

CON-032

Comments identical to CON-009 from ATNI 5-8-08



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U M P Q U A  
I N D I A N  
U T I L I T Y  
C O O P E R A T I V E

RE: Initial Comments on Draft Load Following Regional Dialogue Contract Template

Dear Mark,

Please allow these comments to serve as the initial comments of the Umpqua Indian Utility Cooperative (UIUC) on the Draft Load Following Template. We reserve the right to provide additional comments as further clarifications are made to the Template. We also support many of the comments of public power customers as they seek to protect the rights of utility customers generally.

General Comments:

1. This Template was apparently written in most instances with non-tribal customers in mind. In the following places language changes are needed for tribal utilities.

a. Parties: Tribal utilities will likely be formed under the laws of a tribe, not under the laws of a "state".

b. Language implementing the tribal utility 40 MW HWM exception is not included either in 5(a). This language is necessary for tribal utility customers.

2. Section 2 Definitions: We have a procedural problem with defining terms in the Tiered Rate Methodology (TRM), rather than the contract. Currently the TRM is subject to *ex parte* rules, and many interested parties will not be parties to the rate case so will have different access to information and leverage than others who are Parties.

Definitions should be included in the contract, not the TRM, and to the extent they are needed in both, they should be consistent.

3. We have the same issue as set forth in 3 above with regard to all issues to be established in the TRM and not also subject to the contract.

Specific Issues/Concerns

1. Section 2(a) "Annexed Load":

a. This definition is too broad in that it includes new load of a tribal utility that would be subject to the 40MW tribal utility HWM exception. We would like that exception expressed in the definition.

b. Delete "state" as in some cases it may be another entity's (tribal, federal) regulatory or court action.

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F A X N U M B E R

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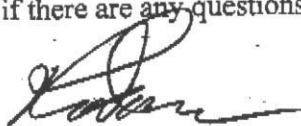
- c. After "acquires" add "during the term of the contract". All current tribal utility load is otherwise "Annexed load".
2. Section 4 Tiered Rate Methodology: Delete 4(b). The TRM may properly be limited in duration to allow certain flexibilities after a first phase of this process. That is a proper issue for future rate proceedings.
3. Section 8 One Time Right to Change Purchase Obligation: We propose that this one-time right extend to the election made pursuant to Exhibit C Paragraph (3). How Tier 2 will be served should be more flexible to encourage customers to develop their own resources, and to give BPA more flexibility in developing Vintage Rates to meet particular needs that may arise later.
4. Section 11 Delivery (c) "Liability for Delivery": add "under this agreement" after "BPA shall not be liable" to cover any liabilities under our transmission contract.
5. Section 11 Delivery (f)(2-3) Low Voltage Delivery/Direct Assignment costs: From our understanding of past practices and from discussions regarding this issue, delivery to any particular POD (or across particular facilities) will be EITHER by low voltage deliver, or direct assignment or by a separate contractual arrangement not involving BPA. The way this is drafted it appear that some PODs could be subject to both the GTA charge and direct assignment for facilities costs.
6. Section 11 Delivery (f)(7) Annexed Loads: See concerns regarding Annexed Loads. Further, we assume this section will not apply to any new tribal utility.
7. Section 15(a)(2) Conservation Reporting Requirements: For small utilities we would like a 5 year reporting cycle rather than a 2 year reporting cycle to minimize paperwork. For 15(b)(2)(c) please add "if any" after renewable resource plan. Many small full requirements customers will not have any plans to build renewable energy facilities.
8. Section 18(a)(2) Uncontrollable Force: After "transmission" (appears twice) add "or distribution" since many small utilities like UIUC have PODs on distribution systems.
9. Section 19(d) Governing Law and Dispute Resolution Arbitration Remedies: Change "BPA" to "either Party" since there should be no specific performance against either party, not just BPA.
10. Section 22(i) Bond Assurances: See concerns regarding "Annexed Loads". Tribal utilities will be "governmental".
11. Section 23(c) Customer's Right to Terminate: We suggest that there be a voluntary termination provision upon 5 years notice.
12. Exhibit A:
  - a. (4)(f) Resource Additions for Annexed Loads: See concerns regarding "Annexed Loads".
  - b. Paragraph 8: While it does not need to be contractual, we would like to have the meaning of "utility ownership" clarified. Does this include ownership by affiliates?

13. Exhibit B(b)(2): See concerns regarding "Annexed Loads". There is a mixture of the concepts of annexed loads and new publics formed out of previous public's territories. We believe these issues have slightly different connotations, especially when the 40 MW exception is considered. In (b)(5)(c) The "Drafter's Note" mentions Yakama, and should also include UTUC.

14. Exhibit C: Requiring utilities to elect in writing their choice of options 1-2 or 3-4 by November 1, 2009 and then allowing no changes over the course of the 20 year contract is unduly restrictive. It does not encourage customers to develop their own Tier 2 resources, nor does it allow BPA to develop Vintage rates in a flexible and useful way.

15. Exhibit G: The caps in the amount of transfer service will not be workable over the long term. We request a "reopener" if caps are insufficient due to a de-rating of the FCRPS for purposes of serving Tier 1 rates, or if new utilities require unplanned amounts of transfer service to deliver power to new PODs.

Thank you for your assistance in working through these matters. Please contact me if there are any questions at



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