

**Bonneville Power Administration
New Large Single Load Policy**

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SUMMARY OF NEW LARGE SINGLE LOAD POLICY PRACTICES CURRENTLY USED

Section 3(13) of the Pacific Northwest Electric Power Planning and Conservation Act (Act) defines a New Large Single Load (NLSL) to be any new load or expansion of an existing load at a single facility whose power requirements increase by 10 average megawatts (aMW) or more in any consecutive 12-month period as compared to its consumption during the immediately preceding 12-month period.

“New Large Single Load” means any load associated with a new facility, an existing facility, or an expansion of an existing facility:

- (1) which is not contracted for, or committed to, as determined by Bonneville, by a public body, cooperative, investor-owned utility, or Federal agency Customer prior to September 1, 1979, and
- (2) which will result in an increase in power requirements of such Customer of ten average megawatts or more in any consecutive twelve-month period.

Power purchased from BPA to serve NLSLs must be at the section 7(f) new resource rate. Power is available from BPA at the section 7(b) priority firm rate for non-NLSL firm loads of preference customers. In providing service to new large loads, BPA has used the following practices.

SERVICE PRACTICE

Phased-In Load

A load can be served with power purchased by a preference customer at the 7(b) rate if the increase in load in any consecutive 12-month period does not reach 10 aMW as compared to the previous 12-month period. Any increase of 10 aMW or more occurring in any consecutive 12-month period causes the load to become a NLSL; the increase and any future increases are to be served at the 7(f) rate.

CFCT Determination

A new load of 10 aMW or more may be served with power purchased by a preference customer at the 7(b) rate if it was “contracted for, or committed to” (CFCT) by the utility prior to September 1, 1979. CFCT status assures the load an agreed-upon base level of service at the 7(b) rate for the life of the facility. Any load above the CFCT level which equals or exceeds 10 aMW in any consecutive 12-month period as compared to the previous 12-month period is considered a NLSL to be served at the 7(f) rate. Once this occurs, any subsequent increment of load is also considered a NLSL to be served at the 7(f) rate.

Facility Determination

A preference customer’s new load may be served with power purchased at the 7(b) rate if it consists of two or more distinct loads which meet each of the following criteria:

- are separately metered;
- experience annual load growth under 10 aMW;
- involve different manufacturing processes or products;
- are independent of one another;
- are contracted-for and customarily billed as separate loads; and
- are treated consistently with similar fact situations.

Start-Up Date

Either the date of initial energization of a facility (for testing or start-up) or the commencement of commercial operation may be selected, with BPA's concurrence, to define the start of the consecutive 12-month periods. Depending on the anticipated first-year usage pattern of the load, selection of one date over the other may enable a load to receive power purchased by a preference customer at the 7(b) rate.

Resource Dedication

A NLSL need not be served with power purchased from BPA. A customer may declare all or a portion of a customer-owned resource which is not included in the utility's Net Requirements Exhibit or Firm Resources Exhibit (FRE) in its power sales contract or which has been withdrawn from such exhibit may be dedicated to serving a NLSL. However, if the resource cannot supply the total requirements of the NLSL, BPA may serve the difference at the 7(f) rate with appropriate notice.

Change in Utility

A load is not a NLSL if it moves from one location to another within the serving utility's service territory. A load which changes utilities becomes a NLSL if its energy consumption during the first 12-month period commencing on the date it becomes served by the new utility is 10 aMW or more.

NEW LARGE SINGLE LOAD POLICY

I. Preface

The NLSL statutory definition was first incorporated into BPA's 1981 power sales contracts with its utility customers. BPA's newly executed subscription power sales contracts continue to incorporate the definition and the NLSL policy. This policy includes background, an overview of decisions involved in service to new large loads, and descriptions of the three principal types of BPA determinations affecting those loads. These are: (1) contracted for, committed to (CFCT) determinations; (2) facility determinations; and (3) new large single load determinations.

THIS DOCUMENT IN NO WAY ATTEMPTS TO CHANGE OR IMPLEMENT NEW POLICY APPROACHES TO NEW LARGE SINGLE LOADS; IT IS MERELY A CONSOLIDATION OF PREVIOUSLY ANNOUNCED POLICIES AND SERVICES APPROACHES.

