

**DEPARTMENT OF ENERGY
BONNEVILLE POWER ADMINISTRATION**

**RULES OF PROCEDURE FOR
BPA'S ASC REVIEW PROCESSES**

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BPA’S ASC REVIEW PROCESSES**

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ATTACHMENT A: Senior Financial Officer Attestation for IOUs and COUs

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SECTION 1. SUMMARY

Section 5(c)(7) of the Northwest Power Act requires the Bonneville Power Administration (BPA) to develop a methodology for determining a utility's average system cost (ASC) for the purpose of selling power to BPA under the Residential Exchange Program (REP).

16 U.S.C. § 839c(c)(7). Such methodology is subject to "review and approval" by the Federal Energy Regulatory Commission (FERC or Commission). *Id.*

On September 4, 2009, the Commission granted final approval to BPA's 2008 ASC Methodology (2008 ASCM or 2008 ASC Methodology). The Commission codified the 2008 ASCM in its regulations at 18 C.F.R. Part 301, *et seq.* In general, the 2008 ASCM establishes the rules and criteria for calculating a utility's ASC. The formal rules adopted by the Commission at 18 C.F.R. Part 301 do not provide the filing procedures or deadlines for administering the ASC Review Process that BPA conducts to calculate a utility's ASC. Instead, the Commission's regulations state that "[t]he procedures established by Bonneville's Administrator provide the filing requirements for all Utilities that file an Appendix 1 with Bonneville. Utilities must file Appendix 1s, ASC forecast models, and other required documents with Bonneville in compliance with Bonneville's ASC review procedures." 18 C.F.R. § 301.4(a). This document, entitled Rules of Procedure, establishes such procedures. Unless otherwise stated, capitalized terms shall have the meanings established in 18 C.F.R. § 301.2. To the extent the terms of this document conflict with the current ASC Methodology, the terms of this document shall be superseded and the terms of the current ASC Methodology shall govern.

SECTION 2. FILING PROCEDURES (ASC REVIEW PROCEDURES)

2.1 Exchange Period Filing Requirements

2.1.1 The Exchange Period will be equal to the term of BPA's Rate Period. ASCs will change during the Exchange Period only for the reasons provided in 18 C.F.R. § 304.1.

2.1.2 Utilities shall upload to BPA's Secure REP website at least one "ASC Filing," which shall include two Excel models, the Appendix 1 workbook and the Forecast Model, and all supporting documentation used to prepare the ASC Filing, by the later of (i) June 1 of each year or (ii) the deadline identified on the ASC Review Process Schedule posted on the Residential Exchange Program website. In years when BPA is not conducting a formal review process (Formal ASC Review Process), these filings shall be for informational purposes only, include only the Appendix 1 Excel workbook, and shall not change a Utility's ASC. For investor-owned utilities, the ASC Filing shall be based on the Utility's most recently filed FERC Form 1 and limited information from prior FERC Form 1 filings, as required. For consumer-owned utilities, the ASC Filing shall be based on the Utility's most recent audited financial information. BPA may request that consumer-owned utilities provide a cost of service analysis with their ASC Filings. For the Formal ASC Review Process only, each ASC Filing shall contain an attestation signed by a senior financial officer of the Utility substantially similar in form to Attachment A.

2.2 Failure to Submit an ASC Filing and Patently Deficient ASC Filings

2.2.1 Failure to Submit an ASC Filing

If a Utility fails to timely submit an ASC Filing and refuses to cure the problem within the Period to Cure provided in Section 2.2.3 below, BPA will prepare and submit the ASC Filing on the Utility's behalf. The Utility will be deemed to have waived its right to participate in the ASC review proceeding to establish its ASC. All other parties will be permitted to participate and present arguments challenging the Utility's ASC. In this instance, BPA will have discretion to set the Utility's ASC for the Exchange Period and will not be required to take into consideration any adjustments for resource changes or changes in service territories in any ASC Filing proposed by the Utility.

2.2.2 Submittal of a Patently Deficient ASC Filing

If a Utility submits its initial ASC Filing and it is patently deficient as determined by BPA, and the Period to Cure, as outlined in Section 2.2.3 below, has expired, BPA will prepare and submit the Utility's ASC Filing on its behalf. The Utility will be deemed to have waived its right to participate in the ASC review proceeding to establish its ASC. All other parties will be permitted to participate and present arguments challenging the Utility's ASC. In this instance, BPA will have discretion to set the Utility's ASC for the Exchange Period and will not be required to take into consideration any adjustments for resource changes or changes in service territories in any ASC Filing proposed by the Utility.

