt service (primarily for Corps of Engineers and Bureau of Reclamation facilities), non-federal debt service (for Energy Northwest facilities), and risk mitigation. BPA has made and is continuing to make significant efforts optimize the level of and control its internal costs. In addition, BPA should explore employee incentives for effective cost control.

Other external costs. These costs arise primarily through the operation and maintenance activities of three external organizations—the Corps of Engineers, the Bureau of Reclamation, and Energy Northwest. PBL's customers can play an increased role in helping BPA optimize and control the costs of these organizations paid by PBL. PBL and its customers should open up lines of well-defined communication to facilitate timely exchange of information and input into the spending decisions of these organizations. PBL and its customers should examine methods of enhancing their effectiveness in influencing the spending decisions of these organizations. For example, one such method would be to add BPA customer representation to the BPA/Corps/Bureau joint operating committees.

In addressing PBL cost control, it must be recognized that, to the extent BPA is exposed to the risk of costs related to events that are outside of its control, BPA must collect revenues to address such costs. Historically, PBL's methods for collecting such revenues have included planned net revenues for risk ("PNRR") and cost recovery adjustment clauses ("CRACs"). BPA should consider such mechanisms for the future.

B. Durable PBL Contracts and Dispute Resolution

As reflected in these comments, BPA should adopt long-term power policies that preserve the value of the existing federal system for the region and ensure that its value is equitably distributed throughout the region under long-term, durable contracts. Adopting this approach would help to minimize disputes arising out of BPA power sales and distribution of the value of the existing federal system. For example, BPA's early adoption of a long-term tiered rate methodology would reduce uncertainty and contention later, when BPA is broadly implementing the methodology. Also, REP settlement agreements as proposed by these comments, should help avoid the numerous disputes that arise out of REP implementation.

A mechanism must be found to help ensure that PBL's long-term contracts with its Public, investor-owned utility, and DSI customers are durable. One suggestion is narrow legislation that specifically ratifies such contracts. This suggestion has merit and should remain on the table. In the event that BPA does not pursue legislation at this time, it should commit to revisiting this decision periodically.

VII. BPA CONSERVATION AND RENEWABLES

BPA should continue to recognize and support the value of working on conservation and renewable efforts with all of the region's utilities, including the investor-owned utilities. Specifically, BPA should continue with its Conservation and Renewables Discount ("C&RD") rate credit mechanism,[27] with no decrement to loads—e.g., no decrement to Block or other purchases, no decrement under any BPA REP, and no decrement under any REP settlement agreements.[28]

BPA's current "no decrement" policy avoids an undesirable disincentive for conservation and renewable efforts.[29] In that regard, BPA's customers widely note the great success of the current C&RD program, which has no accompanying decrement, and widely believe this is money well spent. All of the conservation and renewables covered

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[27] *See* 16 U.S.C. § 839d(e)(2), which requires that "[t]o the extent conservation measures or acquisition of resources require direct arrangements with consumers, the Administrator shall make maximum practicable use of [BPA's] customers and local entities capable of administering and carrying out such arrangements."

[28] *See* 16 U.S.C. § 839d(k), which requires that "[i]n the exercise of his authorities pursuant to this [section 6, Conservation and resource acquisition, of the Northwest Power Act], the Administrator shall, consistent with the provisions of [the Northwest Power Act] and the Administrator's obligations to particular customer classes, insure that benefits under this section . . . are distributed equitably throughout the region." The "no decrement" approach is consistent with distribution of the benefits under section 6 of the Northwest Power Act equitably throughout the region.

[29] Similarly, for example, BPA's acquisition of resources under the Northwest Power Act must not reduce the Administrator's "efforts to achieve conservation and to acquire renewable resources installed by a residential or small commercial consumer to reduce load, pursuant to [16 U.S.C. § 839d(a)(1)]." 16 U.S.C. § 839d(b)(5).

by BPA's C&RD should be recognized in evaluating the results of BPA's conservation and renewable efforts.

BPA is uniquely situated in the region and well-suited to take a leadership role in developing experimental renewable resources. BPA should use its statutory authority to help foster the development of innovative renewable resource technology through credits and acquisitions.[30]

VIII. BPA TRANSFER SERVICE

BPA has indicated that outstanding issues identified in BPA's Transfer Service ROD need to be resolved.[31] Fundamental issues are whether costs of transfer service (off-system deliveries)[32] should be rolled into transmission or power rates and whether the costs of low voltage delivery service should be rolled into BPA's main grid transmission rates. *See* Transfer Service ROD at 12, 14.

The BPA Transmission Business Line ("TBL") main grid rates should not include the costs of low-voltage delivery facilities. BPA for decades had a Customer Service Policy under which it would generally only install facilities for the delivery to generating Publics and investor-owned utilities of non-federal power at 230 kV or greater, but would install facilities for the delivery of federal power (typically to BPA full requirements customers) at much lower voltages.[33] Consequently, it would be inequitable for BPA to now collect the cost of these lower-voltage delivery facilities through the main grid segment (i.e., network) rates. TBL transmission customers such as generating Publics and investor-owned utilities pay TBL's main grid rates for the delivery of federal and non-federal power over BPA's main grid segment. Thus, these customers that bear the

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[30] BPA has authority to acquire the output of experimental resources under 16 U.S.C. § 839d(d). Under 16 U.S.C. § 839d(e)(1), "[i]n order to effectuate the priority given to conservation measures and renewable resources under [the Northwest Power Act], the Administrator shall, to the maximum extent practicable, make use of his authorities under [the Northwest Power Act] to acquire conservation measures and renewable resources, to implement conservation measures, and to provide credits and technical and financial assistance for the development and implementation of such resources and measures . . . ."

