



## Department of Energy

Bonneville Power Administration  
P.O. Box 3621  
Portland, Oregon 97208-3621

FINANCE

September 15, 2008

In reply refer to: F-2

On June 18, 2008, BPA began a two week public review and comment period on Bonneville Power Administration's (BPA) preliminary estimates of New Large Single Loads (NLSL) for use in the 2002-2008 Lookback Study in BPA's WP-07 Supplemental Wholesale Power Rate Proceeding. This letter responds to the comment received by BPA and includes the analysis showing the identified NLSLs, the resource costs associated with serving such loads, and the resulting average system cost (ASC) adjustments, if any.

### **I. Background**

In accordance with section 5(c)(7)(A) of the Northwest Power Act, BPA must exclude from the calculation of a utility's ASC the cost of additional resources in an amount sufficient to serve any new large single load of the utility. 16 U.S.C. § 839c(c)(7)(A).

Section 3(13) of the Act defines an NLSL as:

Any load associated with a new facility, an existing facility, or an expansion of an existing facility--

(A). which is not contracted for, or committed to, as determined by the Administrator, by a public body, cooperative, investor-owned utility, or Federal agency customer prior to September 1, 1979, and

(B). which will result in an increase in power requirements of such customer of ten average megawatts or more in any consecutive twelve-month period.

16 U.S.C. § 839a(13)(A)-(B).

In order for BPA to exclude the cost of serving an NLSL from a utility's ASC, BPA must have specific factual information about the cost, installed capacity and energy production of certain resources of the exchanging utility. Under the traditional implementation of the Residential Exchange Program (REP), exchanging utilities would provide this information pursuant to the terms and conditions of a Residential Purchase and Sale Agreement (RPSA). These agreements were the contractual mechanisms that implemented the REP and defined BPA's and the exchanging utility's rights and obligations. Since the mid-1990's, however, BPA and exchanging utilities have not executed RPSAs. Instead, the benefits otherwise to be provided under the REP were satisfied through REP settlement agreements, which did not require exchanging utilities to submit to BPA Appendix 1 filings, which would have contained NLSL data. Certain parties challenged six settlement arrangements that BPA had with its investor-

owned utilities (IOUs) in 2000, and on May 3, 2007, the U.S. Court of Appeals for the Ninth Circuit held that these REP Settlement Agreements were unlawful. *See Portland Gen. Elec. v. Bonneville Power Admin.*, 501 F.3d 1009 (9th Cir. 2007). Among the issues addressed in the opinion, the Court noted that BPA could not determine REP benefits without reference to the exchanging utility's ASC as determined by the ASC methodology. *Id.* at 1033-34. In a companion case, the Court also found that BPA's allocation of the costs associated with the REP Settlements was unlawful. *See Golden NW Alum. Inc. v. Bonneville Power Admin.*, 501 F.3d 1037 (9th Cir. 2007).

In response to the Court's decisions, BPA proposed to calculate ASCs for the IOUs for two periods. First, using the 1984 ASC Methodology, BPA proposed to calculate estimated ASCs for each of the six IOUs as if they had filed with BPA and had not executed the REP Settlements. To do this, BPA calculated an ASC for each exchanging IOU for each year beginning in FY 2002 and ending in FY 2008. These estimated ASCs are referred to as "backcast ASCs." Second, BPA proposed to calculate forecast ASCs for FY 2009, using BPA's new 2008 ASC Methodology. Because the ASCs for FY 2009 were to be determined according to a new and untested ASC methodology, BPA proposed to calculate these ASCs in a separate administrative proceeding, referred to as an expedited ASC Review Process (Expedited Review Process). *See 2007 Supplemental Wholesale Power Rate Adjustment Proceeding*, 73 Fed. Reg. 7539, 7547 (Feb. 8, 2008). At the close of the Expedited Review Process, the resulting ASCs would be incorporated into the rate case record and used for rate-setting purposes in the WP-07 Supplemental Wholesale Power Rate Proceeding. To ensure that the resulting ASCs complied with the statutory directives of section 5(c) and the proposed 2008 ASC Methodology, BPA requested in the Expedited Review Process that utilities provide BPA with load data on their large customers from 1993-2007 for the purpose of identifying NLSLs. BPA requested 17 years of load data because, as noted above, BPA did not have an active RPSA with the IOUs during these years, and therefore, did not have the necessary information to identify NLSLs.

