

Public Process #2: Exchange Clarification for Consumer-Owned (Public) Utilities

Reviewer's Note: The customer will have the one-time option of including the following language in Exhibit D of their CHWM contract in Spring 2009, as part of the Clean-up Amendment Process. The number of the section will differ for different customers and is shown as "X." below.

X. LIMITATIONS ON EXCHANGE OF EXISTING RESOURCES

X.1 Option on Full ASC Participation and Alternative Contract

BPA's 2008 Average System Cost (ASC) Methodology limits the loads and resource costs included in ASCs for consumer-owned utilities that sign a CHWM Contract. The TRM establishes a Tier 1 PF Exchange Rate for such consumer-owned utilities. Pursuant to section 12.2 of the body of this Agreement and section 20 of the Residential Purchase and Sale Agreement (RPSA), «Customer Name» is contractually precluded from seeking or receiving Residential Exchange Program (REP) benefits based on an ASC other than as provided for in Section IV(G) of the 2008 ASC Methodology or its successor.

BPA and «Customer Name» understand and acknowledge that this is the first time BPA has attempted to implement an REP with two different ASC cost structures and two differing levels of benefits, and that as a consequence, the implementation of the REP may be revised over time. Because of the contractual preclusions in the paragraph above and because a limited number of consumer-owned utilities with CHWM Contracts may participate in the REP, the intent of this section X is to provide limited protection to such consumer-owned utilities from future changes in the REP.

Any impact to «Customer Name»'s access to REP benefits, pursuant to section 5(c) of the Northwest Power Act, as a result of an action taken by BPA as required by a statutory change or final judicial action shall not be considered an Action as provided in section X.2 below, shall not be subject to the criteria provided in section X.3 below, and shall not make available the option provided in section X.4 below.

Absent the exercise by «Customer Name» of the option set forth in section X.4 below, nothing in this section X is intended to alter the application of any provision of the ASC Methodology.

X.2 Actions

If BPA takes any of the following Actions and such Actions meet the criteria specified in section X.3, then «Customer Name» may elect the option set forth in section X.4 below.

Action 1. BPA adopts, in a final record of decision issued in a section 7(i) proceeding for a Rate Period, a Base Tier 1 PF Exchange Rate for customers with CHWM Contracts which is calculated in a manner that differs from the following:

$$\text{Base T1 PF Exchange Rate} = \frac{(\text{PFCosts} - \text{PFCredits}) - (\text{T2Costs} - \text{T2Credits})}{\text{PFLoad} - \text{T2Load}} + \text{TmnAddr}$$

Where:

Base T1 PF Exchange Rate is the Base Tier 1 PF Exchange rate prior to the application of any Supplemental 7(b)(3) Rate Charge, as determined in each 7(i) Process.

PFCosts are all costs allocated in a 7(i) Process to the Priority Firm rates at the point in BPA's ratemaking process immediately prior to the performance of the section 7(b)(2) rate test (the unbifurcated PF rate) and any reflection of the tiering of the PF Preference rate.

PFCredits are all credits allocated in a 7(i) Process to the Priority Firm rates at the point in BPA's ratemaking process immediately prior to the performance of the section 7(b)(2) rate test (the unbifurcated PF rate) and any reflection of the tiering of the PF Preference rate.

T2Costs are all costs allocated in a 7(i) Process to Tier 2 Cost Pools.

T2Credits are all credits allocated in a 7(i) Process to Tier 2 Cost Pools.

PFLoad is the BPA forecast of load used to determine the unbifurcated PF rate in a 7(i) Process.

T2Load is the BPA forecast of load used to determine Tier 2 Rates in a 7(i) Process.

TmnAddr is the same unit charge for transmission added to the Base PF Exchange rate.

The Tier 1 PF Exchange rate used to calculate «Customer Name's REP benefits is the Base Tier 1 PF Exchange rate as modified by any Supplemental 7(b)(3) Rate Charge, as determined in each 7(i) Process and may be adjusted pursuant to the Supplemental 7(b)(3) Rate Charge Adjustment, any cost recovery adjustment clause, and any dividend distribution clause, as determined to be applicable to the Tier 1 PF Exchange rate in a 7(i) Process.

Action 2. BPA adopts, in a final record of decision, policy or interpretation, a method of calculating «Customer Name»'s ASC for a Fiscal Year(s) of an Exchange Period pursuant to BPA's 2008 ASC Methodology that differs from the following formula:

$$\text{RHWM ASC} = \frac{\text{Contract System Cost} - \text{NewRes\$}}{\text{Contract System Load} - \text{NewResMWh}}$$

Where:

RHWM ASC is the ASC for «Customer Name» for an Exchange Period, as defined by BPA's 2008 ASC Methodology.