[31] BPA's May 11, 2005, letter indicates that outstanding issues in the December 22, 2004 Administrator's Record of Decision, Proposed Contract with Transfer Service Customers Regarding the Initial Rate Treatment of Certain Transfer Service Costs and Other Issues Related to Transfer Service ("Transfer Service ROD") need to be resolved.

[32] For simplicity, these comments refer to all deliveries of power to BPA customers over non-federal facilities as "off-system deliveries."

[33] E.g., 34.5 kV and above, up to (but not including) 230 kV facilities.

cost of their own lower-voltage facilities that they installed over the years under BPA's discriminatory customer service policy should not also pay through BPA's main grid charge a portion of the cost of the lower-voltage facilities installed by BPA to deliver federal power to BPA's full requirement customers. This would be inequitable and in effect continue the results of the historical and discriminatory treatment of BPA transmission customers.

Similarly, TBL should not pay or bear the costs for delivery of federal or non-federal power purchases of customers over non-federal facilities. BPA for decades delivered federal or non-federal power at 230 kV or greater to generating Publics and investor-owned utilities, but paid the cost of off-system deliveries to a number of BPA full requirements customers, typically at lower voltages. It would be inequitable for TBL to now collect the cost of these off-system deliveries, particularly through TBL's main grid segment (i.e., network) rates. TBL transmission customers such as generating Publics and investor-owned utilities pay TBL's main grid rates for the delivery of federal and non-federal power over BPA's main grid segment. Thus, these customers that bear the cost of their own lower-voltage facilities that they installed over the years under BPA's discriminatory customer service policy should not also pay through BPA's main grid charge a portion of the cost of the off-system deliveries to a subset of BPA customers, typically BPA full requirements customers. This would be inequitable and in effect continue the results of the historical and discriminatory treatment of BPA transmission customers.

The allocation of the cost of TBL low-voltage delivery facilities to TBL's main grid rates and the allocation of costs for delivery of federal or non-federal power purchases to TBL's main grid rates would be inequitable, for the reasons set forth above. Such allocations would also violate the statutory requirement that the costs of the federal transmission system be equitably allocated among the federal and non-federal power utilizing such system.[34]

In sum, the TBL should not pay or bear the costs for delivery of federal or non-federal power purchases of customers over non-federal facilities and BPA's costs for off-system deliveries cannot be allocated to TBL's transmission rates.[35] *See* Northwest

[34] *See* 16 U.S.C. § 839e(a)(2)(C).

[35] Northwest Power Act section 7(a)(2) provides that BPA's rates become effective upon confirmation and approval, upon a finding, *inter alia*, that BPA's rates

> are sufficient to assure repayment of the Federal investment in the Federal Columbia River Power System over a reasonable number of years after first meeting the Administrator's other costs, . . .and insofar as transmission rates are

Power Act section 7(a)(2), 16 U.S.C. § 839e(a)(2). It would be particularly inappropriate to roll these costs or BPA low voltage delivery service costs into TBL's network costs.

> concerned, equitably allocate the costs of the Federal transmission system between Federal and non-Federal power utilizing such system.

See 25 FERC ¶ 61,140, 61,375 (1983). Indeed, BPA's costs for off-system deliveries are not "costs of the Federal transmission system" that are permitted by the Northwest Power Act to be allocated to TBL's transmission rates. *See* Northwest Power Act section 7(a)(2), 16 U.S.C. § 839e(a)(2).

APPENDIX A

INVESTOR-OWNED UTILITY RESIDENTIAL EXCHANGE BENEFIT SETTLEMENT

I. The Residential Exchange Program ("REP")

In 1980, Congress enacted the Northwest Power Act,[36] which ended a looming regional civil war[37] being fought over access to the federal power system. Failure to extend an equitable share of the existing federal system to all of the region's residential consumers past FY 2011 would threaten to reopen old disputes and undermine the federal policy basis for maintaining the value of the existing federal system for the region, thereby threatening to undermine the continued existence of BPA cost-based rates for the region and the regional preference.

For many years before the Act, BPA sold inexpensive federal power to both publicly-owned and investor-owned utilities.[38] All of those in the region whose tax dollars supported FCRPS benefited equally regardless of whether they lived in publicly-owned or investor-owned utility service territories. Then in the 1970s, due to increased population growth, BPA said it was no longer able to serve all the people in the region. BPA announced that firm power sales to investor-owned utilities would stop. This meant that the residential and small farm customers of investor-owned utilities would be denied access to federal power their taxes supported and those utilities would have to replace this federal power with new, much more expensive power.[39] One consequence of BPA's announced plan was the start of battles by publicly-owned utilities to take over areas served by investor-owned utilities—in order to get BPA "preference power."[40]

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[36] *Pub. Util. Comm'r of Or. v. Bonneville Power Admin.*, 767 F.2d 622, 625 (9th Cir. 1985); *see also* H.R. Rep. No. 96-976, pt. I, 96th Cong., 2d Sess., at 27 (1980) (hereafter "H.R. Rep. No. 96-976").

[37] H.R. Rep. No. 96-976 at 27.

[38] H.R. Rep. No. 96-976 at 24.

[39] H.R. Rep. No. 96-976 at 24-25.

[40] H.R. Rep. No. 96-976 at 25.

