

REGIONAL DIALOGUE TECHNICAL WORKSHOP NOTES
Thursday, January 9, 2003
PPC Conference Room, Portland, Oregon

Approximately 23 people attended.

Meaningful and Enforceable

Fred Rettenmund (BPA) said the “meaningful and enforceable” discussion would focus on the customers’ proposal for cost-control elements in the contract. We want you to help us understand what is in your paper, he said.

Element One: Initial Rate Limit

Terry Mundorf (WPAG) explained the proposal, beginning with the first element, an initial rate limit. Dale Latham (BPA) reiterated an idea from Wednesday’s meeting that would provide a way to get at a realistic rate limit. If there is going to be a rate limit in the contract, there is interest in having rate workshops during contract development, he said. A rate limit in the contract has to be realistic, and workshops are a way to force people to deal with the cost issues and come up with a realistic number, Mundorf agreed.

Carl Buskuhl (BPA) asked about the effect of the proposal on existing versus new contracts. The idea is not to produce two separate rates, Mundorf said. The issue is, if the rate case produces a rate beyond a certain limit, does the customer want to go forward with a commitment for the longer term or keep the existing contract, he indicated. It’s a contract duration issue, not an issue of developing an alternative rate, Mundorf clarified. This is a mechanism to give people the opportunity to reassess a contract execution decision once they know the rate, he added.

Rettenmund pointed out that BPA could take various approaches to meeting a numeric target. There are a number of ways to achieve the target, some of which “are more durable” than others, Mundorf agreed. The notion here is to give customers the ability to make a decision based on fresh information about rates, he said.

Given the schedule, there is a question of how realistic we could be in setting the target, Latham pointed out. We may need to have a target two years in advance of the rate case, and the number of unknowns at that point could make setting a realistic rate target problematic, he said. One of the key principles in this dialogue is that BPA and customers need the ability to plan in advance for the future, Latham said. We need to know our loads and resources so we can plan, he added.

Our experience in this rate period has shown that we have to find a way to do better than we did last time, Erick Johnson (PNGC) stated. We have to have a better load/resource picture than we had then, he indicated, adding that customers are being hurt by the current set up. Customers mean what they say here – we need this, Johnson said.

Setting the limit is the hardest part, and setting the limit so far ahead of time makes it even more challenging, Mundorf commented. I hope people will try to be realistic – “reality is better than fantasy here,” and if the number isn’t based in fact, it doesn’t help anyone, he stated. There is a nuance in this paragraph that indicates if BPA exceeds the limit, customers would have the right “but not the obligation” to void the new contract, Mundorf pointed out. If the rate were to be above the target, I hope people would consider whether it’s an aberration, as opposed to a longer-term situation, he added.

Perhaps we could isolate the variables we control versus those we don’t, Buskuhl suggested. Or make a connection between the rate and the load level, Tom Miller (BPA) said. The rate cap could be based on the units of power we plan to sell – if the rate cap is unrelated to the load level, there’s a disconnect, he added.

One idea is to have all DSI sales delayed until the preference and IOU loads are determined, Erick Johnson suggested. Let’s remember this time that the preference customers and IOUs come before the DSIs, he said.

We have to look at our total obligation, Miller stated. My suggestion is to tie the rate limit to a certain load level, he added. The customer proposal incorporates some level of power to be offered to the DSIs, Miller pointed out. There is a sequencing issue – the advantage of having the contracts signed before the rate case is we know in advance what our load is, he said.

But you will still have the old contracts – the choice for customers is between the new and old contracts, Jim Litchfield (IOUs) pointed out. There is still uncertainty with at least 500 to 700 MW of load, Tim McCoy (BPA) responded.

Element Two: Financial Advisory Board (FAB)

The notion with the FAB is to get ahead of BPA’s decisions on spending and to try to help the agency stay out of the circumstance in which it is undoing programs that have already been put in place, Mundorf explained. It would also provide “an early warning” for customers about where the agency thinks it is going with spending levels, he said. As for the contractual consequence, if the Administrator chooses not to follow the board’s recommendation, he/she would provide a written explanation as to why, Mundorf explained. But the Administrator retains full discretion on spending, he added.