As BPA was receiving and reviewing this NLSL information, a party in the WP-07 Supplemental proceeding observed that BPA's proposed backcast ASCs for the FY 2002-2008 period did not take into account the NLSL exclusion required by section 5(c)(7)(A). BPA staff acknowledged that the backcast ASCs did not identify any NLSLs that may be served by exchanging utilities nor did BPA exclude the cost of resources used to serve such NLSLs. BPA explained that at the time of the initial proposal BPA did not have the data required to identify NLSLs. Staff further explained that BPA was in the process of collecting additional load data from the IOUs in the Expedited Review Process to determine whether any NLSL adjustments would need to be made for the FY 2009 ASC forecasts. Since this load data could also be used to calculate an estimate of NLSL adjustments for the FY 2002-2008 period, BPA decided to calculate the NLSL adjustments using the terms of the 1984 Average System Cost Methodology (ASCM) for the FY 2002-2008 backcast ASCs in the Expedited Review Process and to incorporate the results into the final WP-07 Supplemental rate record.

## II. Comments

To ensure all parties would have an opportunity to respond to BPA's proposed NLSL adjustments for the FY 2002-2008 backcast ASCs, on June 18, 2008, BPA posted on its external website a preliminary NLSL report, with a request for comments. Comments on the reports were accepted for two weeks. BPA received a total of five comments by the close of the comment period.

### A. **Procedural Concerns With BPA's NLSL Assumptions**

BPA received comment from Association of Public Agency Customers (APAC) that BPA had not afforded APAC an adequate opportunity to review the data that formed the basis of BPA's NLSL assumptions. APAC, NL10003, at 1. APAC alleges that its expert, Mr. Lincoln Wolverton, requested a confidentiality agreement in order to review the NLSL data, but never received a response from BPA. BPA responded to APAC's concern in a letter dated July 10, 2008. In this letter BPA stated:

You state that Mr. Wolverton, on behalf of APAC, has twice requested the necessary confidentiality agreement so that he could review the NLSL data, but a confidentiality agreement has yet to be provided. In fact, however, although Mr. Wolverton requested confidentiality agreements in earlier brief communications with BPA, he failed to note the purpose of his request was to review BPA's NLSL data. BPA has multiple public processes occurring at this time, including the Tiered Rates Methodology, negotiations over the proposed RPSA, in addition to BPA's daily business activities. Requests for a generic "confidentiality agreement" are common place events, and are not generally considered time sensitive assignments unless the party is requesting access to specific information that requires the execution of such an agreement. BPA staff, therefore, searched for copies of existing general confidentiality agreements unaware of why Mr. Wolverton was requesting such agreements. Your July 2, 2008, letter is the first indication of the specific nature of the information requested by Mr. Wolverton.

Despite this miscommunication, BPA accommodated APAC's request and offered APAC the agreement, provided access to the relevant data, and allowed APAC an additional *two weeks* to provide comments on BPA's analysis.

APAC's second comment recognizes that BPA "appears" to have acted in "good faith" by providing APAC access to the data. APAC, NL10008, at 1. Now, however, APAC in its comment requests an *additional* opportunity to review BPA's NLSL assumptions and analysis to ensure the data is accurate and complete. *Id.* BPA disagrees that it is necessary to provide APAC another opportunity to review and comment on the final NLSL assumptions.