The potential gap in benefits from low-cost federal power in the region created "substantial political tension."[41] There were movements to start new utilities designed to be eligible to purchase preference power so that customers would get benefits from the existing low-cost federal power. For example, in 1977 the State of Oregon enacted a law creating the Domestic and Rural Power Authority ("DRPA") in order to get a share of federal preference power from BPA. DRPA planned to purchase and pass on the benefits of the low-cost federal power to Oregon residential and rural customers. DRPA was a major part of the impending battle over how to equitably share the federal power benefits. This fight set the stage for Congress to pass the Northwest Power Act in 1980. As Senator Henry M. Jackson of Washington said:

> [W]e are on the verge of a decade-long legal and administrative battle over the allocation of the large but limited pool of low-cost Federal power. Unless the allocation issue is resolved promptly through legislation, no utility will be able to dependably plan its future needs and power supply.[42]

Senator Mark O. Hatfield of Oregon pointed out that there was

> . . . a vigorous revival of a movement to place the entire power systems in the Northwest under public ownership. In Oregon there were 12 elections to form local public people's utility districts on the ballot in November.[43]

The Congressional solution to this pending regional battle was to create REP benefits to allow residential and small farm electric utility customers in the region—regardless of whether they are served by publicly-owned or investor-owned utility power—to equitably share in the benefits of the federally funded hydroelectric projects. As Senator Jackson said:

> The [Northwest Power Act] make[s] it possible to immediately extend the economic benefits of low-cost federal power to consumers served by investor-owned utilities. . . .[44]

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[41] Cong. Rec. – Senate 14,694 (1980).

[42] Cong. Rec. – Senate 14,690-91 (1980).

[43] Cong. Rec. – Senate 14,694 (1980).

[44] Cong. Rec. – Senate 14,691 (1980).

Congress decided to create wholesale rate parity to share the benefits of the region's federally funded hydroelectric system for all regional residential customers through the REP. The Ninth Circuit clearly and concisely set forth the Congressional intent:

> One of the goals of the Act is to ensure that residential consumers served by Northwest IOU's have wholesale rate parity with residential consumers served by publicly owned utilities and public cooperatives, BPA's preference customers. Parity is to be achieved through Residential Purchase and Sale Agreements between BPA and IOU's.[45]

Pub. Util. Comm'r of Or. v. Bonneville Power Admin., 767 F.2d 622, 624 (9th Cir. 1985).

A central purpose of the Northwest Power Act was to provide for regional unity and consensus; therefore, BPA's policies should not leave the 60% of the region's citizens served by the investor-owned utilities with an inequitable share of the benefits of the existing federal system. Failure to provide this 60% with an equitable share will lead to increased pressure to form publicly-owned utilities to take over areas served by investor-owned utilities. This pressure would at best frustrate the ability to preserve the value of the existing federal system for the region and ensure that its value is equitably distributed throughout the region. This pressure would undermine the federal policy basis for maintaining the benefits of the existing federal system for the region and undermine the federal policy basis for continued regional preference—in the face of challenges to BPA cost-based rates for the region.[46]

The REP is a program designed to share a portion of the benefits of the federal power system with the 60% of residential customers in the Pacific Northwest who are

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[45] Similarly, the Washington Utilities and Transportation Commission testified in 1994 to Congress:

> Under the Pacific Northwest Electric Power Planning and Conservation Act (the Power Act), these customers are provided equal access to the benefits of the federal hydropower system through an "exchange" program.

BPA at Crossroads, Hearing Testimony Before the House Comm. on Natural Resources, Subcom. on Oversight and Investigations (Aug. 9, 1994) (statement of Judy Lamson, Policy Specialist, Washington Utilities and Transportation Commission), Attachment B to WP-02-E-AC/GE/IP/MP/PL/PS-02.

[46] Early in 2005, the Administration proposed that BPA's rates be transitioned toward the wholesale market price of electricity. *See also, e.g.,* Reps. B. Franks & M. Meehan, *The Sensible Approach: Federal Power at Market Rates*, Pub. Util. Fort., Nov. 1, 1999, at 44-47.

served by the PNW Investor-Owned Utilities. BPA has stated that its goals include the following: "[s]pread the benefits of the [Federal Columbia River Power System] as broadly as possible, with special attention given to the residential and rural customers of the region. . . ." (Power Subscription Strategy, Administrator's Record of Decision (Dec. 1998) (the "Subscription ROD") at page 7 .) BPA should ensure that the benefits of federal power are fairly divided among all citizens in the region as Congress intended.[47] The six million citizens served by the region's investor-owned utilities[48] should not be shortchanged.

The utilities in the region, including the PNW Investor-Owned Utilities, are entitled to exchange an amount of power equal to their full Pacific Northwest region residential and small farm loads:

> Whenever a Pacific Northwest electric utility offers to sell electric power to the Administrator at the average system cost of that utility's resources in each year, the Administrator shall acquire by purchase such power and shall offer, in exchange, to sell an equivalent amount of electric power to such utility for resale to that utility's residential users within the region.

Section 5(c) of the Northwest Power Act16 U.S.C. § 839c(c)(1).

In the absence of a settlement agreement, REP benefits are provided using a Residential Purchase and Sale Agreement ("RPSA") between the exchanging utility and BPA. Under an RPSA, BPA sells power at BPA's PF Exchange Rate to the exchanging utility in an amount equal to the exchanging utility's residential and small farm load, and the exchanging utility sells an equivalent amount of power to BPA at the exchanging utility's average system cost of power ("ASC").[49] BPA develops and revises from time to

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[47] For example, BPA should treat conservation as a replacement resource for lost Federal Base System Resources under 16 U.S.C. § 839a(19)(B); BPA should subtract the costs of Uncontrollable Events from the Program Case under 16 U.S.C. § 839e(b)(2); BPA DSI customers should pay a full and fair industrial margin under 16 U.S.C. § 839e(c)(2); and BPA should overhaul its Average System Cost methodology and deemer balance in order to provide Congressionally intended outcomes for residential and rural customers under the Northwest Power Act.

[48] Of the ten and a half million people living in the BPA region, 60% are served by the PNW Investor-Owned Utilities—which means over six million people are served by the PNW Investor-Owned Utilities.

