



## Department of Energy

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

POWER SERVICES

January 28, 2009

In reply refer to: PS-6

To Parties Interested in the Residential Exchange Program:

Bonneville Power Administration (BPA) is seeking your comments on a proposed settlement with Avista Corporation (Avista) regarding an outstanding issue associated with Avista's 1981 Residential Exchange Program (REP) contract.

The REP was established in the Pacific Northwest Power Planning and Conservation Act of 1980 (Northwest Power Act). The goal of the program is to provide rate relief to Northwest residential and small-farm customers served by utilities with high resource costs compared to BPA, subject to certain rate protection provisions of the Act. BPA and utilities entered into REP contracts in 1981 that implemented the REP. Beginning in 2002, REP benefits were provided to the region's Investor-Owned Utilities (IOUs) based on REP settlement agreements BPA and the IOUs executed in 2000.

In May 2007, the Ninth Circuit Court of Appeals (Ninth Circuit) held that the 2000 REP settlement agreements were contrary to law and that BPA's power rates improperly included costs associated with the settlement agreements. In response to the Court's opinions, BPA commenced the WP-07 Supplemental Wholesale Power Rate Case (Supplemental Rate Case). By the close of the proceeding, BPA had reached decisions that allowed BPA to establish new power rates, offer new REP contracts to eligible utilities, and restart the REP effective October 1, 2008, in a manner consistent with the Court's rulings. Although BPA addressed many of the contentious issues related to the REP in the final Supplemental Rate Case Record of Decision, BPA specifically withheld making final decisions on the long-standing dispute regarding the amount and appropriate treatment of what is called the "deemer account balance".

While the goal of the REP was to provide rate relief to residential and small-farm customers served by high cost utilities, there were circumstances where a utility's cost of resources could be less than BPA's. To address these situations, the REP contracts contained a provision that allowed the exchanging utility to "deem" its costs equal to BPA's. When this occurred, the amount of money that the utility would have otherwise paid BPA went instead into a "deemer account". The deemer account had to be zeroed out before REP payments would flow to the utility.

Two IOUs that accumulated deemer account balances under the 1981 REP contracts, Washington Water Power (now Avista) and Idaho Power, have vigorously disputed BPA's implementation of the deemer provision both before and during the Supplemental Rate Case. BPA stated in the Supplemental Rate Case that it was not making a final decision on the deemer issue and expected the issue to be addressed outside the rate case.

BPA and Avista have reached a proposed settlement regarding Avista's "deemer account balance". BPA believes this proposed settlement is reasonable and appropriate because it strikes a fair balance between the interests of BPA's ratepayers and the residential and small farm consumers served by Avista, while at the same time avoiding costly and complicated litigation with Avista over the deemer issue.

BPA is seeking public comment on the proposed Avista deemer settlement. BPA staff is available to discuss the proposal. Attachment 1 to this letter provides additional information on the deemer issue and the proposed settlement. Attachment 2 is a draft of the proposed settlement agreement. Attachment 1 and Attachment 2 can also be found at BPA's website at <http://www.bpa.gov/power/pl/regionaldialogue/implementation/Correspondence/>. In addition, BPA staff will discuss the proposed Avista deemer settlement at a public meeting that will be held February 11 from 1 p.m. to 4 p.m. in the Rates Hearing Room in Portland. Following the close of comment on February 26, 2009, BPA will review all comments received and issue a record of decision on whether to offer the proposed settlement.

### **How to comment**

Comments on BPA's proposal or the draft agreement must be received by 5:00 p.m., Pacific Standard Time, on February 26, 2009. Comments can be submitted on-line at: [www.bpa.gov/comment](http://www.bpa.gov/comment); via e-mail to [comment@bpa.gov](mailto:comment@bpa.gov); via mail to: Bonneville Power Administration, Public Affairs Office - DKC-7, P.O. Box 14428, Portland, OR, 97293-4428; or faxed to 503-230-3285. You can also call us with your comments, toll free at 1-800-622-4519. Please reference "Avista Deemer Settlement" with your comments.

Sincerely,

*/s/ Mark O. Gendron*

Mark O. Gendron  
Vice President  
Northwest Requirements Marketing