As an initial matter, BPA's NLSL determinations are not typically conducted in public proceedings where any party, such as APAC, is allowed to review confidential information of another utility. To the contrary, the determination of a NLSL is done on a case-by-case basis between BPA and the specific utility. More particularly, the detailed electricity usage of large consumers is almost always considered commercially sensitive information. Consequently, if requested by a utility and its consumer to maintain the privileged or confidential nature of such information, BPA honors such requests as allowed under the Freedom of Information Act (FOIA). Thus, the level of access that BPA has already provided APAC to review BPA's NLSL assumptions is unprecedented. Indeed, the concern is great in this case since APAC represents large commercial consumers that are served by BPA's public agency customers, whereas the information APAC seeks to review pertains to large commercial consumers served by BPA's investor owned utilities.

APAC has been provided adequate opportunity to review the data that formed the basis of BPA's NLSL assumptions. BPA posted the results of BPA's NLSL assumptions on its website on June 18, 2008. APAC has had since this date to review the NLSLs and provide comments. After the miscommunication between APAC's expert and BPA staff was clarified, BPA offered APAC an additional opportunity to review and comment on the data. APAC's expert visited BPA and reviewed the data on July 11, 2008. Subsequent to this visit, APAC was given two additional weeks to provide BPA with any comments on the NLSL analysis. During this two-week period, BPA received no further communication from APAC's expert requesting additional time to review the data. APAC submitted its final comments on the NLSLs on July 28, 2008, which contained a number of suggested revisions. *See* APAC, NL10008, at 1. As these facts show, APAC has been afforded an opportunity to review and evaluate the data that BPA used to determine the NLSL assumptions for the backcast ASCs. BPA does not believe further opportunities are either required or necessary.

APAC requests BPA to schedule another "follow-up" meeting to confirm that the data is accurate and complete. APAC, NL10008, at 1. APAC's comment notes a number of issues that it claims must be remedied when making the final NLSL assumptions. *Id.* BPA will address APAC's specific concerns later in this document. For now, BPA makes clear that it does not believe a follow-up meeting is necessary. BPA has APAC's comments and will ensure that the results of this process properly reflect NLSL assumptions consistent with BPA's applicable NLSL policies and data provided to BPA by the IOUs. To the extent that APAC has noted a correction that BPA concurs must be made, BPA will ensure the final NLSL assumptions reflect these changes. It is not necessary to have APAC "check" BPA's work through another round of comments. Therefore, BPA will not schedule a follow-on meeting.

APAC claims that there is a "procedural problem" in that APAC will not be able to review BPA's analysis regarding NLSLs before it is incorporated into BPA's final studies. APAC, NL10008, at 2. APAC's concern is misplaced. BPA has designed this process to address the key issues with the NLSL assumptions. To make an NLSL assumption, in the context of an ASC determination, two questions must be answered: (1) whether there is an NLSL, and if so

(2) what are the cost of resources that serve that NLSL. Once these questions are answered, adjusting the resulting ASC becomes one of arithmetic. APAC has been afforded an opportunity through this process to comment on the two substantive issues relevant to the NLSL adjustment. There is no need, then, for APAC to comment again on how the NLSL assumptions mathematically affect the resulting backcast ASCs.

As a general matter of administrative law, courts recognize that an agency may add supporting documentation to a final rule in response to public comments without triggering a new comment period. *See Rybacheck v. U.S. Environmental Protection Agency*, 904 F.2d 1276, 1286 (9th Cir. 1990). This limitation is crucially important to avoid locking the agency into a “never-ending cycle” of responding to public comments. *Id.* This principle has a particular application in BPA rate proceedings. The Ninth Circuit has recognized that in the context of BPA’s final rate case studies, section 7(i) of the Northwest Power Act does not require that “each time BPA adjusts the conclusions to be drawn from the record, new notice and comment must begin.” *Central Lincoln Peoples’ Util. Dist. v. Johnson*, 735 F.2d 1101, 1118 (9th Cir. 1984).