[49] Because the sales of power back and forth between BPA and the exchanging utilities under RPSAs have been equal in amount, no net power has been scheduled under RPSAs; instead, BPA has

time for use under RPSAs (i) the PF Exchange Rate and (ii) the methodology for determining ASCs[50] ("ASC Methodology").

Each of the PNW Investor-Owned Utilities (and a number of BPA preference customers) initially implemented the REP by executing 20-year RPSAs in 1981. Although these agreements were scheduled to expire on June 30, 2001, the substantial majority of these agreements were replaced prior to their expiration with negotiated agreements (in lieu of RPSAs) that provided for specified payments of REP benefits ("REP Settlement Agreements").

The extension of benefits of low-cost federal power to residential and small farm consumers served by investor-owned utilities in the region is a cornerstone of the Northwest Power Act. 16 U.S.C. § 839 *et seq.* As acknowledged in the Administrator's Final Record of Decision, WP-02-A-02 in the 2002 BPA power rate case, BPA has provided such benefits through the REP, or through settlements thereof, for over two decades. "Section 5(c) of the [Northwest Power Act] establishes a 'residential exchange' program designed to temper the inequity of the preference system mandated by the Bonneville Project Act of 1937, 16 U.S.C. §§ 832-832*l*." *Cal. Energy Res. Conservation & Dev. Comm'n v. Johnson,* 807 F.2d 1456, 1459 (9th Cir. 1985) ("*Johnson*").

The Subscription ROD recognized that distribution of the benefits of the FCRPS to residential and small farm consumers throughout the region is a core purpose for BPA. As stated in the REP Settlement ROD at 62 (quoting from BPA Power Subscription Strategy):

> "This strategy enables us to serve residential and small farm consumers directly by providing power for sale to the IOUs and other purchasers qualified under BPA statutes to serve those consumers so that the benefits of the Federal Columbia River Power System flow throughout the region whether those consumers are currently served by public or private power. This strategy reflects BPA's very roots."

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made monetary benefit payments equal to the amount by which the ASC of each of the exchanging utilities exceeds BPA's PF Exchange Rate, multiplied by the utility's residential and small farm load.

[50] According to section 5(c)(7) of the Northwest Power Act, 16 U.S.C. § 839c(c)(7):

> The "average system cost" for electric power sold to the Administrator under this subsection shall be determined by the Administrator on the basis of a methodology developed for this purpose in consultation with the Council, the Administrator's customers, and appropriate State regulatory bodies in the region. Such methodology shall be subject to review and approval by the Federal Energy Regulatory Commission. . . .

(Emphasis in original.)

II. Disputes Regarding REP Implementation

Implementation of the REP under RPSAs necessarily requires BPA to make a number of projections and hypothetical assumptions using various methodologies. Over the more than 20-year period since BPA began implementing the REP, disputes regarding BPA's implementation have arisen and persisted. Disputes related to BPA's implementation of the REP arose early and often, commencing with litigation over the initial, 1981 RPSAs:

> Under the Regional Act [Northwest Power Act], the contracts, once offered, were reviewable upon petition filed within 90 days. 16 U.S.C. § 839f(e)(5). The contracts generated considerable litigation. *See, e.g., Aluminum Company*, 467 U.S. 380, 104 S.Ct. 2472, 81 L.Ed.2d 301; *Forelaws on Board v. Johnson*, 743 F.2d 677 (9th Cir. 1984); *Public Power Council v. Johnson*, 674 F.2d 791 (9th Cir. 1982).

Cal. Energy Res. Conservation & Dev. Comm'n v. Johnson, 783 F.2d 858, 859 (9th Cir. 1986) ("*CEC v. Johnson*") (footnote omitted). In *CEC v. Johnson*, for example, the California Energy Resources Conservation and Development Commission ("CEC") challenged the "in lieu" provisions of the 1981 RPSAs and argued that they failed to conform with section 5(c)(5) of the Northwest Power Act, 16 U.S.C. § 839c(c)(5), which provides that under certain circumstances BPA may, in lieu of acquiring power from the exchanging utility under an RPSA, acquire power from another source.

This series of litigation was followed by other challenges of BPA's REP decisions, including *Central Electric Cooperative, Inc. v. Bonneville Power Administration*, 835 F.2d 199 (9th Cir. 1987); *CP Nat'l Corp. v. Bonneville Power Administration*, 928 F.2d 905 (9th Cir. 1991); and *Washington Utilities & Transportation Commission v. FERC*, 26 F.3d 935 (9th Cir. 1994).

During the course of the WP-02 BPA power rate proceedings to develop BPA power rates for the FY 2002-2006 period, the investor-owned utilities recommended changes would have increased the REP benefits to $280 million a year. Even if adopted, these recommendations would have meant that 60% of the region's residential customers would have received 44% of the FCRPS benefits.

In the absence of a settlement, the PNW Investor-Owned Utilities will continue to assert their arguments regarding elements of RPSAs, such as ASC Methodology, ASC determinations, in lieu transactions, and PF Exchange Rate (including the section 7b(2) rate step).

III. The ASC Methodology Must Be Revised

PacifiCorp v. FERC, 795 F.2d 816 (9th Cir. 1986) ("*PacifiCorp*"), reviewed a decision in which the BPA Administrator in 1984 elected to revise the initial ASC Methodology as negotiated with exchanging utilities in 1981 (the "1981 Methodology"). The new ASC Methodology (the "1984 Methodology") sharply reduced REP benefits received by the residential and small farm customers of the PNW Investor-Owned Utilities under RPSAs by removing the costs of income taxes and equity capital from the ASC calculation. As explained by the Court:

> The revised methodology had the effect of reducing the average system cost in two material ways. First, it eliminated income taxes from average system cost calculations, and second, it eliminated return on equity as a cost factor and substituted for it the embedded cost of long-term debt. The result is a substantial reduction in the amount of money which BPA pays to the IOUs under the exchange program.