Tim Johnson (BPA) pointed out that the proposal could call the Federal Advisory Committee Act into play. If you are making recommendations on policy choices the Administrator must make, and especially if the FAB process becomes part of the contract, FACA could be a factor, Miller agreed. The Act calls for balanced membership on an advisory committee and opportunities for input, he explained. If we don’t follow the Act, people could seek injunctive relief, Miller added.

You need information and to know our thinking on where things are going with programs and costs, Rettenmund said. Aren't there other means of achieving this that don't have the baggage associated with a board? he asked.

We need to explore "the art of the possible," Mundorf agreed. Part of our need is to have some degree of institutionalization, as opposed to having a variety of ad hoc mechanisms, he indicated. We aren't opposed to the other mechanisms, but we think we need to have something we can count on, Mundorf clarified.

BPA isn't the most transparent of agencies, Michael Early (Alcoa) stated. This gives us assurance there will be some communication on these matters regardless of who the Administrator is, he said.

What is your view on having non-customers involved? Rettenmund asked. It's not realistic for BPA to close its door to other interests in making policy decisions, Mundorf responded. It is not part of our proposal to exclude input from others, he said. But this is a request from "those who pay the bills" to give input, Mundorf stated. You have many ways to get input from other interests, and this doesn't preclude that, he added.

But you want something separate and different from others? Rettenmund asked. Yes, those who are making a 20-year commitment to pay the bills want an institutionalized forum, Mundorf responded. We have a level of interest and a stake that should be recognized, he added.

If the process is separate from others, you won't have the opportunity to hear what they have to say and have any interplay between your points of view, Rettenmund indicated. We would have separate groups talking to us, but not to each other, Tim Johnson agreed.

None of this replaces the rest of our public process, Miller observed. This is setting up another channel of communication – it's a different way of doing business, he said.

Element Three: Rate Case Revenue Requirement

I have talked to others who said that in the early 1980s, the BPA revenue requirement was part of the rate case, and we are asking that it be made part of the process again, Mundorf explained. In our proposal, an ALJ would make decisions about revenue requirement issues, he said. It would add time and effort to the rate case, but it is necessary to impose financial discipline and to get to an appropriate level of spending, Mundorf explained. The revenue requirement is a big part of a rate case for a regulated utility and before FERC, Scott Brattebo (PacifiCorp) commented.

What is the connection between elements 2 and 3? Rettenmund asked. The idea of the FAB is to have input before the rate case, Early explained. So some ground would be covered in element 2 before you get to 3, Rettenmund clarified. It wouldn't be the same level of scrutiny, Mundorf said. FAB is policy level, whereas at the rate case, people look at the costs in more detail, he added.

The rate case “is where it all comes together,” Geoff Carr (NRU) stated. The costs are combined with the level of service (loads), he said. The rate case would be a different context for looking at expenditures, with more information available, Mundorf said. Brattebo said it would be analogous to the Council’s process of making recommendations to BPA. Until you know the revenue side, it’s hard to decide exactly what you’re going to do, he said. When you see the rate impacts, it affects your choices, Brattebo stated.

Would non-customers have the opportunity for input in the rate case? Rettenmund asked. Yes, several customers responded.

Tim Johnson asked about the reference to “applicable statutory standards.” We are not proposing a separate standard, we are talking about your statutes – what you put into the RODs, Mundorf responded. Could the Council hire an ALJ? Johnson asked, referring to a part of the proposal. Mundorf acknowledged there are issues to work out. The point of the proposal is objectivity, he stated. The customers want a truly fair, objective ALJ, Erick Johnson agreed.

There is a judicial review in the 9th Circuit on our rates, including the revenue requirement, Miller pointed out. Having the Council enter into this may bring up some separation of powers issues; we hear your goal, but there may be limitations in terms of the independent review, he said. Your customers need objectivity, Erick Johnson reiterated.