In the instant case, BPA is responding to comment made by APAC in another forum—BPA’s WP-07 Supplement Rate Case—that an adjustment to the backcast ASCs for NLSLs should be made. BPA concurred that such an adjustment should be made but only after the NLSL review was completed under the Expedited Review Process. Several parties, including APAC, have noted their concerns, and BPA will make the appropriate NLSL adjustments to the backcast ASC in the final rate case studies. The fact that APAC will not have the right to comment *again* on how these NLSL assumptions affect BPA’s final studies does not create a “procedural problem” as suggested by APAC. Rather, BPA is following its long standing practice of modifying the final studies to reflect adjustments that BPA believes are warranted as a result of reviewing comments made by the parties. APAC has not been denied any procedural protections because it has had the opportunity to comment on the NLSL adjustments in this process. By reflecting the results of this process in the final studies, BPA is not required to provide parties yet another opportunity to comment each time BPA adjusts the conclusions to be drawn from the record. There is, therefore, no procedural problem with incorporating the NLSL assumptions into the final studies of the WP-07 Supplemental case.

APAC contends that without the work papers to support BPA’s analysis, it will be “impossible” to determine the accuracy of the underlying data. APAC, NL10008, at 2. This argument is not persuasive. BPA notes that this process was the forum for addressing issues with the NLSL assumptions. To that end, BPA posted on its website with its June 18, 2008, letter 42 pages of detailed Excel spreadsheets that describe the NLSL calculations. APAC visited BPA and reviewed first hand the underlying data BPA used to make these calculations. APAC noted several concerns with the data, which BPA responds to later in this document. While APAC may believe the data was incomplete, it remains that APAC was afforded access to the data that BPA used as the basis for its NLSL assumptions. BPA also intends to fully demonstrate in its final rate case documentation the affect that the NLSLs have had (if any) on the resulting ASCs.

Thus, it will not be “impossible”, as APAC contends, to determine what affect BPA’s NLSL adjustments have had on the final ASCs.

APAC also comments that APAC will not have an opportunity to “change BPA’s conclusions.” This comment is misplaced because APAC has already had several opportunities to comment on BPA’s proposal, and BPA has agreed with APAC on several points. For one, BPA agreed with APAC’s original observation in the rate case that an adjustment for the NLSLs must be made. In this proceeding, BPA concurs with several of the observations made by APAC in its second comment. BPA will be making these changes to the NLSL adjustments to the backcast ASCs. To the extent APAC’s comment refers to the final studies, BPA is not required to allow parties an opportunity to comment on the changes to the final studies that result from comments made in the rate case proceeding.

Finally, practical considerations weigh against granting APAC’s request for another review of the NLSL data. Under BPA’s current schedule, the final Record of Decision (and final rate case studies) must be completed no later than September 22, 2008. To meet this schedule, BPA must have completed its final backcast ASCs well in advance of the Record of Decision publication date. The NLSL results from this proceeding are critical to calculating accurate backcast ASCs for the final rate studies. If BPA were to allow another round of comments on the NLSLs from this proceeding, there would be little to no chance of finishing the final studies by the September 22 deadline. If BPA misses this deadline, BPA could be faced with a host of “other” procedural problems that have grave impacts. For instance, BPA could have to recalculate its rates based on less than a full year of revenue. The current proposed rates are set to begin collecting revenue on October 1, 2008, for costs that BPA will incur during FY 2009. If BPA had to delay the final studies past this deadline, the rates and rate studies would have to be redone to reflect less than a full year of rates and costs. These adjustments would require a significant effort on BPA’s part, which could result in even further delays. BPA believes that the administrative burden that would be created by delaying the WP-07 Supplemental rates far outweighs any value that would be gained by submitting the NLSL assumptions for another round of comments.