795 F.2d at 819. This election to reduce REP benefits was challenged in a series of lawsuits by PNW Investor-Owned Utilities and by affected state regulatory agencies,[51] all leading to the decision in *PacifiCorp.*

In *PacifiCorp*, the Court upheld BPA's discretion as exercised in the 1984 Methodology to exclude certain costs from its ASC calculation, based on then-existing facts presented to the Court. Specifically, the Court relied on BPA's determination that certain terminated generation plant costs, which could not by statute be included in ASC, were being indirectly recovered through an increase in equity returns allowed to a utility. However, the Court's decision emphasized its reliance on these special facts and noted that it was not sanctioning a continuation of the exclusions once the need for them had passed:

> In upholding BPA's ASC determinations in this case, however, we do not sanction any permanent implementation of these exclusions. We uphold the exclusions in this instance because we conclude that we must defer to BPA's view that the statute authorizes such adjustments in ASC in response to BPA's experience with the program and the need to avoid abuses. The record in this case reflects that this is such a situation. The statute itself, however,

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[51] *Pub. Util. Comm'r of Or. v. Bonneville Power Admin., 583 F. Supp. 752 (D. Or. 1984); Pac. Power & Light Co. v. Bonneville Power Admin.,* 589 F. Supp. 539 (D. Or. 1984); *Pub. Util. Comm'r of Or. v. Bonneville Power Admin.,* 767 F.2d 622 (9th Cir. 1984).

> neither commands nor proscribes these adjustments in ASC methodology.

795 F.2d at 823.

Faced with a requirement in 2000 to offer new RPSAs for execution prior to the end of June 2001, BPA needed to specify whether the ASC Methodology employed in the new, 2000 RPSAs as offered would continue the exclusions incorporated in the 1984 Methodology.

The PNW Investor-Owned Utilities had not waived their right to appeal any RPSA offer that continued the 1984 exclusions. Indeed, the key elements to be in the 2000 RPSAs were vigorously disputed. For example, extensive comments on the proposed 2000 RPSAs in June of that year by Puget Sound Energy, Inc. and Avista Corporation to BPA demonstrated that the situation used to justify the 1984 exclusions would no longer apply and that the 1984 Methodology needed to be revised. These comments also objected to BPA's proposed in lieu provision for the 2000 RPSAs, arguing that BPA's proposal was unreasonable, unworkable and contrary to the requirements of the Northwest Power Act.

With respect to ASC Methodology, the REP Settlement ROD[52] explained that BPA in its development of the 2000 RPSAs was faced with the challenge of the proposal to revert to the 1981 Methodology:

> Also, while BPA used the current ASC Methodology for its rate case forecasts, the methodology may be revised during the upcoming rate and contract period. . . . [R]evisions to the ASC Methodology are not merely speculative. As noted in BPA's RPSA ROD regarding proposed revision of the 1984 ASC Methodology, BPA concluded that BPA will begin regional discussions of whether the ASC Methodology should be revised during the currently proposed five-year rate and contract periods (FY 2002-2006).

The REP Settlement ROD continued by detailing the economic impacts of reverting to the 1981 Methodology:

> If, as suggested by the IOUs, BPA were to revert to the 1981 ASC Methodology, REP benefits for the upcoming rate and contract periods would be dramatically increased. Using a twenty-six percent

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[52] Residential Exchange Program Settlement Agreements with Pacific Northwest Investor-Owned Utilities, Administrator's Record of Decision dated October 4, 2000 ("REP Settlement ROD") at 50.

escalation of ASCs to represent the 1981 ASC Methodology (the amount of average decrease in ASCs after adoption of the 1984 ASC Methodology) the average annual benefits for the five-year rate period would be approximately $323 million. Total REP benefits for the rate period would be $1.615 billion. Even assuming in-lieu transactions for fifty percent of the exchangeable loads, average annual benefits would be $161.5 million and total REP benefits for the five-year period would be $807.5 million. These figures still exceed the amounts of the proposed settlements.

Id.

The following Table 1 sets forth estimated ASCs of the PNW Investor-Owned Utilities.

Table 1

PNW Investor-Owned Utility	Estimated FY 2012 Residential and Small Farm Load (aMW)	Estimated 2012 ASC ($/MWh)
Avista Corporation	461	43.08
Idaho Power Company	773	41.98
NorthWestern Energy	97	47.00
PacifiCorp[a]	1192	50.58[a]
Portland General Electric Company	1195	54.54
Puget Sound Energy, Inc.	1301	54.98
PNW Investor-Owned Utilities (aggregate)	5010	50.58

[a]Note: An estimated 2012 ASC for PacifiCorp is not currently available. Therefore, as a proxy for such an estimate, this Table inserts, in lieu of an estimated 2012 ASC for PacifiCorp, the load-weighted average of the Estimated 2012 ASCs for the other PNW Investor-Owned Utilities.

The estimated ASCs shown above could be higher depending upon such factors as fuel prices, hydro conditions, and regulatory developments, which are beyond the control of individual utilities.

IV. Request for Revision of the ASC Methodology

The PNW Investor-Owned Utilities hereby request that BPA initiate a consultation process as provided for in Section 5(c)(7) of the Northwest Power Act to change the average system cost (ASC) methodology to be applied during the rate period beginning October 1, 2011 to the REP under section 5(c) of the Northwest Power Act.

