5(b)/9(c), Current Policy (abbreviated)

<u>5(b)</u>

5(b)(1) Whenever requested, the Administrator shall offer to sell to each requesting public body and cooperative entitled to preference and to each requesting investor-owned utility electric power to meet the firm power load of such public body, cooperative or investor-owned utility in the region to the extent that such firm power load exceeds –

(A). The capability of such entity's firm peaking and energy resources used in the year prior to December 5, 1980, to serve its firm load in the region, and

(B). Such other resources as such entity determines, pursuant to contracts under this chapter, will be used to serve its firm load in the region.

In determining the resources which are used to serve a firm load, for purposes of subparagraphs (A) and (B), any resources used to serve a firm load under such subparagraphs shall be treated as continuing to be so used, unless such use is discontinued with the consent of the Administrator, or unless such use is discontinued because of obsolescence, retirement, loss of resource, or loss of contract rights.

5(b)/9(c), Current Policy (abbreviated)

9(c)

The Administrator shall, in making any determination, under any contract of any Pacific Northwest customer, which is a non-Federal entity having its own generation, exclude any amount of energy included in the resources of such customer for service to firm loads in the region if (1) such amount was disposed of by such customer outside the region, and (2) as a result of such disposition, the firm energy requirements of such customer other customers of the Administrator are increased. Such amount of energy shall not be excluded, if the Administrator determines that through reasonable measures such amount of energy could not be conserved or otherwise retained for service to regional loads. The Administrator may sell as replacement for any amount of energy so excluded only energy that would otherwise be surplus. 16 U.S.C. 839f(c).

5(b)/9(c), Current Policy (abbreviated)

3(d)

The Secretary, in making any determination of the energy requirements of any Pacific Northwest customer which is a non-Federal utility having hydroelectric generating facilities, shall exclude any amounts of hydroelectric energy generated in the Pacific Northwest and disposed of outside the Pacific Northwest by the utility which, through reasonable measures, could have been conserved or otherwise kept available for the utility's own needs in the Pacific Northwest. The Secretary may sell the utility as a replacement there for only what would otherwise be surplus energy.

5(b)/9(c), Regional Dialogue Proposal

Rights to Remove Existing Resources

BPA proposes to offer a limited resource removal right but only for load loss a customer experiences within a rate period. BPA intends that the qualifying load loss only be the difference from the forecasted amount measured from the start of each rate period. This contract mechanism is intended to ease a customer's take-or-pay risk, while assuring the recovery of BPA's expected revenue under the contract.

5(b)/9(c), Regional Dialogue Proposal

Customer Rights to Add and Remove New Non-Federal Resources

Customers would have a right to add non-Federal resources, upon a specified notice to BPA, to serve their net requirements load in excess of their HWM, and subject to rules yet-to-be developed on the resource shape and consistent with any obligations the customer has made to purchase BPA power at a Tier 2 rate. If a customer does add a new resource to serve its load above its HWM, then in addition to load loss amounts within a rate period, the customer would have a right to remove those new resources that are used to serve that load above the HWM. This right to remove non-Federal resources should ensure that the acquisition of such resources does not reduce the amount of firm power provided at the Tier 1 rate. To accomplish this type of resource removal and the limited resource removal rights for loads eligible for Tier 1 rates, BPA would need to review and modify the current section 5(b)/9(c) policy to reflect these changes in the treatment of customer resources.

5(b)/9(c), Regional Dialogue Proposal

Customer Rights for Consumer Resources

The current Subscription contracts identify the amounts of specific consumer resources applied to load. As noted earlier, the calculation for each utility HWM would be based in part on resource amounts, including consumer-owned resource amounts, established for under Subscription contracts for FY 2010. Regional Dialogue contracts would continue to require that public utility customers list all consumer-owned resources in their service territory and whether they would be applied to load. Utilities may want to include notice provisions in their own arrangements with these loads to pass through the impact of BPA rate and contract provisions that guarantee BPA's revenue even under low market prices. A consumer decision not to apply its own resource may increase a utility's net requirement load beyond its HWM, potentially subjecting the utility to Tier 2 rates.

5(b)/9(c), Regional Dialogue Proposal

<u>Other Issues (renewable resource exception)</u>

BPA proposes to eliminate the 200 MW (in aggregate) of renewable resource additions established under the Subscription contracts and BPA's 5(b)/9(c) policy. To encourage customers to support the development of renewable resources, the Subscription contract and policy gave customers the right to identify and add new renewable resources to serve their firm retail load. Customers could also define the duration of applying and removing the renewable resource, returning the retail load to PF rate service without application of the targeted adjustment charge (TAC). Because BPA proposes to establish tiered rates and offer renewable resource facilitation assistance to its customers, BPA no longer sees the renewable exemption as providing customers an incentive to develop and use renewable resources to serve load.

The 2010 resource amounts BPA uses for purposes of calculating the HWM would not include any renewable resources a customer dedicates to its load that have on-line dates later than July 2006. Simply stated, new renewable acquisitions by the customer would not reduce its HWM.