A. Origin of New Large Single Load Restrictions

When the Northwest Power Act was being developed in the late 1970s, BPA and the region fully expected to be facing power supply deficits in the near future. In fact, in 1975, BPA had issued Notices of Insufficiency to its investor-owned utility customers (IOU's), which ended firm sales to IOU's. BPA's efforts to develop a power allocation policy anticipated shortages for another major BPA customer group, the preference utilities. These expected shortages stimulated the development of provisions in the act, including the new large single load provisions, which would limit access to federal power. Congress considered a number of factors for inclusion of the NLSL provisions in the Northwest Power Act.

First, NLSL provisions helped broaden the support for passage of the Act by representatives from other parts of the country. NLSL restrictions in the Northwest would protect industry in other parts of the country by eliminating rate inducements to relocate to the Pacific Northwest. This was a critical element in securing support for the Act from Congressional members from the Northeast. Second, NLSL restrictions were also intended to equalize rates to new industries between BPA's preference utility customers and IOU's. This increased support for the Act from Northwest IOU's. Third, NLSL provisions were included to induce DSI's to sign new contracts with BPA. By preventing DSI's from obtaining retail service from preference utilities with relatively low priority firm rates, NLSL provisions helped to obtain the regional reserves and rate support from DSI's that were part of the structure of the Act. Fourth, NLSL provisions were intended to preserve Federal base system resources for residential and farm loads (especially important because of the expected regional resource deficits). Finally, NLSL provisions were designed to motivate, by means of marginal cost pricing, the adoption of energy-efficient processes or designs by new industries. Conservation and environmental groups therefore supported NLSL provisions in the interest of energy efficiency.

B. Northwest Power Act References

Several sections of the Northwest Power Act refer to NLSL's. Section 3(13) defines New Large Single Loads. Section 7(b)(4) prohibits NLSL's from receiving service at the Priority Firm Power rate. Section 5(c)(7)(A) excludes the cost of resources used to serve NLSL's from a utility's Average System Cost under the Residential Exchange program.

C. Effects on Preference Customers and IOU's

Preference customers who serve NLSL's would see an increase in their power bills from BPA compared to the costs of serving other loads. Power to serve NLSL's must be sold to utilities at the higher New Resources Firm Power (NR) rate, while BPA serves other loads at the relatively lower Priority Firm Power (PF) rate. A preference utility would have to recover the higher cost of NR power from its ratepayers. These higher costs may influence a new industry's decision on where to locate a new operation.

Except for power exchanged to serve their residential loads, IOU's are required under the Northwest Power Act to pay the NR rate for all requirements power from BPA. Hence, the rate for BPA power to serve a NLSL of an IOU would not differ from the rate to serve other commercial or industrial loads. However, the costs of resources to serve the NLSL are excluded from the utility's Average System Cost (ASC), likely reducing payments under the Exchange Program under section 5(c) of the Northwest Power Act. Service to NLSL's will remove high cost resources from the utility's ASC, reducing the difference between the ASC and BPA's costs, which in turn reduces the utility's exchange payments from BPA. The end result is to increase the utility's costs, which will probably tend to increase rates.

For all utilities, the information requirements for NLSL determinations and the monitoring and reporting requirements result in BPA's involvement in relations between the utility and the consumer to a much greater degree than occurred prior to the Northwest Power Act. As the text below shows, NLSL requirements and determinations require a lot of information and planning which may significantly alter an industry's approach to the development of new operations.

D. Application of the New Large Single Load Policy To BPA's Power Sales Contracts

In general, BPA power sales contracts contain specific language with regard to the application of the NLSL policy on service to load under the contract. For example, existing 1981 power sales contracts contain detailed provisions on service to a NLSL. *See* section 8 of the 1981 power sales contract. Recently executed contracts all contain provisions for the exchange of information and most contain NLSL provisions that reference and incorporate the NLSL policy. The contracts that specifically reference the NLSL policy contain provisions that require BPA's utility customers to notify and inform BPA of the development of a NLSL in their service area. If such load is determined a NLSL and BPA is requested to serve the contracts specify that the separate New Resources (NR) rate will apply. Contracts that do not reference the NLSL policy generally do not obligate BPA to expect or plan to serve any new large loads placed on the customer during the term of the contract. These contracts include presubscription contracts, including sales of Hungry Horse Reservation power in Montana, and contracts which provide Slice, Block or non-load following products and services.

II. Overview of New Large Single Load Planning

This section discusses the sequence of decisions involved in planning service to a potential NLSL.

