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CURRENT

March 2003

BPA's 2003 expedited power rate case – what, why and how to participate

On Feb. 7, 2003, Steve Wright, administrator of the Bonneville Power Administration, initiated a rate-setting process to consider a special adjustment to the agency's 2002 wholesale power rates.



The proposal

The Safety Net Cost Recovery Adjustment Clause (SN CRAC) rate-setting process formally began on March 13, 2003, with a notice of proposed rule making published in the Federal Register. As summarized in the Federal Register notice, BPA's initial proposal consists of a variable rate adjustment with the level of any SN CRAC adjustment for each of the remaining three years of the current rate period to be determined every August. The proposal includes annual caps on the amount that can be recovered by the SN CRAC. The complete initial proposal will be available March 31.

In developing its initial proposal for the SN CRAC rate proceeding, BPA used three criteria designed to move the agency toward financial health while keeping the impact of a rate increase as low as possible in order to minimize its effect on the regional economy. First, a variable rather than a fixed rate adjustment is used to allow BPA to reduce rates if revenues are better than forecast. Second, BPA will use a lower probability of making all of its payments to the U.S. Treasury, which it pays after all other obligations have been paid, on time and in full. This is a lower standard than has traditionally been used in setting rates. Third, the proposal will spread the impact over three years rather than one year in order to lower the overall average rate increase. Each year's adjustment could range from zero to the annual cap. While no final decisions have been made, it is expected that, given current projections, the adjustment would average about 16 percent a year above fiscal year 2003 rates for the rest of the rate period (through FY 2006).

BPA cannot estimate how a possible rate increase would affect a particular end-use consumer because different utilities buy different amounts of BPA power in various configurations, and each utility has its own set of costs and other factors that uniquely affect its retail rate level and structure.

Utility customers and others have expressed strong opposition to any rate increase, pointing out that the region cannot afford one. BPA does not believe that it is prudent to stop the rate case but has expressed a willingness to incorporate customer ideas into the ultimate rate design.

Why BPA needs to consider increasing its rates

Fiscal years 2001 and 2002 were tough years for BPA, as they were for many utilities and most other businesses. High market prices in FY 2000 and 2001, when BPA purchased power to meet its obligations to its customers, quickly turned to low market prices in FY 2002 when BPA expected to earn money from the sale of seasonal surplus power (also referred to as net secondary sales). The lingering effects of the 2001 drought in FY 2002 and the poor hydro conditions in 2003 have contributed to a significant decline in BPA revenues relative to expectations when rates were set. And cost increases relative to the levels projected in the 2002 rates have also contributed to BPA's eroding financial situation.

Following a Financial Choices public process in the summer of 2002, BPA established a plan designed, in part, to meet its financial challenges. This plan is outlined in Administrator Steve Wright's Financial Choices closeout letter to the region dated Nov. 22, 2002. BPA has taken, and will continue to take, actions to reduce its costs. These include expense savings, expense deferrals and other actions that reduce budgeted expenditures during FY 2003-2006. The agency continues to pursue additional potential savings and deferrals, but many of them are uncertain because they require actions by other parties in the region. The administrator has asked for help from the rate case parties and others to achieve these savings.

Regardless of the actual cost cuts achieved throughout the remainder of this rate period, BPA's financial outlook is tightly connected to its net secondary sales revenues. Net secondary sales revenues from the sale of surplus power usually provide roughly 20-25 percent of BPA's total revenue. For the second time in this rate period, the volume of the runoff in the Columbia River system is expected to be below normal. Indeed, some forecasters expect the recent series of water years to be among the very poorest water years on record.

As a result of lower-than-expected secondary revenues in the first two years of this rate period and

costs higher than assumed in the rate case, the agency is currently projecting a significant net revenue shortfall for this rate period. The SN CRAC is designed to correct this shortfall. BPA believes it must begin the rate case now to assure it is able to implement a rate increase in October 2003 if one is necessary.

How to participate in the rate case

Groups and individuals may become participants in the rate case. A “participant” provides comments, information, and arguments and asks questions in person at a field hearing or by letter or e-mail.

Another level of participation in the rate case is as a party. A “party” to the rate case generally invests significantly more time and effort into the process and is responsible for the costs required to support this involvement. Parties are involved in all phases of the formal hearing.

Generally, individuals and groups who have limited resources are best served by participating at the level of participant. All participant written and oral comments submitted during the comment period through May 1, 2003, will be included in the official record and considered by the administrator in making a final decision in the rate case.

Rate case process

The Safety Net CRAC rate case is a legal process for establishing wholesale electric power rates. It is a quasi-judicial proceeding presided over by a hearing officer as required by section 7(i) of the Pacific Northwest Electric Power and Conservation Act of 1980.