Contract System Cost is as defined in BPA's 2008 ASC Methodology.

NewRes\$ is the forecast cost of resources (including purchased power contracts) used under this Agreement to serve «Customer Name»'s Above-RHWM Load. Such resources are exclusive of «Customer Name»'s Existing Resources for CHWMs as specified in Attachment C, Column D, of the TRM, and exclusive of purchases of power at Tier 1 Rates from BPA. The costs included in NewRes\$ will be determined using a methodology similar to Endnote d of BPA's 2008 ASC Methodology.

Contract System Load is as defined in BPA's 2008 ASC Methodology.

NewResMWh is the forecast generation from resources (including purchased power contracts) used under this agreement to serve «Customer Name»'s Above-RHWM Load. Such resources are exclusive of «Customer Name»'s Existing Resources for CHWMs specified in Attachment C, Column D, of the TRM, and exclusive of purchases of power at Tier 1 Rates from BPA.

Reviewer's Note: The formula in Action 3 below will be modified to reflect the same formula included in Section 20 for COU's in the RD RPSA following completion of the Public Process #1: RPSA Exchange Load.

Action 3. BPA offers «Customer Name» an RPSA with an Exchange Load used to calculate «Customer Name»'s REP benefits payments that differs from the following formula, or interprets such RPSA in a manner that differs from the following formula:

$$\text{Actual RHWM Exchange Load} = \text{RRL} \times \text{T1Pctg}$$

Where:

Actual RHW Exchange Load is the monthly residential and small farm load of «Customer Name» used to calculate the actual monthly REP payments to «Customer Name» as specified in the RPSA.

RRL is «Customer Name»'s actual total qualifying residential and small farm retail load for a month as specified in the RPSA.

$$T1Pctg = \frac{T1MWh + ExistResMWh}{TRL - NLSL}$$

Where:

T1Pctg is BPA's forecast percentage of «Customer Name»'s load that is expected to be served by purchases of power at Tier 1 Rates from BPA and from «Customer Name»'s Existing Resources for CHWM, and will be computed for each Fiscal Year of the applicable Rate Period. Such computation will be performed in the applicable RHW Process for the Rate Period.

T1MWh is the amount of power at Tier 1 Rates BPA forecasts to be purchased by «Customer Name» from BPA in each Fiscal Year of a Rate Period as forecast in each RHW Process for a Rate Period.

ExistResMWh is the specified output of «Customer Name»'s Existing Resources for CHWM, as specified in Attachment C, Column D, of the TRM.

TRL is BPA's forecast of «Customer Name»'s Total Retail Load in each Fiscal Year of a Rate Period as forecast in each RHW Process for a Rate Period.

NLSL is BPA's forecast of «Customer Name»'s New Large Single Loads in each Fiscal Year of a Rate Period as forecast in each RHW Process for a Rate Period.

Action 4. BPA adopts a final record of decision, policy or interpretation that changes the terms of the TRM or the 2008 ASC Methodology applicable to REP participants with CHWM Contracts and such change is not encompassed in Actions 1-3, and such change meets the criteria in section X.3 for application of the option in section X.4.

X.3 **Criteria**

The option set forth in section X.4 below is available to «Customer Name» if BPA has taken any of the Actions 1-4 set forth in section X.2 and the Actions taken, when considered in combination with all

actions being undertaken at that time, result in a material reduction in the REP benefits of the class of REP participants with CHWM Contracts. A reduction shall not be “material” for purposes of this section X.3 if such Action(s), when considered in combination with all actions being undertaken at that time, are applied to the provisions applicable to all REP participants and produce the same or comparable effects on all REP participants, even if such Action(s) results in an otherwise material reduction in the REP benefits of the class of REP participants with CHWM Contracts.

X.4 **Option**

If the criteria for this option as set forth in section X.3 have been met, then «Customer Name», within 30 calendar days of such Action(s), may provide written notice to BPA in accordance with section 20 requesting an alternative power sales contract without a CHWM. Such alternative power sales contract shall be for the same purchase obligation in section 3 of this Agreement that is in effect at the time the notice is provided to BPA. BPA shall have 180 calendar days after receipt of such notice to offer to «Customer Name» such alternative power sales contract. «Customer Name» acknowledges that the terms and conditions of such alternative power sales contract may vary from those contained in the CHWM Contract. «Customer Name» shall notify BPA in accordance with section 20 no later than 60 calendar days after the receipt of such alternative power sales contract whether it will terminate its CHWM Contract and execute such alternative power sales contract, or retain its CHWM Contract. If «Customer Name» fails to notify BPA within the 60 day period of its decision regarding its CHWM Contract, «Customer Name» will be conclusively presumed to have elected to retain its CHWM Contract.