A. Before the Load Increase Occurs

Identify a planned new load, or a planned expansion of an existing load, of 10 aMW or greater within a 12-month period. The utility shall notify BPA of the load's potential to become a NLSL, and must notify BPA if it intends to serve the load with dedicated resources. If the utility (other than an IOU) fails to report a NLSL, BPA will backbill the utility for the difference between the PF and NR rates, plus interest and late charges, unless the utility reasonably could not have known about the load.

Sequence of Decisions:

1. Was the load served by the utility, or did the utility make a commitment to serve the load, prior to 9/1/79?

If so, request a contracted for, committed to (CFCT) determination. Once BPA makes the CFCT determination, there is no NLSL potential until the load increases by 10 aMW over the CFCT amount in one 12-month measuring period.

2. Does the load consist of more than one facility?

If so, request a facility determination. The increase in load at each facility is measured separately for the purpose of determining whether the facility is an NLSL.

3. Can the increase in load be limited to annual increments of less than 10 aMW for any facility, before a 10 aMW or greater increase occurs, as measured in twelve-month periods from either the date of energization, the date of first commercial operation for new loads, the date of service from the utility, or from September 1 of each year for CFCT loads?

If so, for new operations, identify the start date alternative to be used for each facility and request BPA's concurrence. Operate facilities so that, to the extent feasible, increases in load over the 12-month measuring periods are less than 10 aMW.

4. Can renewable or cogeneration resources at the site be permanently committed to the load so as to reduce the net annual increase in load to less than 10 aMW in any of the prescribed measuring periods?

If so, apply the resources to the load. [*Note:* If the committed cogeneration or renewable resources are withdrawn from service to the load, the entire load will become a NLSL if it would have been a NLSL without the withdrawn resources, unless the withdrawal was caused by uncontrollable events.]

5. Can resources other than Firm Resources under the utility's power sales contract with BPA ("NLSL resources") be dedicated to the NLSL?

[*Note:* Resources dedicated to serve NLSL's are designated "NLSL resources," rather than "dedicated resources," in order to distinguish them from resources dedicated to utility firm loads.]

If so, dedicate resources to the expected NLSL by removal of the NLSL resources and declaring the load to be served with the NLSL resources in the customer's power sales contract. [*Note:* BPA has no obligation to serve the NLSL if the NLSL resources fail or are not adequate to serve the load. Any BPA service to such a load would be charged as an unauthorized increase in service.]

6. Is the load at a facility likely to become a NLSL, so that it should be billed as a NLSL from the expected effective date of NLSL status?

If BPA and the utility agree that the load at a facility will become a NLSL, the load will be treated as a NLSL for billing purposes from the start of commercial operation or service from the utility. If the utility and the consumer are uncertain whether the load will become a NLSL, they may want to select the rebating option. Rebating allows billing as a NLSL from the beginning of the 12-month period in which the load becomes a NLSL, instead of back billing after the load has exceeded 10 aMW, and thus avoids interest charges on back billed amounts.

B. Measurement of Consumption to Determine NLSL Status

1. Begin measurement of the consumption of the load.
 - a. Establish the start date and hour for the 12-month measuring period. The utility should select, with BPA's concurrence, either the date of energization, the date of first commercial operation, or date of service from the utility as the start date for measurement. To avoid complications in metering and billing, it is preferable to start load measurement at the beginning of the billing month. Knowing the precise hour of startup and service may be important in measuring load at a facility if the annual increase in consumption is close to 10 aMW. For existing loads, including all CFCT loads, the start date for measurement is September 1, which is based on the September 1, 1979, cutoff date for grand fathered loads under the Northwest Power Act.
 - b. Measure consumption at the consumer's facilities rather than at the utility point of delivery from BPA.
 - c. Construction loads are not included in first year consumption, and do not establish the energization date. The energization date must be based on the consumption of power by a permanent installation (other than substation equipment) owned by the consumer.
2. Read the meter(s) at the load on the anniversary of the start date. As noted above, it is preferable for the start date to match the start of the billing period; otherwise, it will be necessary to arrange for a special reading on each anniversary date. To obtain a precise measurement over the 12-month measurement period (necessary when the increase in load over the measuring period is close to the 10 aMW threshold amount) it may be necessary to read the meter at the same hour of the day that the measuring period started.

