

**PUBLIC UTILITY DISTRICT NO. 1
OF MASON COUNTY**
N. 21971 Hwy. 101
Shelton, Washington 98584

BOARD OF COMMISSIONERS

KARI DENISON, Commissioner
JACK JANDY, Commissioner
RON GOLD, Commissioner

R. Kirsten Watts

Power Services Account Executive
Bonneville Power Administration
Seattle Customer Service Center
Phone: 206.220.6762 or 1.800.241.4573

Dear Kirsten

Mason PUD No.1 being a member of Western Public Agencies Group is aware that public power representatives, including legal counsel for the Western Public Agencies Group, are working with BPA staff to resolve issues presented by the draft Regional Dialogue contracts. We feel that it is very important to communicate to BPA the issues we have with the current draft of the Regional Dialogue Load Following contract.

The issue of most concern to Mason PUD No.1 is the fact that the draft Load Following contract fails to adequately address the treatment of PURPA resources. While the Tiered Rates Methodology does address the question of how such resources are counted in the calculation of the CHWM, the contract is silent on the other important aspect of these resources – what happens when the resource sponsor removes the resource or ceases to generate. Recall, that these are resources that Mason PUD No.1 did not develop and that we were obligated by law to purchase the output. The same situation pertains when they cease to provide power – Mason PUD No.1 will have no say and no control over this event. We firmly believe that the only fair approach would be for the Regional Dialogue contract templates to provide that under such circumstances, the utility suffering the loss of the resource can replace the lost output at the Tier 1 rate when such loss occurs. Given the fact that these resources are imposed on the utility involuntarily, and will be removed the same way, this seems to be the most equitable outcome.

In addition to the foregoing, the following issues of concern have been identified after our initial review of the draft Load Following contract. We are likely to find additional issues of concern as we continue or review, so the following issues should be considered preliminary in nature. All of these issues must be satisfactorily resolved prior to the Regional Dialogue contracts being offered, and or being presented to our board for consideration and possible approval.

A. NO WARRANTY

The customer must agree that the contract provides no warranty against change because of subsequent legislation or agency regulation. This is worse than the current contract, which is silent on this issue. This language eliminates any defenses that Mason PUD No.1 would have to resist legislative or agency regulatory change. The fact that agency regulation is not impeded by the contract also raises questions about the permanence of the Tiered Rate Methodology.

B. SETTING THE CHWM AND RHWM

The methodologies for determining key components of the business arrangement that set what power can be bought at what price should be included in the contract, rather than in the Tiered Rate Methodology. This includes the CHWM and RHWM. It is the contract, and not a rate policy, which establishes the

business deal between BPA and a customer, and that, is where the CHWM and RHWM should be determined.

C. CHANGING THE TRM

The Tiered Rate Methodology is the heart of the new business relationship, and any change to it should be subject to an approval process by the customers who are subject to its terms. This change mechanism must be set out in the contract, since that is the document that establishes the business rights and duties of the parties.

D. DISPUTING BPA DETERMINATIONS

Numerous values important to the customer are determined by BPA, and the customer has no ability to dispute or otherwise contest such determinations before a neutral third party. These values include the CHWM, RHWM, net requirement, non-federal resource amounts, and the utility load forecast among others. Binding dispute resolution is only available to the customer when BPA agrees to it, and not as a matter of right. The draft provides less enforceability through dispute resolution before a neutral third party than the current contract.

E. TIER 2 NOTICE AND COMMITMENT TIMELINES

The contract requires three years advance notice and a five year commitment to either Tier 2 BPA service or for use of a non-federal resource to serve load above the RHWM. This notice is far too long, and will impair the ability of customers to actually develop and use non-federal resources. Rather than encouraging customer resource development, they seem designed to permit BPA to obtain customer commitments and then pursue resource development on its own. This is just the opposite of what Regional Dialogue is supposed to achieve.

F. CONTRACT AMENDMENTS

Many of the exhibits to contract are subject to revision by BPA without the consent of the customer, and without any means of disputing before a neutral third party the changes made by BPA. This is not how a contract should operate. Amendments to the exhibits should require the consent of both parties to the contract. Otherwise, it is not a business relationship of equals.

G. BUSINESS DEAL AND CONTRACT ORGANIZATION

The contract is so poorly organized that it is impossible for utility managers and staff to understand what their rights and duties are, and when it is that they are obliged to take action. Such ambiguity will result in misunderstandings and disputes that are unnecessary and counterproductive. The contract must be much better organized, should use clear language, and should state with simplicity the nature of the basic business deal it is attempting to capture. It does none of these things now.


H. BILLING CREDIT WAIVER

The customer is required to waive its statutory right to obtain billing credits, which was a mechanism included in the Northwest Power Act to *encourage* non-federal resource development. It is unclear why BPA is trying to hold this statutory right hostage. However, it is improper for BPA to insist that a customer waive a statutory right in order to obtain a power contract to which they also have a statutory right.

I. CHANGING PRODUCTS

The contract provides a single opportunity for all customers to change products, and all customers must do so on the same date. This approach creates a product change "cliff" that helps neither the customers nor BPA. The contract should provide a single opportunity to change products during the contract term, but the timing of such change should be at the choice of the customer.

Sincerely,


Steven N. Taylor
General Manager