As discussed above, the Ninth Circuit upheld BPA's adoption of the 1984 Average System Cost Methodology modifying the 1981 Average System Cost Methodology to remove, among other costs, income taxes and return on equity from the ASC calculation as a "temporary" change to address the terminated nuclear plant costs issue. However, the Ninth Circuit did not sanction permanent implementation of the 1984 Average System Cost Methodology. Essentially, the court permitted BPA to exclude income taxes and equity as a means of preventing inclusion in the ASC of certain terminated plant costs. However, the costs of these unfinished nuclear plants will by 2011 have long been completely amortized or written off. Therefore, BPA's rationale for excluding income taxes and return on equity from the ASC methodology will no longer apply.

V. The Section 7(b)(2) Rate Step Must Be Properly Performed

One element of the REP is the 7(b)(2)[53] rate step, which is described below and which, if it triggers, may result in adjustment of the level of REP benefits available to the residential and small farm customers of the region's investor-owned utilities.

The section 7(b)(2) step is an interim step in BPA's determination of power rates. This step is a complex procedure that is made for a rate period plus an additional four years following the rate period. 16 U.S.C.A. § 839e(b)(2). Under this step, BPA compares (1) a projection of costs of providing the general power requirements to BPA's preference and federal agency customers (with certain exclusions) with (2) a projection of the cost of power based upon five statutorily specified hypothetical assumptions. This hypothetical calculation may be summarized and paraphrased for purposes of these comments as follows:

(i) BPA Projects Program Case Costs. For the rate period plus the ensuing four years, BPA is to project amounts it would charge preference and federal agency customers for firm power for their general requirements (this amount is to be exclusive of

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[53] 16 USCA § 839e(b)(2). BPA's implementation of the 7(b)(2) step are addressed in two documents that were prepared by BPA in 1984, before BPA's first implementation of the 7(b)(2) step. These documents are:

> (i) BPA's "Legal Interpretation of Section 7(b)(2) of the Pacific Northwest Electric Power Planning and Conservation Act" (the "Legal Interpretation"), 49 Fed. Reg. 23,998 (June 8, 1984).
>
> (ii) BPA's Section 7(b)(2) Implementation Methodology, Administrator's Record of Decision (Aug. 1984) (the "Implementation Methodology").

amounts BPA would charge such customers under section 7(g) of the Northwest Power Act[54] for certain costs).

(ii) BPA Projects 7(b)(2) Case Costs. For the same period, BPA is to project the total hypothetical cost of power to meet the general requirements of its preference and federal agency customers if BPA assumes that:

(A) such customers' general requirements had included certain of BPA's direct service industrial customer loads;

(B) such customers during the relevant period were served with certain available BPA federal base system ("FBS") resources;

(C) no residential exchange purchases or sales were made by BPA during the relevant period;

(D) the least expensive resources owned or purchased by public bodies or cooperatives (not sold by such customers to BPA or committed to their load) are available and used to meet the remaining general requirements of BPA's preference and federal agency customers; and

(E) certain savings resulting from the Northwest Power Act were not achieved.

16 U.S.C.A. § 839e(b)(2). The 7(b)(2) rate step specifically requires that "the costs of conservation, resource and conservation credits, experimental resources and uncontrollable events. . . .charged under section 7(g) of the Northwest Power Act be subtracted from the Program Case costs before those costs are compared with the 7(b)(2) Case. If the Program Case Costs projection described in item (i) above, as reduced by such 7(g) costs, exceeds the 7(b)(2) Case Costs projection described in item (ii) above, the 7(b)(2) rate step is said to "trigger." Triggering of the rate step may, but does not necessarily, cause the PF Exchange Rate to exceed the PF Rate.

As noted in the REP Settlement ROD, the investor-owned utilities in BPA's WP-02 rate case

> contested a number of assumptions BPA used in developing the proposed PF Exchange rate. If the IOUs successfully challenge that rate, the rate could be reduced and REP benefits increased. The possible impact of these changes is significant and must be considered in developing a settlement proposal.

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[54] 16 U.S.C. § 839e(g)

REP Settlement ROD at 51. In that rate case, to determine BPA's power rates for the period commencing October 1, 2001, the PNW Investor-Owned Utilities were vigorously contesting aggressive determinations by BPA that had the effect of increasing the PF Exchange Rate.[55]

Specifically, the investor-owned utilities challenged in the WP-02 rate proceeding, as contrary to statutory directives, the following actions by BPA in its section 7(b)(2) rate step used to calculate the PF Exchange Rate—(i) miscalculation of the statutory direct service industrial customer "floor rate", (ii) exclusion of revenue taxes in the so-called "industrial margin" calculation, (iii) exclusion of Planned Net Revenues for Risk as uncontrollable events in the section 7(b)(2) rate step, (iv) exclusion of conservation (and thus of the cost of conservation programs) as a federal base system resource, and (v) BPA's failure to treat prematurely terminated power plant costs as uncontrollable events in the section 7(b)(2) rate step.

These issues as well as other 7(b)(2) rate step issues are not ripe for resolution in this BPA proceeding.[56]

VI. Proposed REP Settlement Benefits as a Share of the Total Value of the FCRPS Are Not Unreasonable

The following chart illustrates the share of the value of the FCRPS that would under the proposal in these comments go to the residential and small farm consumers in the region served by the PNW Investor-Owned Utilities. These consumers are 60% of the residential and small farm consumers in the region. This 60% would receive 24% of the value of the FCRPS if the benefits for the residential and small farm customers of the investor-owned utilities are between the cap and the floor, when value is determined by the amount by which market price exceeds the BPA Tier 1 rate.