3. Calculate the amount of the increase. If the load is a new load in its first year of measurement, the increase is simply the total consumption for the measuring period. If the load was in operation in previous measuring periods, the increase is the difference between the consumption during the measuring period and the consumption during the immediately preceding 12-month period.
4. Adjust for load normalization, if appropriate. BPA must adjust the comparison of amounts of consumption in two 12-month periods to eliminate any reductions in the load due to unusual events reasonably beyond the control of the Consumer. Normalization is possible where the consumer's facility has a period of normal operation, then a period of reduced load, and then an increase in load. The consumer requests normalization through the retail utility, supplying data to support the request.
5. If cogeneration or renewable resources are permanently committed to the load, the load measured for the purpose of determining whether the load is a NLSL must be the net load after the subtraction of the amount served by the committed cogeneration or renewable resources. If the resource is removed from service to the load, the entire load is measured to determine whether the load is a NLSL, unless BPA determines that the removal was due to uncontrollable events.
6. If, after all of the above adjustments, the increase over the 12-month measuring period is greater than 10 aMW, the facility is a NLSL as of the beginning of the 12-month measuring period. The amount of the NLSL includes both the threshold 10 aMW amount and the increase above 10 aMW. All future increases in the load at the facility are also part of the NLSL.
7. Increases in load at a facility will continue to be a concern for large loads that have not become NLSL's, particularly loads that decline in size but which may eventually resume consumption at historical levels. The increase in load from one year to the next will continue to control the status of the load, unless a reduction in load is due to unusual events reasonably beyond the control of the Consumer. Where the reduction is due to such events, the increase in load is "normalized," i.e., measured for NLSL purposes, as if the load reduction had not occurred.

In all other cases, especially where the reduction in load at a facility is the consumer's voluntary choice, the consumer and the utility must be vigilant about resuming consumption if the increase from the previous 12-month measuring period will be 10 aMW or more. Except for normalized loads, PF service depends on avoiding load increases of 10 aMW or more in any 12-month measuring period as compared with the previous period.

C. Mechanics of NLSL Service (after NLSL status is established)

Several aspects of NLSL service must be developed specifically for each utility customer as a NLSL develops. BPA will work on a case-by-case basis with a utility customer to develop appropriate mechanisms for scheduling and billing NLSL's and arranging the dedication of resources to serve NLSL's where appropriate. BPA realizes that other issues of NLSL service will likely arise as plans for NLSL service proceed and as new variations of NLSL service occur.

III. Contracted For, Committed To (CFCT) Determination Process

Under section 3(13) of the Northwest Power Act, BPA has the sole responsibility to determine claims made by utilities that they have “contracted for or committed to” load. BPA is to carefully examine these claims that a facility is not a new large single load. *See* H. Rep. No 976, 96th Cong. 2nd Sess., Part I (1980) at 52. BPA’s policy has been a CFCT determination must be based on a “paper trail” showing significant evidence that a “commitment” or a contract existed prior to September 1, 1979.

The BPA Administrator has sole responsibility for CFCT determinations, which are made at his or her discretion. CFCT determinations are not NLSL determinations. No NLSL determination can be made for a CFCT load until it increases by 10 aMW or more above the CFCT amount within the prescribed 12-month measurement period.

The normal steps in the CFCT determination process are as follows:

1. The utility makes an informal request to BPA for a CFCT determination (or otherwise seeks guidance concerning service to large industrial loads in circumstances that suggest that a CFCT determination may be appropriate).
2. BPA staff will meet with the utility and the consumer, as appropriate, to:
 - (a) identify the facts of the situation, specifically, the contractual and service arrangements in place as of September 1, 1979;
 - (b) explain relevant NLSL theory, legislative history, and BPA interpretations of NLSL provisions;
 - (c) discuss possible consequences of CFCT determination, including potential future treatment as a single facility;
 - (d) explain BPA’s interpretation of the terms “contracted for, or committed to,” particularly the showing of commitment required (written documentation of a commitment to acquire power to serve the load, contemporaneous with September 1, 1979) if the retail contract does not establish an obligation in the amount desired. In addition, BPA will explain alternative bases for CFCT determinations, specifically, contract energy, maximum energy consumption of the load, or contract demand (if contract energy is not specified), and the evolution of CFCT determinations to apply a 100 percent load factor to retail contracts based on contract demand;
 - (e) outline the normal CFCT determination process; and
 - (f) identify needed documentation.
3. The utility submits a formal request for a CFCT determination to BPA, with initial documentation of the utility’s commitment to serve the load.
4. BPA reviews the submittal. If necessary, BPA requests supplemental information or revisions from the utility.
5. BPA informs the utility of its decision by a letter accompanied, if appropriate, by a revised power sales contract exhibit showing the amount of the CFCT load. The

utility also receives a copy of a decision paper describing the basis for BPA's decision.

