



CON-047

Affiliated Tribes of Northwest Indians

July 15, 2008

TO: Mark Gendron, Vice President Requirements Marketing
Bonneville Power Administration

FROM: Margie Schaff
Energy Director

RE: Comments on Load Following Regional Dialogue Contract Template Dated
July 2, 2008

Dear Mark,

Please allow these comments to serve as the policy related comments of the Affiliated Tribes of Northwest Indians (ATNI) on the Draft Load Following Template dated July 2, 2008. We reserve the right to provide additional comments as further clarifications are made to the Template in contract discussions. We have designed these comments with existing tribal utilities and potential new tribal utilities in mind. We support many of the comments of public power customers as they seek to protect the rights of utility customers generally.

General Comments:

1. Because current tribal utilities are Bonneville full requirements customers and most new tribal utilities will likely also choose load following service, we have not chosen to spend time to review the block or slice contract templates. However, we feel that some of the comments set forth herein may also apply there. In the future tribal utilities may choose to become block or slice customers. Please address those comments below to block and slice contract templates where they apply.
2. These contract templates will need to be altered for new utilities that form and are offered contracts at later dates, under the Regional Dialogue and Tiered Rates Methodology (TRM).
3. On June 17, 2008, a Load Following Regional Dialogue Contract Template for tribal utilities was issued. The most recent Load Following Template does not have a tribal utility format. We anticipate that a later draft for tribal utilities will be issued which the individual tribal utilities will discuss

- in direct negotiations with BPA. We note we do not have the benefit of reviewing this template and we anticipate our members may comment on that later draft. ATNI may comment on the upcoming drafts as they relate to tribal utilities not yet formed. Exceptions made for tribal utilities in the Regional Dialogue Policy and discussed in the Tiered Rates Methodology do *not* appear in the most recent templates, and the template written for tribal utilities misses some of these exceptions. For example, Sections 3.5.5 and 7.2 do not currently reflect the 40 MW exception for Tribal Utilities.
4. The tribal utility template contains language with a waiver of sovereign immunity. This waiver will likely not be acceptable unless it is a "limited" waiver of sovereign immunity, which will allow the contract to be enforced, but is not a general waiver.
 5. Changes made to the TRM must be adopted and implemented through contract language. The current contract language is out of date after recent discussions.

Specific Issues/Concerns

1. Section 2.2 "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. After "acquires" add "during the term of the contract". If that change is not made, *current* tribal utility load (that of Yakama Power and Umpqua Indian Utility Cooperative) is now "Annexed load".
2. Section 3.3(3) List and Application of Dedicated Resources: This section appears to contain limitations on customers' additions of small new resources under 1 MW when read with the definition of "Small Non-Dispatchable Resources" and provisions on Resource Support Services. We strongly encourage BPA to draft the contract and establish policies to encourages all customers to develop small resources and not to require unnecessary red-tape when the resources are developed and used. We encourage you not to create any disincentives to new small resources, and in fact to provide incentives for them. Many small full requirements customers will certainly wish to develop small resources, and in fact these are the only types of resources that some may be able to develop. They should not be limited to an aggregate of 1 MW before additional rules apply.
3. Section 3.7 Consumer-Owned Resources: The comment regarding 3.3(3) above also applies to consumer owned resources. With increasing energy prices and carbon considerations, many consumers (industries, residences, small farms) will wish to invest in small resources. BPA should

- do everything it can to make these efforts easy and productive. Language regarding changes and data requirements will create unneeded paperwork if many small unrelated resources are installed. At a minimum, we suggest increasing the limit of a "Consumer-Owned Resource" to 1 MW nameplate capacity rather than 200 kilowatts of nameplate capacity.
4. Section 14 Delivery: It is unclear in this draft how load growth will be served by transfer service. Tribal utilities may have certain load growth/annexed load served by increased CHWM. We don't believe it would be the intention to allow for service of this load at Tier 1 rates, but without transfer service.
 5. Section 14.6 Delivery 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 delivery, or direct assignment or by a separate contractual arrangement not involving BPA. The way this is drafted it appears that some customers or PODs could be subject to both the GTA charge and direct assignment for the same facilities or costs.
 6. Section 19 Resource Adequacy: In the past BPA has provided forecasting services for full requirements customers. We assume that this service will continue. Could BPA's providing of this service be mentioned in the contract? This section requires the customer to provide forecasted loads and resources data to PNUCC. If BPA will not provide forecasting services, customers need to be made aware of this change.
 7. Section 24.4 Priority of Pacific Northwest Customers: The last sentence should be made consistent with statute. The preference is not for "customers" but for certain preference entities. Preference applies to these entities in spite of the fact that they have not signed contracts. In fact, preference entities without contracts have preference over certain "customers".
 8. Section 25.8 Bond Assurances: See concerns regarding "Annexed Loads". Tribal utilities will be "governmental" so even if they are named a "cooperative" this provision should not apply to a tribal utility and should not be included in their contracts. This provision would negate the effectiveness of the 40 MW exception for tribal utility load growth/annexations.
 9. Exhibit B:
 - a. 1.2.2 and 2.2 Changes to CHWM: must be consistent with the TRM.
 - b. This exhibit needs specific language for tribal utilities.
 10. 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 (303) 443-0182 or (303) 717-3876.

Sincerely,

Margie

Margie Schaff
Energy Director