



Department of Energy

Bonneville Power Administration
P.O. Box 3621
Portland, Oregon 97208-3621

CORPORATE

August 30, 2006

In reply refer to: L-7

To parties interested in the settlement of outstanding Slice product litigation:

After nearly two years of mediation on issues associated with litigation involving Slice True-Up Adjustment Charges for the Slice product, the Bonneville Power Administration (BPA), public agency customers that purchase the Slice power product and a large number other public agency customers that do not have reached a potential settlement of the outstanding litigation and threatened litigation. With this communication, BPA is releasing the proposed settlement for public review and comment.

The Slice product was introduced with the fiscal year 2002-2006 rate period and is very complex. Aspects of the Slice contract and rate were interpreted differently by the parties and have been subject to litigation that has been argued before the Ninth Circuit, though no decision has been rendered by the court. The litigation, as well as threatened litigation, is described in more detail in the attached *Slice Settlement Background and Summary*.

The full Settlement Proposal is available on the BPA Web site at <http://www.bpa.gov/Power/PSP/products/slice/announcements.shtml>. The Settlement Proposal comprises a Settlement Agreement and numerous attachments. The Settlement Agreement resolves all true-up disputes for calendar years 2002-2005, but the resolution of the majority of substantive issues in dispute will have precedential effect beyond 2005 and, therefore, should substantially limit the scope of future disputes. BPA agrees to pay approximately \$26 million to the Slice customers, made in the form of a credit against each Slice customer's monthly bill. With regard to the Debt Optimization Program (DOP), the Slice customers retain their right to challenge DOP on the same basis that any other BPA customer may challenge it but may not challenge inclusion of it in the Slice Revenue Requirement in the manner as was done in 2002, 2003, 2004, or 2005, either as a violation of the Slice Contract, Slice Rate or Slice Rate Methodology, or as improper ratemaking.

BPA's treatment of costs related to its DOP, and the inclusion of such costs in the True-Up Adjustment Charge, was the single largest cost issue in dispute. The Settlement Proposal includes a Memorandum of Understanding that is calculated in large part to improve BPA's communications with customers and other stakeholders concerning the development and implementation of DOP and ensure that BPA continues to manage the program so that rates for each BPA business line (Power and Transmission) would be no higher with DOP than they would have been in the absence of DOP.

The Settlement Proposal includes communication protocols that the parties will follow during audits of BPA's true-up determinations. Finally, the Settlement Proposal includes comprehensive dispute resolution provisions that provide for improved communication between the parties for true-up disputes that arise in CY 2006 and thereafter through the term of the contract. For disputes that cannot be resolved between the parties, the dispute resolution provisions provide for nonbinding arbitration.

The Administrator believes this proposed settlement is in the best interests of the region. The parties to the mediation put in substantial effort to resolve the disputes in large part to reduce potential divisiveness within public power between customer groups that take different types of products from BPA. All the parties believe it is important for public power entities to work together as much as possible. The proposed settlement allows BPA's public agency customers to resolve issues associated with the litigation, amounting to hundreds of millions of dollars. It also provided an opportunity to delve into and understand how BPA's DOP has been implemented for the Pacific Northwest while providing for transparency regarding implementation mechanisms. This settlement removes concerns voiced in the litigation that Slice runs unacceptable risks of cost shifts, and it would positively assist future offerings of the product.

The proposed settlement is subject to review by the United States Department of Justice while BPA's customers review it with their governing boards. BPA is also issuing the proposed settlement for comment in the region and would like to hear from you.

Comments will be accepted on this proposed settlement through Sept. 21, 2006. Comments can be submitted online at <http://www.bpa.gov/comment>; via e-mail to comment@bpa.gov; via mail to Bonneville Power Administration, Public Affairs Office - DKC-7, P.O. Box 14428, Portland OR, 97293-4428; or by fax at (503) 230-3285. You also can call us toll free with your comment at (800) 622-4519. Please reference Proposed Slice Settlement with your comments. Please note that all comment letters will be posted on BPA's Web site at <http://www.bpa.gov/comment/>.

If you have any questions, please contact your Power Account Executive, Constituent Account Executive, Tribal Account Executive, or either me or Tom Miller in the Office of General Counsel at (503) 230-4201.

Sincerely,

/s/ Randy Roach

Randy Roach
General Counsel

Enclosure
Slice Settlement Background and Summary