6. BPA will continue to monitor the load annually to establish the extent to which the load is using the CFCT amount and to obtain advance notice if the load grows in amounts that may require a NLSL determination. Earlier notice, if available, will facilitate faster NLSL decisions. If the facility is transferred from one owner to another, the utility should provide BPA with copies of the contracts transferring ownership and assigning electrical service to the new owner, so that BPA has proof that the new owner is entitled to CFCT treatment.

IV. Facility Determination Process

BPA will make the determination in cooperation with the utility with the information provided by the utility and its consumer. A facility determination is not a NLSL determination. No NLSL determination is warranted until the load at one of the facilities increases by 10 aMW or more above the CFCT amount, if any, during the prescribed 12-month period.

The normal steps of the facility determination process are as follows:

1. The utility contacts BPA concerning a potential facility determination (or otherwise seeks guidance concerning service to large industrial loads in circumstances in which a facility determination may be appropriate).
2. BPA will meet with the utility and the consumer (as appropriate) to:
 - (a) identify the facts of the situation, i.e., the general features of the operations involved, including the size of the load, type of process, schedule for development, location, and electrical service requirements;
 - (b) explain relevant NLSL theory, including the legislative context and objectives, and the NLSL mechanisms which may allow a load or portion of load to receive service at a rate below the NR rate;
 - (c) discuss consequences of a facility determination:
 - (i) separate options for start dates for measuring load increases at each facility;
 - (ii) separate schedules for phasing in load; and
 - (iii) separate allowances for increase in load up to 10 aMW in each 12-month measuring period;
 - (d) explain the application of the facility determination criteria, including:
 - (i) the determination based on the cumulative effect of all of the criteria;
 - (ii) the absence of any prescribed weighting;
 - (iii) the application of particular criteria in previous facility determinations; and
 - (iv) if appropriate, background on the development of the criteria in the power sales contract negotiations;
 - (e) outline the normal facility determination process; and
 - (f) identify needed documentation.

3. When the plant design and electrical service plans are complete, the utility submits a formal request for a facility determination to BPA. The request consists of a letter from the utility summarizing the facts and requesting a determination, together with documentation from the utility and the consumer showing the factual background. Documentation should be directly related to the facility determination criteria. Superfluous detail, such as technical specifications of plant equipment, should be avoided.
4. BPA reviews the submittal. If necessary, BPA requests supplemental information or revisions from the utility.
5. BPA informs the utility of its decision by a letter, accompanied by a copy of a decision paper describing the basis for BPA's decision.
6. BPA will continue to monitor the load annually to determine whether the loads at the facilities are using their CFCT amounts, and to obtain advance notice if the load at any of the facilities grows in amounts that may require a NLSL determination. The anniversary date for the 12-month measurement period should be identified for each facility, and the utility should report the annual load measurement for each facility to BPA.

V. New Large Single Load (NLSL) Determination Process

BPA alone will make NLSL determinations as well as make ASC adjustments under the Exchange program if appropriate. A utility is required to report NLSL's to BPA. If a utility (other than an investor-owned utility) fails to report an NLSL, it will be back billed for NLSL service at the difference between the NR and PF rates, plus interest and late charges.

There are two principal sources of NLSL determinations. The first is ASC filings under the Residential Exchange program, which has been the source of BPA's initial NLSL determinations. The second is notifications made by the customer to BPA reporting additions in electrical equipment of 10 MVA by a consumer, installation of additional transformation capacity of 10 MVA or more by the customer or a consumer, or the potential change in operation of a facility which may result in an increase of 10 aMW or more in a 12-month period. The latter actions are expected for some of the loads that have been the subject of facility determinations. Procedures for both of these methods are described below.

A. Development of NLSL Determinations from Average System Cost (ASC) Filings

When BPA identifies a possible NLSL from a utility ASC filing, BPA will notify the utility and request information about the size of the load and its electricity consumption history.

