

CON-059



**Public Power Council**

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January 31, 2008

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Comments  
on  
TRM 1st draft

RE: Public Power Council Comments on Regional Dialogue Process

Dear Mark:

The Regional Dialogue tiered rates construct represents an enormous change in the way BPA's customers will approach power supply issues. It also represents a major shift in BPA's role in the region as a power supplier. To help ensure that the ultimate outcomes from the Regional Dialogue process reflect an appropriate adaptation by both BPA and its customers to this new construct, PPC offers these comments on the Regional Dialogue process to date and the work that still lies ahead.

PPC recognizes that progress has been made, and appreciates BPA's flexibility in working with customers to improve the Regional Dialogue proposal. The improvements achieved to date include BPA's agreement to add flexibility to the proposed power products, such that those products at least more closely resemble the product flexibilities on which customers currently rely. They also include BPA's adoption of a "transitional" approach to the contracts that allows customers to make longer-term load service decisions after more information such as Contract High Water Marks becomes available. Additionally, PPC appreciates BPA's willingness to allow customers to build consensus around a rate design proposal, and BPA's commitment to ensure that its implementation meets the goals of that proposal.<sup>1</sup>

Due to the relatively short time-period in which customers and BPA have been able to work on the issues presented by the Regional Dialogue proposal, however, several important issues remain either unaddressed or not yet successfully resolved. A brief description of those issues and PPC's recommendations follows.

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<sup>1</sup> PPC submitted separate comments on BPA's *Discussion Paper on Tiered Rates Methodology*, which set out BPA's thinking on rate design implementation.

- **Constructing contracts and a TRM that have maximum durability and enforceability**

One of the advantages public power saw to signing 20-year contracts with BPA was the potential for those contracts to provide some security against outside interests interfering with a predictable power supply from BPA during the contract term. To the greatest extent possible, PPC believes that the contracts and TRM should be drafted in such a way that they afford customers assurance that they can rely on the contract and methodology terms throughout the contract term, and that those terms and conditions will not be changed by subsequent administrative or legislative action. However, we are concerned that there is more that must be done to ensure that result, and we encourage BPA to remain open to a two-way dialogue on how this can be accomplished.

- **Clarifying and bolstering dispute resolution processes**

Under a tiered rates construct, customers and BPA must have effective, neutral, and timely mechanisms for resolving disputes around key business determinations, such as Rate Period High Water Marks, net requirements, and implementation of the Tiered Rates Methodology. Some of the work that has been done to date on this topic appeared to be productive, but we are concerned about when and where that work will continue and how it will be accomplished before contracts are offered.

- **Establishing methods for controlling costs during the 20-year contracts**

Meaningful BPA cost control should be a central component of the 20-year take-or-pay Regional Dialogue contracts. BPA has completed a short process to develop an Integrated Business Review, which appears to be BPA's expected method for customers to have input into BPA's costs under the Regional Dialogue contracts. Although BPA's proposed process appears to improve on past, similar processes, PPC cannot yet be confident that the currently proposed process will yield sufficient cost control during the term of the contract. Specifically, PPC believes that more steps must be taken to ensure productive ground-level interaction between customers, BPA, and other agencies that influence BPA's costs, such as the Corps of Engineers, Bureau of Reclamation, and Energy Northwest. Additionally, PPC is concerned that BPA has indicated an unwillingness to put a commitment to even its proposed cost control process in the Regional Dialogue contracts.

- **Ensuring that BPA's role in conservation meshes with a tiered rates construct and recent and future regulatory changes**

In its Regional Dialogue Final Policy and ROD, BPA essentially proposed to carry its current approach to conservation into the post-2011 world. As BPA has recognized, however, customers will have greatly increased incentives for conservation under tiered

rates, and are increasingly subject to state mandates to achieve significant amounts of conservation. BPA's conservation role under the new contracts should reflect the new incentives and mandates customers have to accomplish conservation. We look forward to more work on this topic, and urge BPA to remain open to continuing efforts to ensure that BPA's role will best complement and facilitate regional conservation efforts.

- **Providing customers a choice to determine if and when they will switch products during the contract**

Although BPA has agreed to allow customers to switch products once during the contract term, BPA is requiring the switch to be at the same time for all customers (while simply stating that it will be open to other changes on a case-by-case basis). As long as customers choosing to switch products bear the costs associated with their doing so, there is no reason that customers should be prevented from having a choice to switch products at a time that is different from other customers. PPC urges BPA to allow customers a one-time right to switch products during the term of the contract and at a time specified by the customer, provided that the customer gives the necessary notice and bears the appropriate costs.

- **Handling of Renewable Energy Credits and other non-power attributes.**

While customers appreciate the progress made on ensuring that preference customers have priority access to Renewable Energy Credits from BPA resources, the issue of pricing and allocation of RECs and other non-power attributes needs further consideration. PPC has provided BPA a separate paper on this topic and is continuing work with BPA staff on this issue. We look forward to future work to ensure that BPA's handling of RECs and other non-power attributes associated with its resources makes sense in the upcoming Regional Dialogue period.

- **Determining what BPA's role with regard to the DSIs will be during the contract period**

Public power should not foot the costs of serving the DSIs under the new contracts. It is a poor policy to force the region's electric consumers to underwrite the costs of private companies that have smelters operating in the region, which for the most part have been enjoying extraordinary profits in contrast to the adverse effects imposed across public power in the region from those costs. We anticipate, however, that the agency may continue to push for providing benefits to the DSIs. This would necessitate much more work to ensure that any such proposal does not needlessly impose more risk or burden on preference customers than is necessary.

- **Providing transfer service for the “last wheel” for non-federal power purchased by transfer customers to serve their retail loads**

Significant work remains on the proposed policy governing the provision of transfer service for non-federal power. Little time has been available to customers and BPA to complete this work, and this must be remedied by both. In particular, BPA’s proposal to impose multiple, overlapping caps, both on utilities individually and in the aggregate, is confusing and unnecessary and appears to call into question BPA’s commitment to provide this service to its transfer customers. PPC understands the potential direct and indirect costs of providing transfer service for non-federal power for load service. However, PPC is equally in agreement that the provision of this service is needed to prevent BPA from creating a market advantage for its power products over those offered by non-federal resource providers. Making the non-federal transfer service a viable and readily implemented solution to the creation of such an advantage is important in the long-term both to the customers and to BPA.

As set out above, there are many issues that still require further attention before the Regional Dialogue process can be called a success. At the same time, progress has been made. PPC requests that BPA involve customers in ensuring that the various issues that need attention in the coming months receive proper consideration. This will be extremely difficult in light of the various upcoming rate proceedings and contract negotiations that need to be completed before the goal of fall of this year, but PPC is committed to working closely with BPA to accomplish it to the extent possible.

Thank you for your consideration of these comments.

Sincerely,



Scott Corwin  
Executive Director  
Public Power Council