2.2.3 Period to Cure

If a Utility fails to timely submit an ASC Filing, or if BPA determines that the Utility's ASC Filing is patently deficient, BPA shall notify the Utility in writing of such defects and provide the Utility a period of ten (10) business days within which to file, or re-file, as the case may be, a new or corrected ASC Filing. In the event the Utility fails to file or re-file, as specified above, by the end of the ten (10) business day cure period, or if such re-filed ASC Filing is likewise determined to be patently deficient, BPA will prepare and submit the Utility's ASC Filing on its behalf. The Utility will be deemed to have waived its right to participate in the ASC review proceeding to establish its ASC. All other parties will be permitted to participate and present arguments challenging the Utility's ASC. In this instance, BPA will have discretion to set the Utility's ASC for the Exchange Period and BPA will not be required to take into consideration any adjustments for resource changes or changes in service territories in any ASC Filing proposed by the Utility.

2.3 Calculation of Utility’s ASC When Utility Has Not Executed a Residential Purchase and Sales Agreement

2.3.1 Failure to Submit an ASC Filing because of a New Residential Exchange Program Settlement Implementation Agreement (REPSIA) or Residential Purchase and Sale Agreement (RPSA)

If a Utility fails to submit its ASC Filing by the due date established pursuant to Section 2.1.2 above because the Utility executed an REPSIA or RPSA after the commencement of a Review Period or during the subsequent Exchange Period, then BPA may set the Utility’s ASC equal to the PF Exchange rate until the end of the Exchange Period.

2.3.2 Submittal of ASC Filing Prior to Signing of REPSIA or RPSA

If a Utility has not signed an REPSIA or RPSA, but wishes to submit an ASC Filing for review by BPA, such Utility must submit its ASC Filing in accordance with all schedules, rules and procedures established by BPA and the 2008 ASC Methodology. BPA may, in its discretion, withhold making a final ASC determination or end such Utility’s Formal ASC Review Process if the Utility fails to adequately comply with all requirements and procedures governing BPA’s Formal ASC Review Processes.

2.4 Notice of Submittal of ASC Filing

2.4.1 Utilities shall upload to BPA’s Secure REP website at least one ASC Filing, which includes its Appendix 1 workbook, Forecast Model, and supporting documentation by the due date established pursuant to Section 2.1.2 above. Access to such information shall be subject to any confidentiality rules or requirements established by BPA.

2.4.2 BPA shall advise parties of the right to file a petition to intervene in BPA’s Formal ASC Review Process.

SECTION 3. THE FORMAL ASC REVIEW PROCESS

During a Formal ASC Review Process, the following procedures shall apply. The procedures and schedule set forth in Sections 3 and 4 of this document shall not apply to informational ASC filings made outside of a Formal ASC Review Process. Unless otherwise provided by these rules, deadlines end at 5 p.m., Pacific Prevailing Time, of the due date. Due dates that fall on a weekend or federal holiday shall be deemed due the following business day.

3.1 Interventions

3.1.1 A Regional Power Sales Customer or state utility Regulatory Body that wishes to intervene in one or more utilities’ ASC Filing dockets may be accorded party status provided that the interested party submits a request or petition to intervene by the established deadline. Other interested parties also may submit a petition to intervene and BPA will grant party status at BPA’s discretion. All petitions to intervene should be uploaded to the “Interventions” folder on BPA’s Secure REP website. Regional Power

Sales Customer, Regulatory Bodies, and others become parties when their petitions to intervene have been granted by BPA.

- 3.1.2 A party's petition for intervention must include all ASC Filing dockets in which the party intends to intervene and must state with particularity the petitioner's interest in each of the respective ASC Filing dockets in which they are requesting intervention. If the party intends to review confidential information, the party's intervention must also include an executed Consent to be Bound Form pursuant to the Confidentiality Rules.
- 3.1.3 The filing Utility is automatically a party to its own ASC Filing docket except as provided in Section 2.2, Failure to Submit an ASC Filing and Submittal of a Patently Deficient ASC Filing.

BPA will grant or deny petitions to intervene via email notice within seven (7) calendar days after the deadline for filing such petitions.