1. BPA will meet with the utility and the consumer, as appropriate, to:
 - (a) identify the facts of the situation;
 - (b) explain relevant NLSL theory, legislative history, and BPA interpretations of NLSL provisions (including CFCT determinations, facility determinations, and other BPA practices that may affect the power costs to the load);
 - (c) discuss possible consequences of an NLSL determination, including:

- (i) applicability of the NR rate to BPA requirements service (Northwest Power Act section 7(f));
 - (ii) the inability of an NLSL to revert to PF service (unless equipment creating the load is permanently removed);
 - (iii) the “last-on, first-off” treatment of NLSL loads;
 - (iv) identify, explain and illustrate in a generic manner relevant 1984 ASC Methodology provisions impacting the calculation of the NLSL exclusion (Northwest Power Act § 5(c)(7)(A), footnote f); and
 - (v) the potential to dedicate resources to serve the load.
- (d) explain the following:
- (i) the measurement of the increase in load based on total consumption rather than load placed on the utility (unless cogeneration or renewable resources are committed to the load);
 - (ii) the fixed 12-month measuring period; and
 - (iii) for new loads (not CFCT loads), the options for setting the start of the period, i.e., either the date of energization or the date of first commercial operation;
- (e) outline the applicable NLSL determination process;
- (f) identify needed documentation; and
- (g) if appropriate, inform the utility that the ASC rate determined by BPA may be adjusted contingent upon the NLSL determination.
2. BPA will request any additional information needed from the utility, or through ASC data requests, including:
- (a) any data necessary for the above analysis; and
 - (b) except for CFCT loads, the utility’s choice of starting date for measuring load increases--either the date of energization or the date of first commercial operation. The anniversary date for measurement of load increases at all CFCT loads is September 1.
3. BPA will inform the utility of its decision by a letter accompanied, if appropriate, by a revised power sales contract exhibit showing the amount and location of the NLSL. The utility will also receive a copy of a decision paper describing the basis for BPA’s decision.

B. Development of NLSL Determinations for Planned NLSLs

NLSL determinations for planned NLSL’s are expected to occur in the context of a long-term planning process, involving both the utility and BPA, to arrange service to a new or expanded load. The issue of a NLSL determination for the planned load should be the final step in the process of arranging service to a new industrial load.

The NLSL determination process for planned NLSL’s has two phases. First, procedures are established for service, load monitoring, and billing for the prospective NLSL. Second, the formal NLSL determination is made once the load has increased by more than 10 aMW in a 12-month measuring period.

The steps to be taken in phase one (planning service, load monitoring, and billing) are as follows:

1. The utility notifies BPA that the consumer and the utility are committed to plans that will result in load increases at a facility exceeding 10 aMW in one of the prescribed 12-month measuring periods.
2. BPA requests any information needed from the utility, including:
 - (a) the expected size of the load and schedules of load development to determine when the load is expected to exceed the 10 aMW threshold;
 - (b) the utility's choice, if any, of starting date for the 12-month load measurement period--date of energization or date of first commercial operation at the facility--unless the load is a CFCT load, in which case the anniversary date for measurement of increases in load will be September 1;
 - (c) the utility's plans, if any, to "phase in" load increases at the facility in annual increments less than 10 aMW, including:
 - (i) the expected amount of phased-in load;
 - (ii) the monthly distribution of the phased-in energy load; and
 - (iii) the amount of demand to be associated with the phased-in energy;
 - (d) the utility's plans, if any, to dedicate resources to all or part of the load, or to permanently commit cogeneration or renewable resources to the load, including:
 - (i) identity of the resources to be dedicated, and the extent to which they will be able to supply the requirements of the load;
 - (ii) integration of the dedicated resources into the annual load and resource planning process;
 - (iii) appropriate revisions in exhibits to the power sales contract; and
 - (iv) firm transmission arrangement to deliver the dedicated resources to the load;
 - (e) whether the utility has been, is, or would be a participant in the Residential Exchange Program under the RPSA.
3. BPA and the utility will work together to resolve issues concerning service to the load, including:
 - (a) billing procedures to address all classes of power to be delivered to the facility, including any priority firm power for phased-in portions of the load, resources to be dedicated to all or part of the prospective NLSL, and new resources power to be supplied to the load by BPA;
 - (b) BPA's concurrence with the utility's choice of starting date for measuring load increases, either the date of energization or the date of first commercial operation;
 - (c) the utility's dedication of resources, if any, under its power sales contract with BPA.
4. Once these procedures and plans are completed, service to the load can begin. From the start of the first 12-month measuring period, BPA will monitor the load

to ascertain whether an increase of 10 aMW or more has occurred. If, after a period of normal commercial operation, the load's growth is affected by unusual events reasonably beyond the control of the Consumer which result in a reduction in the load, BPA may consider whether normalization of the load is required, i.e., the energy consumption shall be computed as if such reductions had not occurred. [Note: Normalization is possible only if there is a period of normal commercial operation, followed by a period of load reduction, and then an increase in load.]