#### **B. Whether an ASC should increase as a result of an NLSL.**

PacifiCorp expressed concern with BPA’s position that if new resource costs of serving a NLSL are lower than the embedded ASC of the utility, then the utility’s ASC is not permitted to increase as a result of the removal of these resource costs. PAC, NL10006, at 1. PacifiCorp claims that the Northwest power Act does not limit the removal of post-act resources to only those resources with costs that are higher than the embedded average system costs and asserts BPA has provided no support for such an interpretation. *Id.* PacifiCorp, therefore, requests BPA to allow ASCs to increase as a result of removing the costs of resources that serve an NLSL.

BPA will not to increase a utility’s ASC as a result of an NLSL. Allowing a utility’s ASC to increase as a result of an NLSL would contravene Congress’ direction to BPA to exclude the cost

of resources used to serve an NLSL from a utility's ASC in the first place. Congress excluded NLSLs from ASC in section 5(c)(7)(A) in order to deter large industrial load customers from relocating to the territories of utilities located in the Pacific Northwest served by BPA's inexpensive federal power or receiving related benefits. This exclusion was a critical element in securing support for the Act from Congressional members from the other parts of the country. *See Bonneville Power Administration, New Large Single Load Policy, April 2001, available at, www.bpa.gov/corporate/finance/ascm/Docs/NLSL\_Policy\_0401.pdf.* The NLSL exclusion in section 5(c)(7)(A) removes this incentive by excluding from the cost of a utility's ASC the resource costs the utility incurred to serve the load. As a general matter, then, removing costs from an ASC reduces a utility's ASC, which results in the intended effect of causing a utility's residential customers to receive fewer benefits from the federal system if the utility acquires an NLSL.

The Northwest Power Act does not define how BPA must calculate the costs of the resources used to serve an NLSL. Instead, BPA determines these costs pursuant to a calculation contained in BPA's 1984 ASC Methodology. Under the 1984 ASC Methodology, the cost of resources used to serve an NLSL is determined by following a four step process. This process is explained in detail in Attachment 1 to this letter. BPA followed this process in estimating the NLSL adjustments for PacifiCorp's ASCs for FY 2002-2008. At the conclusion of the calculation, BPA discovered that because of certain features of the 1984 ASC Methodology, if NLSL resource costs are removed from ASC, PacifiCorp's ASC would likely *increase*. This result was clearly at odds with Congress' intent in section 5(c)(7)(A) to deter a utility from receiving federal power and/or benefits to serve a new large single load. Because increasing an ASC as a result of an NLSL is contrary to the intent of the Act, BPA did not make an NLSL adjustment to PacifiCorp's ASCs.

PacifiCorp, nevertheless, requests BPA to ignore the clear intent of the Act and increase its ASC as a result of the NLSL exclusion. BPA declines to take this unreasonable step. If BPA were to adopt PacifiCorp's recommendation, section 5(c)(7)(A) would be turned on its head. PacifiCorp would have BPA read out of section 5(c)(7)(A) the word "additional" which in the full text of the provision reads: "The cost of additional resources in an amount sufficient to serve any new large single load of the utility." The import of the word "additional" is its association with incremental, marginal cost resources. Indeed, Congress discussed the importance of NLSLs stating that if served by BPA at the 7(f) rate such rate would likely be the marginal cost of power. Congress noted that the "average system cost" of power sold to BPA by IOUs under 5(c)(1) had to exclude the cost of resources needed to serve a NLSL and those costs cannot be averaged in BPA rates applicable to rates of preference customers and IOUs. *See* 96<sup>th</sup> Cong. 2d Sess., H. Rep. 96-976 Part I, at 51-52 (May 1980). PacifiCorp's suggestion would allow for the lowest cost resources, regardless of whether they are "additional" to be chosen as representing the cost of serving the NLSL. Such a result would be inapposite to Congress' intent. Instead of penalizing a utility through a lower ASC, an NLSL would have the absurd effect of rewarding the exchanging utility. BPA finds nothing in the Act that would support this illogical outcome. It makes no sense for Congress to have intended to increase the rates of

public customers with NLSLs in this section, but then reward exchanging utilities with NLSLs in the context of section 5(c).