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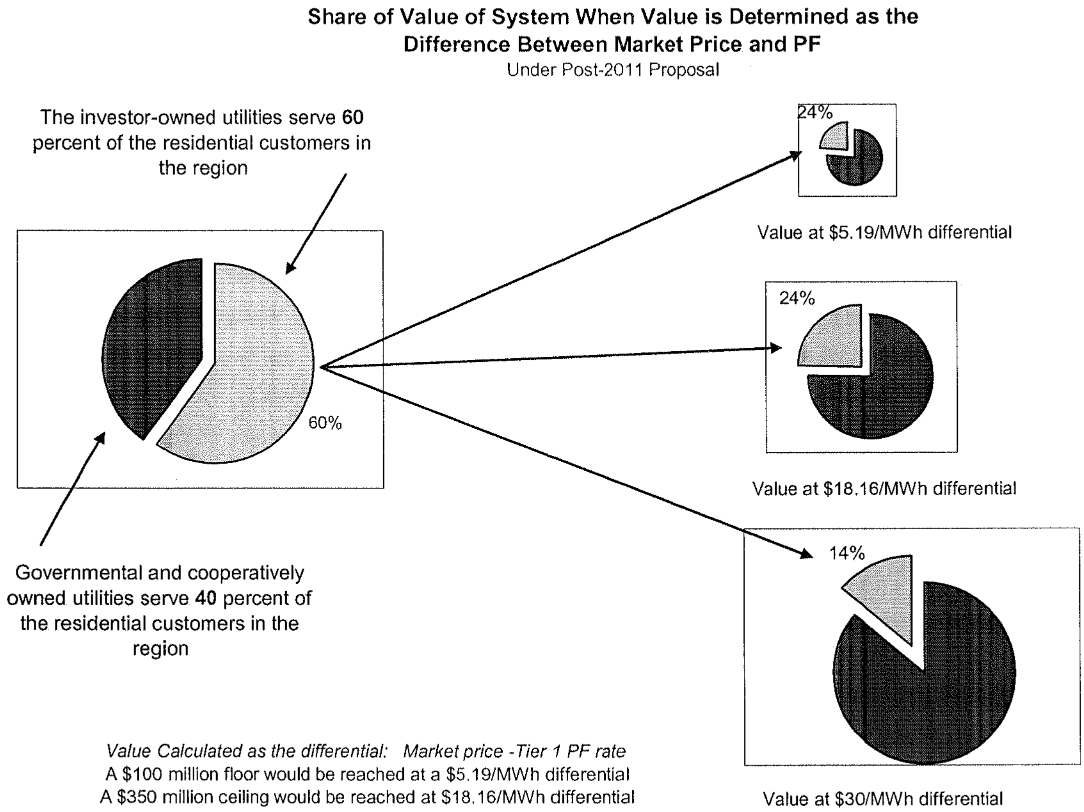
[55] This rate is the same as the PF Preference Rate (the rate at which BPA sells power to its preference customers to meet their general requirements), except that the two rates may be adjusted relative to each other as a result of the Northwest Power Act section 7(b)(2) rate step in BPA's rate development proceedings. 16 U.S.C. § 839e(b)(2). In other words, the section 7(b)(2) rate step is a step in BPA's determination of power rates that may, under certain circumstances, affect the relationship between BPA's PF Exchange Rate and BPA's PF Preference Rate.

[56] Some of the other 7(b)(2) rate step issues that may subsequently arise in the appropriate BPA proceeding include the following: treatment of mid-Columbia resources in the Resource Stack for the 7(b)(2) case; treatment of conservation as an FBS replacement in the resources in the Resource Stack for the 7(b)(2) case; and determination of DSI "within and adjacent loads" for the 7(b)(2) Case.



This charts demonstrate—even under various market scenarios—that the share of the value of the existing federal system going to the residential and small farm customers of the PNW Investor-Owned Utilities is not unreasonable and that BPA's preference customers would typically receive more than three-quarters of the value of the existing federal system under the proposal.

VII. The Use of REP Settlement Agreements Is a Long-Established, Reasonable BPA Practice

REP Settlement Agreements have been offered and entered into to eliminate the uncertainty as to the level of REP payments, to ease the administrative cost of the REP program and to resolve disputes over the appropriate levels of REP benefits. Indeed, prior to BPA's decision to offer the 2000 REP Settlement Agreements, BPA had entered into some 30 prior REP Settlement Agreements dating back to at least 1988. Most of the counterparties to these prior REP Settlement Agreements were not the PNW Investor-Owned Utilities but were in fact BPA preference customers.[57]

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[57] Prior to entering into the 2000 REP Settlement Agreements, BPA had previously offered and entered into REP Settlement Agreements with not only PacifiCorp, PSE, and PGE, but also the following

These previous REP Settlement Agreements included a 1988 agreement with Public Utility District No. 1 of Snohomish County, Washington ("Snohomish"). Certain provisions of the Snohomish REP Settlement Agreement are worth quoting, as they describe the settlement and the reasons for it:

> Attributes unique to public utilities and their ratemaking processes have very much complicated BPA's administration of, and public utilities' participation in, the Residential Exchange Program through the existing Average System Cost (ASC) methodology. This has also resulted in disagreements between the District and BPA regarding the interpretation and implementation of the ASC methodology, which has on occasion resulted in litigation. It is in the interest of the District and BPA to minimize the burdens associated with the regulatory review of the District's periodic filings under the ASC methodology, to eliminate the administrative disruption caused by this subsidy program, and remove this area of potential controversy.
>
> To achieve these mutually beneficial goals, the District agrees to terminate its RPSA effective December 31, 1987. In consideration for this action by the District regarding the RPSA, BPA agrees to pay the District the sum of forty three million three hundred thousand dollars ($43,300,000.00) with interest as applicable, all as set forth in paragraphs 7 and 8 of this Agreement.