If «Customer Name» provides BPA timely notice of its election to terminate its CHWM Contract and executes the alternative power sales contract, service under such alternative power sales contract shall not commence until the beginning of the Rate Period immediately following the Rate Period in which the alternative power sales contract is executed.

Language proposed for inclusion in the RPSA template for consumer owned utilities only

Drafter's Note: Include the following additions to section 2 and section 20 ONLY for any public customer that executed a Regional Dialogue contract in 2008 that included a CHWM. If the customer chooses NOT to include optional language in 20.2 included in Exhibit D of their CHWM contract, delete the numbering “20.1” and adjust the indent to line up with the section heading.

Drafter's Note: If including the following definitions in section 2, renumber the defined terms accordingly.

2. DEFINITIONS

- 2.X “7(i) Process” shall have the meaning as defined in the TRM.
- 2.X “Existing Resources for CHWMs” shall have the meaning as defined in the TRM.
- 2.X “Rate Period” means the period of time during which a specific set of rates established by BPA pursuant to the TRM is intended to remain in effect.
- 2.X “Rate Period High Water Mark” or “RHWM means the Tier 1 Rate as defined in the TRM.
- 2.X “RHWM Process” shall have the meaning as defined in the TRM.
- 2.X “Total Retail Load” shall have the meaning as defined in the TRM.

Reviewer's Note: The following clause is concurrently being negotiated as part of the final RPSA template, EXCEPT for the second paragraph which BPA proposes to add.

20. AGREEMENT TO LIMIT EXCHANGE TO COSTS OF EXISTING RESOURCES

- 20.1. «Customer Name» agrees it will not seek and shall not receive residential exchange benefits pursuant to section 5(c) of the Northwest Power Act other than pursuant to Section IV(G) of the 2008 ASC Methodology or its successor. Accordingly, the Parties shall calculate eligible exchange loads based on the following formula:

$$\text{Actual RHWM Exchange Load} = \text{RRL} \times \text{T1Pctg}$$

Where:

Actual RHWM Exchange Load is the monthly residential and small farm load of «Customer Name» used to calculate the actual monthly REP payments to «Customer Name» as specified in this Agreement.

RRL is «Customer Name»'s actual total qualifying residential and small farm retail load for a month as specified in this Agreement.

$$\text{T1Pctg} = \frac{\text{T1MWh} + \text{ExistResMWh}}{\text{TRL} - \text{NLSL}}$$

Where:

T1Pctg is BPA's forecast percentage of «Customer Name's load that is expected to be served by purchases of power at Tier 1 Rates from BPA and from «Customer Name's Existing Resources for CHWM, and will be computed for each Fiscal Year of the applicable Rate Period. Such computation will be performed in the applicable RHW Process for the Rate Period.

T1MWh is the amount of power purchased at Tier 1 Rates BPA forecasts to be purchased by «Customer Name» from BPA in each Fiscal Year of a Rate Period as forecast in each RHW Process for a Rate Period.

ExistResMWh is the specified output of «Customer Name's Existing Resources for CHWM, as specified in Attachment C, Column D, of the TRM.

TRL is BPA's forecast of «Customer Name's Total Retail Load in each Fiscal Year of a Rate Period as forecast in each RHW Process for a Rate Period.

NLSL is BPA's forecast of «Customer Name's New Large Single Loads in each Fiscal Year of a Rate Period as forecast in each RHW Process for a Rate Period.

Drafter's Note: Include the following paragraph only if the customer's CHWM contract includes language in Exhibit D that is cross-referenced below.

20.2 However, if «Customer Name» terminates its CHWM Contract and executes an alternative power sales contract with BPA, all pursuant to section X of Exhibit D of Contract 09PB-«XXXXX» (*Insert contract number of CHWM Contract*), then on and after the effective date of such alternative power sales contract, BPA and «Customer Name» agree that section 20.1 above will be null and void, of no further force or effect, and will not contractually preclude «Customer Name» from seeking and receiving REP benefits other than as provided in Section IV(G) of the 2008 ASC Methodology or its successor.

End section 20 for publics only