3.2 Review of Utility's ASC

- 3.2.1 Each ASC Filing shall be reviewed by BPA or its designee and subject to a public process to determine whether the Contract System Costs are consistent with Generally Accepted Accounting Principles for electric utilities, whether Contract System Costs contain only allowed costs, and whether the ASC Filing complies with the requirements of the 2008 ASC Methodology, including applicable definitions and requirements incorporated from the Commission's Uniform System of Accounts. In addition, each ASC Filing shall be reviewed by BPA or its designee to determine whether the Contract System Load used by the Utility is an appropriate load for purposes of the Utility's ASC computation.
- 3.2.2 In calculating ASCs, BPA will make an independent determination of (1) the appropriateness of the inclusion of costs; (2) the reasonableness of the costs included in Contract System Costs; and (3) the appropriateness of Contract System Loads. BPA shall not be obligated to pay REP benefits based on an ASC different than the ASC based on Contract System Costs and Contract System Load as determined by BPA; provided that if a final order of the Commission or a reviewing court rejects BPA's ASC determination, then the Utility's ASC used to determine benefits payable by BPA shall be the ASC as revised by BPA on remand.

3.3 Discovery

- 3.3.1 BPA and parties shall electronically file data requests to the Utility and BPA. BPA will make data requests available to all parties, subject to confidentiality rules. Each Utility shall respond to requests for information relevant to the Utility's ASC Filing, provided that the furnishing of proprietary or confidential information to any party may be made contingent on the granting of proper safeguards to prevent unauthorized use or disclosure. The responses should be sent to the requestor and BPA.

- 3.3.2 For each data request, the responding Utility has ten (10) calendar days to provide the requested data or object. If a Utility files an objection to a data request, the party submitting the data request has four (4) calendar days to respond to the objection. After the response to the objection is received or the four (4) days to respond has elapsed, BPA then has seven (7) calendar days to issue a ruling as to whether the Utility's objection will be sustained or overruled. If the objection is overruled, the Utility must provide the data requested within three (3) calendar days after the ruling. If a Utility does not provide requested data, BPA may, in its discretion, remove from Contract System Costs all costs or revenues associated with the data not provided.
- 3.3.3 Confidential Information requested in a request for data under these procedures shall be made available to a Qualified Person, as defined in BPA's Confidentiality Rules, unless the disclosing party objects pursuant to section 5 of the Confidentiality Rules.

3.4 Issue Lists and Clarification Workshops

- 3.4.1 BPA and parties may electronically file with BPA an issue list identifying contested elements of a Utility's ASC Filing and the basis for the party's objections. BPA will make the issue lists available to all parties.
- 3.4.2 Each filing Utility will electronically file a response to any issue lists. BPA and other parties also may file comments in response to issue lists.
- 3.4.3 A workshop may be held to clarify data, workpapers, supporting documentation and assumptions used to prepare the ASC Filing and to discuss and resolve issues raised by parties through their issue lists. Utilities submitting ASC Filings shall make available staff or agents with sufficient knowledge to provide clarification and answers in response to questions by BPA and other parties to the proceeding.

3.5 Oral Argument

- 3.5.1 Requests for oral argument before the Administrator or his/her designee must be submitted in writing to BPA by the date designated in the ASC Review Process Schedule. Such requests shall contain a statement setting forth reasons why the party believes oral argument is necessary.
- 3.5.2 BPA, at its discretion, may grant or deny any request for oral argument.
- 3.5.3 In the event a request for oral argument is granted, the requesting party shall present its argument first. Responding parties shall present their arguments thereafter. The Administrator or his/her designee, at his/her discretion, may provide an opportunity for the requesting party to reply.

3.6 ASC Report

3.6.1 Draft ASC Report

- 3.6.1.1 BPA will publish the Draft Utility ASC Reports for comment on BPA's Secure REP website. The Reports will contain BPA's preliminary analyses and decisions on all contested issues raised in the Formal ASC Review Process.
- 3.6.1.2 The Utility and parties may file comments on the Draft Utility ASC Reports. The Utility and parties must specifically identify the decision or statement from the Draft Utility ASC Report that is being addressed in the comments. Comments that contain generic statements regarding a Utility's ASC may not be considered by BPA.
- 3.6.1.3 Failure to raise an issue in comments on the Draft Utility ASC Reports will be deemed a waiver of that issue on appeal.

3.6.2 Final ASC Report

- 3.6.2.1 The BPA Administrator will issue Final Utility ASC Reports in conjunction with the publication of the Final Rate Case Proposal.
- 3.6.2.2 If BPA has not issued the Final Utility ASC Reports by the end of the Review Period, the ASC filed by the Utility shall be the Exchange Period ASC used for billing purposes until the date BPA issues the Final Utility ASC Reports. The final ASCs determined by BPA shall then be the Exchange Period ASCs, effective back to the beginning of the Exchange Period and until the end of the Exchange Period. Billing true-ups will be completed as necessary.