The REP Settlement ROD (at page 57) described prior REP Settlement Agreements:

> Notably, BPA has previously entered into some thirty Residential Exchange Termination Agreements with exchanging utilities during the past 20 years. None of those settlements contained provisions for updating costs or periodically reviewing eligibility. Instead, BPA and the utility negotiated a reasonable amount of settlement

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BPA preference customers: PUD No. 1 of Snohomish County, WA; PUD No. 1 of Clallam County, WA; Glacier Electric Cooperative; PUD No. 1 of Klickitat County, WA; Prairie Power Cooperative, Inc.; Vigilante Electric Power Cooperative, Inc.; Flathead Electric Cooperative, Inc.; PUD No. 1 of Grays Harbor County, WA; Orcas Power & Light Co.; Salmon River Electric Cooperative, Inc.; Blachly-Lane Electric Cooperative Association; Central Electric Cooperative, Inc.; Consumers Power, Inc.; Coos-Curry Electric Cooperative, Inc.; Douglas Electric Cooperative, Inc.; Lost River Electric Cooperative, Inc.; Oregon Trail Electric Cooperative; Raft River Electric Cooperative, Inc.; Umatilla Electric Cooperative Association; PUD of Clark County; City of Idaho Falls; Oregon Trail Electric Consumers Cooperative; Lewis County PUD; Inland Power & Light Company; the Pacific Northwest Generating Cooperative; Fall River Rural Electric Cooperative; Lower Valley Power & Light, Inc.; Benton Rural Electric Association; Clearwater Power Company; and Harney Electric Cooperative, Inc.

> benefits to terminate the utility's participation in the REP for a significant period. Indeed, a notable number of these settlements have effective terms of 12 to 15 years, which are *longer* than the terms of the proposed Settlement Agreements. Nevertheless, BPA did not require revisiting the settlements during their respective terms.

Thus, BPA customers, preference and PNW Investor-Owned Utilities alike have consistently taken advantage of the benefits of settling REP rights by entering into REP Settlement Agreements. These agreements have had extended terms. They have consistently, during those terms, extinguished RPSAs and REP rights in exchange for payments not expressly tied to the elements of the REP, such as ASC and PF Exchange Rate.[58]

With respect to determination of the PF Exchange Rate, the REP Settlement ROD explained contested issues regarding development of that rate that could have a significant impact:

> Another variable concerns BPA's PF Exchange rate. REP benefits are determined by the difference between a utility's ASC and the PF Exchange rate. If the PF Exchange rate is reduced, exchanging utilities receive greater benefits. As noted in BPA's 2002 rate case, the IOUs contested a number of assumptions BPA used in developing the proposed PF Exchange rate. If the IOUs successfully challenge that rate, the rate could be reduced and REP benefits increased. The possible impact of these changes is significant and must be considered in developing a settlement proposal. In BPA's 2002 rate case, the IOUs filed testimony stating the different issues that they contested regarding the PF Exchange rate. The IOUs also stated the effect on REP benefits that would result if the rate were developed as they suggest.

REP Settlement ROD at 51 (citations omitted). The REP Settlement ROD quantified economic impacts of contested revisions to the PF Exchange Rate in the WP-02 rate proceeding:

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[58] Indeed, any suggestion that settlements by BPA cannot include power transactions with payments based on formulae using variables other than ASC and PF Exchange Rate is erroneous. *Util. Reform Project*, 869 F.2d at 441 (upholding BPA settlement that included a power transaction with payments based on a formula using "the average costs of the surrogate plants").

> The IOUs noted that proposed corrections to the DSI floor rate would increase REP benefits by $3,033,000 per year. The IOUs noted that a correction of the IP/PF link by including revenue taxes in the margin would increase REP benefits by $8,322,000 per year. The IOUs noted that including the costs of Planned Net Revenues for Risk as uncontrollable events in the section 7(b)(2) rate test would increase REP benefits by $54,555,000 per year. The IOUs noted that including conservation in the FBS would increase REP benefits by $111,950,000 per year. The IOUs noted in their initial brief that failure to treat terminated plants as uncontrollable events would increase REP benefits by $243 million per year. The IOUs noted that, in summary, REP benefits would have increased to $280 million per year if BPA's rates were developed as they proposed. This amount of REP benefits is *substantially* greater than the proposed amount of settlement benefits. Even assuming that Vanalco and the DSIs were correct in placing the total five-year Subscription settlement benefits at $736.6 million, this is far, far less than the forecasted $1.4 billion of REP benefits calculated by the IOUs.

Id. at 51-52 (citations omitted.)[59]

In the WP-02 proceeding alone, the PNW Investor-Owned Utilities had residential exchange purchase and sale claims—for benefits for their residential and small farm customers—of at least $1.225 billion ($245 million per year times five years):

> We [the PNW Investor-Owned Utilities] believe that the Residential Exchange benefits over the five-year rate period should be at least $280,000,000 per year, which is $245,000,000 per year higher than BPA has proposed.

Direct Testimony of the Northwest Investor-Owned Utilities, WP-02-EAC/GE/IP/MP/PL/PS-02, at 2 (Nov. 2, 1994).

Since the inception of the REP, BPA and utilities have negotiated and entered into numerous agreements settling REP rights:

> Beginning in 1981, BPA and exchanging utilities executed RPSAs [residential exchange purchase and sale agreements] for 20-year terms. Between 1981 and today, all of these RPSAs have been

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[59] Further, the REP Settlement ROD discussed uncertainty or risks regarding ASC forecasts.

> settled except for one. . . . This extremely large number of Residential Exchange settlements reflects the nature and benefits of such settlements. *Parties are able to avoid the contentiousness of the myriad Residential Exchange issues,* thereby saving significant administrative and legal expenses. *Parties receive known benefits instead of guessing future benefits due to changes in the ASC Methodology, the determination of ASC reports, and the development of wholesale power rates. . . .*

Prefiled BPA Direct Testimony in BPA's WP-02 Rate Proceeding, WP-02-E-BPA-19, at 10-11 (emphasis added.)