The steps to be taken in phase two (formal NLSL determination) are as follows:

5. Once the load at the prospective NLSL has increased by more than 10 aMW during the selected 12-month measuring period, BPA begins the process of making a NLSL determination. The determination process may begin before the end of the 12-month period if the 10 aMW threshold has been exceeded.
6. BPA assembles available information concerning the load, including:
 - (a) the amount of the load during the 12-month period in which the 10 aMW increase occurred and in the immediately preceding 12-month measuring period;
 - (b) the start date of the 12-month period during which the 10 aMW increase occurred, on which the load becomes a NLSL;
 - (c) any normalization of load during the 12-month measuring period preceding the period of the 10 aMW increase.
7. BPA will inform the utility of its decision by a letter accompanied, if appropriate, by a revised exhibit in the power sales contract showing the amount and location of the NLSL. The utility will also receive a copy of a decision paper describing the basis for BPA's decision.

VI. Northwest Power Act Section 3(13) Decisions

The decisions below are described in brief. Each decision remains fully in force. The decisions in their entirety are available upon request.

- 1981 Section 5(g) Initial Contracts Record. Environmental Report dated September, 1981.

Published in conjunction with BPA's offer of initial power sale contracts under 5(g) of the Northwest Power Act, BPA's environmental report included policy statements in response to public comment on NLSL issues raised during the contract process. The policy decisions made formed the basis for BPA's NLSL policy and interpretation of section 3(13). They included the following decision:

BPA would use a rolling 12-month comparison for measuring the load at a facility of the current twelve month period to the immediately preceding 12 month period. This policy was denominated the "permissive" approach or referred to as "load creep" since it would allow a consumer to increase its actual metered energy consumption load at the facility by 9.9 aMW when measured over the 12 months without triggering the NR rate. At 32.

A corollary to this decision was that BPA would measure all load including the increases in load at the consumer's facility and not the customer's load on BPA. A second corollary to this policy was that once the load exceeded 10 aMW in any consecutive 12 month period and

became a NLSL, all subsequent increases in load, whether above 10 average megawatts or not, would be added to the NLSL amount and charged at the NR rate. At 33.

BPA also stated its decision on the issue of whether CFCT loads could be transferred from service by the utility providing service as of September 1, 1979, to another utility at a later date. A CFCT load which switched suppliers from one utility to a new utility would no longer fall within the exception of section 3(13)(A) and would be served as a NLSL of that new utility at the NR rate. This would limit access to lowest cost Federal Base System resources and avoid potential resource additions raising costs. It was consistent with the specific use of “such customer” in the statute when referring back from section 3(13)(B) to 3(13)(A) as stated in the Boise Cascade letter supra. At 33.

- Letter from Peter T. Johnson, Administrator (BPA), to John B. Frey, Boise Cascade Corporation (Oct. 6, 1981) regarding whether a CFCT load is transferable to a new utility. All industrial loads which are contracted for, or committed to and existed on September 1, 1979, and subsequently are served by a different utility will be classified as new large single loads. The terms “such customer” in relation to contracted for, or committed to refers to a contractual relationship that existed on September 1, 1979, between a specific utility and a specific consumer. Once the consumer begins to receive service from a different utility, under a different, the contractual relationship with the new utility is no longer “grand fathered” and the load becomes a new large single load.
- Letter from Sydney D. Berwager, BPA, to Wilbur L. Anderson, Vigilante Electric Cooperative, Inc. (July 13, 1992) regarding service to new load designated a NLSL and formerly served as a direct service industry customer of BPA.