The steps in the process

1. Ex parte went into effect with the administrator’s announcement that the SN CRAC process had triggered on Feb. 7. During *ex parte*, BPA account executives and other BPA representatives cannot initiate or engage in any conversations with customers, rate case parties,

constituents or tribes about rate case issues outside of the field hearing or formal hearings. This keeps all communication on the record and ensures that all parties are aware of any arguments made to BPA regarding the proposed rates so that all parties may review and respond to them. Any *ex parte* communication that does occur must be recorded, transcribed and made part of a special *ex parte* file available to everyone.

2. Rate case workshops. February and March 2003. In preparation for publishing the Federal Register notice and preparing the initial proposal, BPA held rates workshops. These were “hands on” sessions in which interested parties and participants reviewed and discussed with BPA staff the assumptions and information involved in the studies leading up to the initial rate proposal.

3. Federal Register notice. March 13, 2003. The official comment period on the rate case began with this notice. The Federal Register notice includes a summary of the proposal with information on how to become a formal party to the rate case.

4. Prehearing conference and initial proposal. March 31, 2003. At the prehearing conference BPA releases its 2003 SN CRAC initial rate proposal. The hearing officer at this conference also establishes a final schedule for the formal rate hearing. Technical supporting documents will be made available as part of the initial proposal.

5. Field hearing. April 16, 2003. BPA will hold a field hearing in Portland, Ore., at the East Portland Community Center located at 740 S.E. 106th Ave. beginning at 6 p.m. The field hearing will be presided over by a hearing officer and generally includes a presentation by BPA and time for public input, questions and answers. Attendees may provide any information they have that is related to the issues in the rate case. Some participants prepare and read written statements. The hearing will be recorded and transcribed, and the transcriptions become a part of the official record. This field hearing will be announced in regional newspapers. Any changes to the time and location will be posted on BPA’s Web site at www.bpa.gov/power/rates.

6. Formal hearings. April and May 2003. Only those designated as parties to the rate case may take part in the formal hearings, although the public may attend. A hearing officer presides over the formal hearings and conducts them according to a process specified in the existing BPA Rules of Procedure Governing Rate Hearings. In the formal hearings process, BPA files an initial proposal; parties then file direct cases that respond to BPA's initial proposal and describe how they think BPA should develop its rates; and BPA and the parties file rebuttals, which means that they respond to each other's proposals. Discovery takes place after each of the above steps. In discovery, BPA and the parties ask clarifying questions about each other's testimony and submit written data requests in order to prepare their responses. In cross examination, the parties and BPA have the opportunity to orally cross examine each other's witnesses on specific points in the direct and rebuttal cases.

7. Close of comment. May 1, 2003. This is the deadline for submitting written comments to be included in the official record.

8. Final record of decision. June 30, 2003. The administrator reviews the official record and makes a decision on the proposed rates. The official record comprises testimony, exhibits, hearing transcriptions, letters and other documents filed during the rate case. The record of decision (ROD) includes BPA's evaluation of the parties' submissions during the formal hearings and summarizes comments from participants. There may also be oral arguments before the BPA administrator or his designee. Participants, as opposed to parties, do not review or comment on any of these documents.

9. Rates filed with the Federal Energy Regulatory Commission. After the BPA administrator makes a decision on the proposed rates, the rates are submitted to the Federal Energy Regulatory Commission for confirmation and approval. FERC may grant interim approval or final approval, or it may return the proposed rates to BPA for reconsideration.

If FERC grants interim approval, it may take additional time to review the rates. Final FERC approval is based on its assessment of whether the proposed rates are sufficient to cover BPA's costs and are based on BPA's total system costs.

10. Rates take effect on or around Oct. 1, 2003.

Contact information

Because BPA's materials are public documents, the agency will post all its materials (such as the initial proposal and exhibits as well as the final studies and the final record of decision) on a public Web page at www.bpa.gov/power/ratecase. Anyone will be able to read the rate case studies and documentation as they are completed and posted. For those without Internet access, BPA's documents will be available for reading at the agency's Public Information Center at 905 N.E. 11th Ave., Portland, Ore. For information about document availability, call (503) 230-7334 or (800) 622-4520.

Send written comments via e-mail to comments@bpa.gov or mail comments to Bonneville Power Administration, P.O. Box 12999, Portland OR 97212. All comments are due by May 1, 2003.

For additional information about the rate case process, please contact your BPA Power Business Line account executive or contact the nearest BPA customer service center listed below:

Bend, Ore.	(541) 318-1680
Big Arm, Mont.	(406) 849-5034
Burley, Idaho	(208) 678-9481
Spokane, Wash.	(509) 358-7409
Richland, Wash.	(509) 372-5771
Seattle, Wash.	(206) 220-6759
Portland, Ore.	(503) 230-5459
Washington, D.C.	(202) 586-5640