PacifiCorp claims that the Northwest Power Act does not limit the removal of post-act resources to only those resources with costs that are higher than an exchanging utility's ASC and asserts BPA has provided no support for such an interpretation. PAC, NL10008, at 1. PacifiCorp is correct that the Act does not proscribe any particular limit with respect to the removal of resource costs. Indeed, the Act is completely silent on what costs must be excluded when adjusting an ASC for an NLSL. However, when considering the treatment of NLSLs in other provisions of the Act, the clear import of including the NLSL provision in section 5(c)(7) was to ensure that the treatment of NLSLs in the ASC methodology was comparable to the treatment of NLSLs for public agency customers. This comparable treatment of NLSLs can only be achieved if excluding an NLSL from a utility's ASC results in a drop in ASC.

Furthermore, the anomaly of PacifiCorp's (and other exchanging utilities) ASC increasing when an NLSL is excluded is not tied to any statutory provision, but results because of an unusual set of conditions in the Pacific Northwest relating to the resource construction cycle of the IOUs at the time the Northwest Power Act was passed. Footnote "f" of the ASC Methodology directs BPA to use the costs of post-September 1, 1979 base load resources to determine the cost of resources used to serve NLSLs. Prior to the establishment of wholesale power markets, exchanging utilities relied on base load resources to meet the large load/resource deficits that were predicted when the Northwest Power Act was passed. At the time footnote "f" of the 1984 ASCM was developed, removing the cost of new (post September 1, 1979) base load resources for the NLSL adjustment would have had the desired effect of decreasing ASC because the cost of these new resources were considerably above ASCs at that time. The last PNW base load resource, the 740 MW coal-fired Colstrip unit 4, went on line in 1984. With the exception of 3 smaller 250-275 MW gas-fired combined cycle units, 2 constructed in 1995 and 1 in 2003, no base load resources were constructed in the PNW. Because the base load resources are significantly depreciated and the increased reliance on market purchases, the resource cost calculation used in footnote "f" results in resource costs that are below the ASCs of three utilities for the entire 2002-2006 Lookback period. As a consequence, if the NLSL and the associated resources costs are removed from the utility's ASC, the utility's ASC increases. It was never BPA's intent to have footnote "f" cause this perverse result. Indeed, BPA is unaware of any ASC determination in the history of the ASC Methodology that allowed an NLSL exclusion to increase an ASC. Had this result ever occurred, BPA would have undoubtedly issued an interpretation of the ASC Methodology that comports to the position that BPA is taking in this process – namely, that it is inconsistent with the Act to allow a utility's ASC to increase as a result of an NLSL. Because BPA finds no basis in the Northwest Power Act, the legislative history, or 20 years of past practice to allow a utility to reap a benefit from an NLSL, BPA finds that it would be unreasonable to calculate PacifiCorp's ASC such that it increases as a result of an NLSL.



**C. Whether the loss of an NLSL in a utility's service territory effects the determination of whether or not a new customer of that utility or an increase in load of an existing customer of that utility is an NLSL.**

Idaho Power Company (IPC) (NL10005) commented that BPA's NLSL policy takes into account the addition of a NLSL; however, it fails to address the loss of a NLSL. IPC, NL10005, at 1. Idaho Power says it lost a NLSL in 2002; therefore additional resource capacity became available to serve residential load growth and any NLSL that came on-line after 2002. *Id.* Since no new base-load resource has been built to serve a NLSL, these former NLSL resource costs should now be included in IPC's ASC calculation. *Id.*

Idaho raises an interesting issue in its comment. BPA agrees that if a utility "loses" a NLSL then it is appropriate to consider the treatment of the NLSL resource costs that had been excluded from the utility's ASC. If the NLSL load has permanently ceased consuming electricity, and the utility demonstrates to BPA that it is required to include and recover the cost of the resource that was formerly used to serve the extinct NLSL from the utility's remaining retail consumers, then BPA agrees that only then such costs can be included in the utility's ASC. However, if the NLSL is not extinct but merely dormant and begins to again consume electricity, the preexisting NLSL resource costs will be excluded from the utility's ASC.