The ALJ functions like a traffic cop in the rate case, Miller said. But we would like to give the ALJ authority to make recommended findings and conclusions, Mundorf replied.

Element Four: BPA Purchase-Level Reduction

Mundorf said the proposal looks at three ways “to skin this cat.” Rettenmund pointed out that earlier discussions put the issue in terms of BPA exercising prudent cost control, as opposed to comparing BPA rates to the market. This seems like a test of BPA rates relative to the alternatives, as opposed to costs within BPA, he said.

It’s a comparison to the environment in which you operate, Brattebo responded.

The previous discussions were geared to things that were advisory, but “they had no teeth,” Early said. A 20-year contract provides you “security and comfort,” but where is the security and comfort for customers? he asked. Long-term contracts could invite some costs that would not otherwise be incurred, Early indicated.

Doesn’t this get us into the stranded cost issue? Tim Johnson asked. We lose load, rates go up, and others decide to leave – it’s a big risk for us, he stated.

It’s a huge risk, but it’s the only mechanism for assuring that “things that are unpleasant internally at BPA” are considered and implemented if needed, Mundorf responded. He

said his clients have “a fiduciary responsibility” to their customers, and if they make a long-term commitment, they want to be assured that costs are steady and low relative to the alternatives.

Rettenmund said the fish expense immediately comes to mind. You said in the Financial Choices forums that as long as the appropriate processes are followed, you were ready to pay the fish bill, he said. But we also said we were ready to work to keep the fish bill low, Lyn Williams (PGE) stated. If we agree to pay the costs for 20 years, it affects what the costs will be, Early pointed out.

We’ve had 20-year contracts in the past, Tim Johnson said, noting that changes in the industry are more of a factor than the length of the contract. But in the old 20-year contracts, customers had a way of removing load, Mundorf responded. This contract would actually give BPA more surety, he added.

The customers are saying, “this is not a blank check for 20 years,” Brattebo stated. They have to have a way to influence your spending, he indicated.

Latham acknowledged that philosophically Administrator Steve Wright favors offering off-ramps.

How would it reduce BPA’s footprint in the market if we have a lot of power to lay off at some point? Miller asked. If there is a better way to do this, “we’re game,” Mundorf responded.

Under your proposal, if you take a reduction, can you bring load back? Miller asked. If you remove load, it stays off for the duration of the contract, Mundorf answered. For the term of the contract, but not beyond, Erick Johnson added. So we could call this EFP (excess federal power)? Miller asked. Yes, several customers replied.

What would happen at the beginning of the next contract period? Tim McCoy (BPA) asked. People would have whatever rights exist under the statutes at the time, Mundorf answered.

The issue in the “date certain” proposal is the notice period of one year, Latham said. We’d want a notice period that is more akin to the rate period of two years, he stated. A year is enough time to market power, Mundorf replied. McCoy indicated BPA would have concerns about the financial effects of a lost sale during the rate period.

There were questions from BPA about finding a comparable regional utility with which to compare rates. Marcus Wood (PacifiCorp) noted that in other contracts where such comparisons are made, an index cost is used.

If someone exercises the off-ramp and BPA has tiered rates, which tier are they walking away from? McCoy asked. Miller asked about the effect on a Slice customer. We didn’t

contemplate tiered rates, and we haven't gotten to that level of detail, Mundorf responded. These are big questions, he acknowledged.

Are you thinking in terms of a total amount of load reduction? McCoy asked. This is a utility-by-utility proposal, Mundorf answered, adding that part of reason is for equity in dealing with stranded costs and to acknowledge that all customers are making some level of commitment to BPA for 20 years.

Rettenmund said BPA would need some time to review the proposal internally and would set up another meeting as soon as possible. Mundorf stressed the urgency of the issue. I don't want to spend a lot of time on other issues if we can't get closure on this, he said.

Adjourn: 12:05 p.m.