CON-038

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June 20, 2008

Mark Gendron, Vice President Northwest Requirements Marketing
Bonneville Power Administration, MS/ PS-6
P.O. Box 3621
Portland Oregon 97298-3621

Re: New Public Utility Preference Customers of BPA

Dear Mark;

BPA has requested public comments on:

- The Regional Dialog Contract Templates,
- The Tiered Rate Methodology Settlement and
- How certain aspects of the High Water Mark are to be calculated.

All of these are topics that can have a substantial impact on the formation of new Public Power electric utilities who desire to become preference customers of BPA.

I am working with two clients: Public Utility District Number 1 of Skagit County and Public Utility District Number 1 of Jefferson County, in helping them evaluate the feasibility and risks of potentially forming a new public electric utility in each county based on annexed loads. The common thread among both of these existing government agencies is that they are considering expanding their authority to becoming potential new preference customers of BPA.

I believe that both of them have the potential of quickly meeting all of BPA's standards for service. While they have not yet been granted electric authority, via a vote of the people in each county, there is that potential this November of 2008. In Jefferson County sufficient signatures on an initiative have been gathered so that when validated, it will be on the ballot this November. In Skagit County there is a fact finding process being undertaken by the PUD's Commission such that they will decide shortly if a measure to provide for electric authority should be on the ballot in November. My understanding is that an independent survey of voters in Skagit County sponsored by the PUD indicates that the majority of the voters would favor such a new electric utility.

A major impediment to the formation of each of these potential preference customers of Bonneville could be their ability to approach BPA and schedule a reasonable timing of when they become fully operational utilities and when they can take their High Water Mark allocation of Tier 1 power under the Tiered Rate Methodology and the Contract Template.

Some who read these documents and the Regional Dialog feel that there is a near Catch-22 problem with new utility formation if one uses a very literal interpretation of language. That problem has been explained by the Affiliated Tribes of Northwest Indians and others. Specifically, it is two issues that are being discussed in the referenced policy/settlement deliberations. First is the question of if a new public electric utility must sequentially satisfy the BPA service standards and only then make a binding application for service. The second issue is if the binding notice must be no less than three years under all circumstances. Such an approach appears to be counter to current BPA subscription policy, counter to past BPA precedent and counter to the spirit under which BPA was formed.

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As way of an explanation, new utility formation and determining the day that a preference electric utility first serves its loads and first takes BPA power is a complex and iterative process. Utility formation requires the issuance of bonds, opinions from bond council, acquisition or construction of the electric system, hiring and training staff, a variety of other things, signing BPA power and transmission contracts, and providing BPA with a binding notice in advance of the time the utility will be eligible to purchase power with a HWM. Some are saying that a sequential interpretation of meeting service standards and only then making an application "definitionally dooms" a new preference customer to three years of service at either Tier 2, TAC, or market purchases. Others say that such a literal reading of the language is not the correct interpretation, as there is not an explicit statement that these must be sequential steps and that such a literal interpretation impedes the BPA Administrator's discretion.

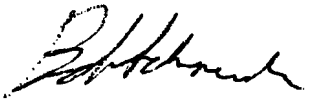
Historically, when the City of Hermiston was formed the timing for taking BPA Power and signing date of the Power Sales contract were all coordinated and negotiated ahead of time, so as to not impede the formation of the utility. Despite this cooperation, the City of Hermiston still had to document and show how it was going to meet all of the BPA standards of service and document many things to BPA. BPA has a long history of coordinating with its new preference customers on a case by case basis such that they, BPA and the planning process are not harmed.

The Contracts Templates, the calculation of the HWM and the Tiered Rate Methodology should not be allowed to be interpreted as forcing a new preference electric utility to operate for a full three years using only owned generation, non-federal power and/or a Tier 2 or TAC power product. This is a significant financial disincentive to forming a new preference utility and will likely result in attempts by some to "game the system" in a way that could harm regional planning. Again, such an interpretation or implementation is counter to historic BPA precedent and unduly impedes the BPA Administrator's discretion to best serve the public interest.

A better approach would be for BPA and the newly forming preference customer, on a case by case basis, to jointly plan so that the new utility can take the steps necessary to meet the BPA Service Standards, sign contracts and make a binding application for service based on an appropriately long planning horizon as parallel steps. More importantly, the various policy and settlement implementation interpretations should at a minimum allow a new preference electric utility to coordinate with BPA so as to start the actual serving of load on the day that BPA Tier 1 or PF power is available for all or a portion of its load.

In summary, the standard of service and the three year application should not be interpreted as only being sequential and if conditions warrant, on a case by case basis, a shorter than three-year advance binding application that does not harm BPA planning should also be allowed at the Administrator's discretion.

Sincerely,



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