

DOE-RICHLAND COMMENTS ON BPA RD LOAD FOLLOWING CONTRACT

TEMPLATE DATED 4/8/2008

I. COMMENTS BY SECTION OF BODY OF CONTRACT:

Section 13 BILLING AND PAYMENT

(b) & (c) Payment & Late Payment (03/26/08 Version) - Our payment of invoices is governed by the Prompt Payment Act which provides its own time lines and late payment Sections. Because the specifics of that authority so closely parallel those spelled out in the Draft Template, we can sign this, as long as BPA knows that we'll include the applicable Prompt Payment Sections in an Inter/Intra-agency Agreement (IA) under the Economy Act to be signed concurrent with the long term contract that BPA issues.

(d) Termination - I understand that BPA needs a mechanism to address the prospect of our non-payment of their invoices, but we're not in a position to agree to their terminating service if that were to occur. Hopefully I can address BPA's concerns in the parallel IA. It would be best if this Section was deleted from our contract.

(e) Disputed Bills - I've included a replacement Section in the IA comments referencing the Disputes Act to replace this Section.

Section 14. INFORMATION EXCHANGE AND CONFIDENTIALITY

(b)(3) If CHWM and CDQ were previously defined, that's fine, otherwise they need a definition here.

(c)(2) Same with TRM and RHWM

Section 15. CONSERVATION AND RENEWABLES

(a)(1) We recently reissued DOE Order 430.2C which addresses our authorities, goals, and priorities for acquisition of renewable resources. We should either modify this Section to reflect this Order, or include it in the accompanying IA indicating that to the extent the two are inconsistent the DOE Order applies.

Section 19. GOVERNING LAW AND DISPUTE RESOLUTION

(a) Judicial Resolution - I have to review whether we can prorogate the Ninth Circuit Court of Appeals with exclusive jurisdiction to hear any agreement related disputes.

(b)-(f) Arbitration - We're constrained by Statue as to what we can agree to in the way

of Arbitration. I'll forward appropriate language as soon as possible.

## Section 21. STATUTORY SECTIONS

(d) Priority of Pacific Northwest Customers - the various Reclamation Laws under which BPA operates gives various priorities to the US as a preference customer, independent of the authority referenced, and should be cited here , Appendix D hereto, or in the accompanying IA.

(g) BPA Appropriations Refinancing - We are subject to the same type of restrictions, albeit contained in different appropriation acts, and should reflect that either here, or in the concurrent IA.

## Section 23. TERMINATION

(a) BPA's Right to Terminate - this is inconsistent with the rules under which we operate. Let's either delete it, or explain more clearly in the concurrent IA the limitations on the parties for unilateral termination.

## II. COMMENTS ON EXHIBITS TO CONTRACT:

### EXHIBIT B – HIGH WATER MARKS ....

In reference to Exhibit B to the draft Load Following Template, Section 1.(b)(5), DOE Richland already prepares a ten-year forecast of annual summer and winter peak demand and annual energy and submits this forecast annually to BPA Transmission Services. DOE Richland would prefer to utilize this same forecast to satisfy the intent of the referenced section in lieu of submitting a specific unique notification to BPA Power Services about changes to the DOE Richland load.

### EXHIBIT F TRANSMISSION SCHEDULING SERVICE

(7) PENALTIES - Agreed, provided the charges for unauthorized increases are FERC approved.

## III. INTER/INTRA-AGENCY TERMS & CONDITIONS

We'll need to prepare and offer a proposed IA for concurrent execution with their long-term power agreement, but it will need to include the Required and Required when Appropriate Clauses from the attached Appendix.

Comments submitted 5-9-08