The determination that Stauffer and its successor-in-interest’s (RP) load was and is a NLSL remains unchanged. Therefore, the load sharing/shedding arrangement between RP, MPC and Vigilante mentioned in RP’s April 14, 1992, letter to Vigilante, is irrelevant to an existing NLSL and not “recognized” or “permitted” by BPA’s NLSL Guide. BPA does not permit the “phasing on” of existing NLSL load to a new serving utility; nor does the statute, the utility contract, or the NLSL Guide recognize or permit a change in the serving utility for an existing NLSL (such as the RP load from MPC to Vigilante) to be served at the PF rate. If a NLSL could avoid that status simply by changing utilities, all such loads could attempt to do this to evade the intent of the Northwest Electric Power Planning and Conservation Act.

BPA rejected the proposal that a contract limiting the customer’s service to the consumer to 9.9 aMW a year should be allowed to avoid NLSL treatment. Such a policy would run counter to the utility responsibility to serve and would fail to consider and measure the whole load at the facility of the consumer.

- 1992 Administrator’s Record of Decision New Large Single Load Treatment of Utility Service to Direct Service Industry Expansions; Initiating a Northwest Power Act Section 5(d)(3)Process to Increase Direct Service Industry Contract Demand

BPA's record of decision (ROD) addressed NLSL treatment of a utility's retail service in excess of a DSI's Contract Demand to an expansion of a load or new load of a DSI. BPA's policy applied NLSL provisions to electric power service in excess of a DSI's Contract Demand when an expansion of a load or a new load of a DSI customer is served by a utility customer.

The ROD stated that for an existing load under a BPA DSI power sales contract, it could become a NLSL if electric power service to that load is transferred to a local utility from BPA. BPA reaffirmed its policy on measuring the actual energy consumed by the load at a facility of a consumer using the customer's meters, or other appropriate information. If actual energy consumption exceeds the trigger, BPA has meter and billing data to establish that load as a NLSL. BPA did not change its policy or practices in adopting this ROD and specifically rejected any reliance upon a "contract limitation" between the utility and the DSI as establishing whether a utility's service to a load at a specific facility of a consumer is less or more than 10 aMW in any 12 consecutive months.

BPA's policy for NLSL treatment of service to DSI loads above their Contract Demand will be to measure only the increase in load at a consumer's (DSI) facility above the DSI's Contract Demand. The NLSL provisions of the utility power sales contract will be applied to any proposed service by a local utility. BPA will also apply its present longstanding practices, interpretations, and policies in measuring the load served by a utility at a DSI site. The amount of energy consumed at a facility will be measured from a floor amount of energy consumption, which is either the greater of the amount of energy the DSI could take under its Contract Demand or the prior 12 months' total energy consumption under the DSI power sales contract and the utility's service to the expansion of load, whether the load is metered jointly or separately.

BPA will require full use of the DSI's Contract Demand for service with a utility in order to preserve BPA's existing restriction rights and Industrial Firm Power revenues. In any BPA-utility joint service agreement, the utility service would be provided only in excess of the DSI's Contract Demand.

This policy applies only to new load which are expansions of existing DSI load above the DSI's Contract Demand when served by a local utility purchasing or exchanging Federal power from BPA. It does not apply to conversions of load from BPA service under the DSI power sales contract to utility or other service. This policy does not apply in those circumstances in which a DSI reduces Contract Demand or Operating Level of its existing BPA load and takes service from a utility. This policy does not address whether such conversion will be permitted and, if permitted, would be a NLSL.

- Initial Northwest Power Act Power Sales Contracts, Final Environmental Impact Statement (1992) (DOE/EIS-0131)

This EIS resulted from the Forelaws on Board v. Johnson, 743 F 2d. 677 (1984), decision in which the Ninth Circuit directed BPA to prepare an environmental impact statement on the section 5(g) contracts it had offered its customers. It contains a NLSL policy decision which had not previously been included in either the contract record, correspondence, or the 1981 Environmental Report.

As background, in 1986 BPA had an amount of annual planned surplus power. Some customers proposed that BPA adopt a policy of permitting the use of the surplus power to serve a load which would otherwise be a NLSL. The service to the load would be split between the surplus power portion and a phase in of regular PF service in annual 9.9 megawatt increments until the load was served entirely at PF. The contractual “phasing in” of PF load was discussed with regional parties and opposed by many. BPA did not adopt the “phase in”. In the 1992 EIS, BPA stated surplus power would be available for service, from December 1988 through September 1990, to an NLSL under surplus (SL) power rate. Upon expiration of service under the SL contract the load would revert to usual NLSL status and would be subject to the NR rate.