However, IPC did not submit evidence or documentation concerning the loss of its NLSL in the Expedited ASC Process. BPA, therefore, does not have a basis to make an adjustment to IPC's Lookback ASCs.

**D. Whether BPA misstated the total installed capacity of IPC's share of the Boardman plant for the years 2006 through 2008.**

Idaho Power states that BPA's NLSL calculation contained several errors, and therefore, does not agree with BPA's final NLSL calculation. IPC, NL10005, at 1. Idaho Power notes that the total installed capacity for the Boardman unit is incorrect for the years 2006 through 2008. *Id.* When corrected, the fully allocated cost for the Boardman unit drops, thereby reducing the overall average cost of post-1979 base load resources. *Id.*

BPA agrees with Idaho Power concerning their share of total installed capacity of the Boardman Plant. BPA mistakenly listed Idaho Power's share of the Boardman plant as 56,050 kW for the years 2006 through 2008, when it should have been 64,220 kW for 2006 through 2008. BPA corrected this error in the final NLSL analysis. However, the change actually increased Idaho Power's ASC for the 2006 through 2008 by about \$.07/MWh because the higher capacity resulted in a greater allocation of costs to the Boardman plant.

**E. Whether BPA misstated the quantity of PGE's New Large Single Loads.**

APAC noted that there were data glitches that probably have no effect on the final result, such as in the PGE backup data. APAC, NL10008, at 1. APAC noted that these problems would appear to leave PGE's ASCs unaffected by the likely level of PGE NLSLs and the models appear to contain the correct data. *Id.*

BPA agrees with APAC that BPA incorrectly reported the quantity of PGE's NLSLs. BPA corrected the error and APAC is correct that the correction did not change PGE's ASC.

**F. Whether BPA identified all of PacifiCorp's NLSLs.**

APAC notes that it was not able to trace all the data at the meeting at BPA, such as the PacifiCorp NLSL data. APAC, NL10008, at 1. Nevertheless, APAC states that its review was "satisfactory" because it assumes that some NLSLs in PacifiCorp's service territory do not affect the BPA's ASC determination. APAC notes, though, that this hypothesis has not been proved. *Id.*

BPA submitted discovery requests asking for data on potential NLSLs to all of the IOUs. BPA reviewed the responses and in some cases had follow-up requests, discussions and clarifications with the IOUs on the NLSL data that they submitted in response to BPA's data requests. BPA believes that it identified all of PacifiCorp's potential NLSLs and that the PacifiCorp's ASC would not change if additional NLSL's were served by PacifiCorp. The 1984 ASCM requires that BPA remove the cost of resources used to serve NLSLs, along with the NLSL from a utility's ASC. PacifiCorp's ASCs were above the cost of resources used to serve any NLSLs in every year of the 2002 – 2008 Lookback period. Because BPA does not allow an NLSL adjustment to increase a utility's ASC, PacifiCorp's ASC cannot be affected by the number of NLSLs it serves.

**G. Whether the NLSL resources cost determination include an adjustment for transmission losses.**

APAC notes that the NLSL data it reviewed did not account for transmission losses and wheeling costs for distant resources used to serve NLSLs. APAC, NL10008, at 1. APAC contends that because of this error, all of the NLSL figures are low when distant resources are involved. APAC requests BPA to make this correction.

BPA agrees with APAC that the NLSL resource cost determination should include transmission losses between the resource and the NLSL, which are assumed to be in the utility's service territory. Preparation of the resource costs included data taken primarily from the utility's FERC Form 1. The resource cost calculation involves identifying the fully allocated cost of the resource, and dividing those costs by the resources generation. The value for generation used initially by BPA was "Net Generation" from line 12 of page 402 of each utility's FERC Form 1.

Net Generation is amount of power sent into the grid and is measured at the resource busbar. BPA should have reduced the “Net Generation” value by the loss factors associated with delivering power to the NLSL.