SECTION 4. ASC REVIEW SCHEDULE

The ASC Filing shall be subject to review as follows:

4.1 BPA Review Process

The BPA review process commences on or about June 1 (Day 1) of the Review Period (or such other date as may be established by BPA but in no event before June 1). BPA will review all Utilities' ASCs concurrently in a public process.

4.2 ASC Review Schedule

The days identified below are generic and intended to illustrate a timeline that is representative of the Formal ASC Review Process. Unless specified, the days listed represent calendar days. Each spring prior to the Review Period, BPA will post on its Residential Exchange Program website or its successor, a detailed schedule, accommodating the applicable holidays and weekends, that shall be the official schedule for that Review Period. Deadlines end at 5 p.m., Pacific Prevailing Time, of the due date.

| | |
|---------------|---|
| 1. | In advance of the start of formal ASC Filing Review Process, utilities interested in participating in the REP should request access to the Secure REP website. |
| 2. Day 1: | Utility uploads its ASC Filing, including supporting documentation, to the Secure REP website. Access to such information shall be subject to any confidentiality rules and requirements established by BPA. |
| 3. Day 8: | Deadline to file Utility-specific petitions to intervene with BPA for the Formal ASC Review Process. Must include “Consent to Be Bound” for each docket in which the petitioner intends to review confidential information. |
| 4. Day 10: | BPA grants or denies petitions to intervene. |
| 5. Day 11-60: | Parties submit Data Requests. |
| 6. Day TBD: | Workshops on issues in ASC Filings. |
| 7. Day 81: | BPA’s and parties’ issue lists due. |
| 8. Day 95: | Utilities’, BPA’s, and parties’ response(s) to issue lists due. |
| 9. Day 101: | Workshop to resolve issues raised by parties in their issue lists. |
| 10. Day 165: | Draft ASC Reports issued |
| 11. Day 227: | Requests for oral argument before the Administrator or his/her designee due. |
| 12. Day 232: | BPA grants or denies requests for oral argument. |
| 13. Day 241: | Oral argument. |
| 14. Day 270: | Comments on the Draft ASC Reports due for each Utility. |
| 15. Day TBD: | Final ASC Reports issued for each Utility. |

SECTION 5. ACCESS TO FILING UTILITY’S DATA IN RETAIL RATE PROCEEDINGS

BPA may petition to intervene in any retail rate proceeding of any Utility participating in the REP. If BPA or any of its Regional Power Sales Customers has been denied the right to intervene in a retail rate proceeding of an REP-participating Utility when such intervention is for purposes of obtaining any information regarding costs or facts relevant to the determination of a Utility’s ASC (after having made a good faith effort to intervene in such retail rate proceeding and having timely complied with applicable procedures to intervene in such retail rate proceeding), BPA may set that Utility’s ASC equal to the PF Exchange Rate for the following Exchange Period.

Attachment A

Senior Financial Officer Attestation

<<Customer's Name>>
Average System Cost Filing
For the Base Period Beginning _____, 20XX
And Ending _____, 20XX

I, _____, on behalf of << Utility's Name >>, having reviewed the Average System Cost (ASC) Filing (ASC Filing) attached to this attestation, hereby certify that:

1. The ASC Filing has been prepared in accordance with Bonneville Power Administration's current ASC Methodology.
2. The ASC Filing excludes the costs associated with: (a) the cost of additional resources in an amount sufficient to serve any New Large Single Load (NLSL) after September 1, 1979; (b) the cost of additional resources in an amount sufficient to meet any additional load outside the region occurring after December 5, 1980; and (c) any costs of any generating facility which is terminated prior to initial commercial operation.
3. In support of item 2, above, <<Utility's Name>> performed a thorough review of its base period load by customer and confirms that << Utility's Name >> is not serving any NLSL as defined in the *Bonneville Power Administration New Large Single Load Policy* dated April 2001, as may be amended or replaced, other than those NLSLs included in this ASC Filing, if any.
4. Based on my knowledge as << Utility's Name >>'s <<Title of Senior Financial Officer or equivalent>> , the ASC Filing is based on <<Utility's Name>>'s audited financial statements, FERC Form 1 filings for IOUs and Annual Reports for COUs, and other financial information, and fairly presents in all material respects the operating costs of the utility for _____, 20XX through _____, 20XX.
5. Based on my knowledge as <<Utility's Name>>'s <<Title of Senior Financial Officer or equivalent>>, the ASC Filing omits no material facts and contains no false statement regarding any material facts.

Respectfully submitted,

<<Name of Senior Financial Officer or equivalent>>
<<Title of Senior Financial Officer or equivalent>>
<<Utility's Name>>

Date: _____