BPA revised its NLSL resource cost estimates by reducing the amount of generation at each plant based on the loss factors obtained from the respective Open Access Transmission Tariff websites based on the transmission networks used to deliver the power from each resource to the utility grid. This adjustment raised the NLSL resource costs for all utilities, and corrects the error noted by APAC.

#### **H. Avista’s Request for CF/CT Designation of its Potlatch Lewiston Facility.**

Avista in its comment informally requests BPA to make a contracted for / committed to (“CF/CT”) determination for its Potlatch Lewiston Facility load. Avista, NL10007, at 5. Avista provides a detailed overview of the historical service that Avista has provided the Potlatch Lewiston Facility. *Id.* Avista notes that it has never served (to its knowledge) the total load of the Potlatch Lewiston facility since 1950. *Id.* Consequently, Avista requests BPA to assume for purposes of making its NLSL calculations that the Potlatch Lewiston Facility is entitled to CF/CT treatment.

For purposes of making NLSL adjustments for ASCs, BPA will assume that about 43 MWs of Avista’s Potlatch Lewiston facility load qualifies as a CF/CT load. Avista included in its comment information that supports such a designation, such as having a hand ledger billing report from 1978. When BPA formally determines whether the Potlatch Lewiston load qualifies for an amount of CF / CT load BPA will examine whether there is a contract or other written record that demonstrates a contemporaneous contract or commitment to serve the consumer’s facility load by the BPA customer. *See* BPA’s New Large Single Load Policy Issue Review, Administrator’s Record of Decision (March 2002) at 2. The handwritten ledger identified by Avista appears to meet the contemporaneous commitment required to be shown. BPA believes it is therefore reasonable to assume that 43 MWs of the Potlatch Lewiston facility load qualifies as CF / CT load and will allow Avista to fully demonstrate the existence of contemporaneous materials showing Avista’s commitment to serve the approximately 43 MWs of Potlatch Lewiston facility load. Consequently, for purposes of making NLSL adjustments to Avista’s ASC, BPA will adjust Avista’s NLSL amount downward by 43 MW, which amount is subject to change pending BPA’s formal CF / CT determination of Avista’s Potlatch Lewiston facility load.

#### **I. Concerns About Missing Data**

APAC notes concern over BPA using data that is incomplete. APAC, NL10008, at 1. APAC states that it is aware that Avista is searching for NLSL information for some of its industrial loads, but those contracts are not available to APAC. *Id.* Second, APAC is not able to assess whether or not the plants included in BPA’s calculations represent the total of plants on each IOU’s system that might be NLSLs. *Id.*

BPA understands that Avista was looking for additional data at the time that it met with BPA. Avista subsequently located the information and supplied BPA with the NLSL data. BPA adjusted Avista's ASC downward as a result. In response to APAC's concern that the total plants included in BPA's calculations may not represent the total number of NLSLs served by the exchanging utilities, BPA notes that it did request detailed data on potential NLSLs from the exchanging utilities in the Expedited ASC Process. BPA reviewed the responses to the data requests with the utilities and believes that the data it received is a reasonable estimate of the number of NLSLs. If APAC has additional information on plants that could be NLSLs, it had ample time and opportunity to present such information in the Expedited ASC Process for BPA review and analysis. APAC did not submit any information on potential NLSLs.

### **III. Conclusion**

BPA concludes that the NLSL calculations included in the attachments to this document properly reflect the NLSL assumptions that should have been made to the ASCs used in the WP-07 Supplemental Rate Proceeding. Parties have been afforded an adequate opportunity to review and comment on the NLSL determinations. In response to these comments, BPA has made a number of changes to its NLSL assumptions. BPA will incorporate this letter, the attachments, NLSL spreadsheets, and comments of the participants in this proceeding into the final WP-07 Supplemental Rate record.

Sincerely,

*/s/ Michelle Manary*

Residential Exchange Program Manager