

CON-063



## Affiliated Tribes of Northwest Indians

March 25, 2008

Mark Gendron  
Vice President Requirements Marketing  
Bonneville Power Administration  
905 NE 11th Ave.  
Portland, OR 97232

RE: Regional Dialogue/Tiered Rate Methodology

Dear Mark,

I am writing to raise a few issues in the Tiered Rate Methodology (TRM) that we would like to have Bonneville address prior to the TRM becoming a final rate proposal ready for review in a 7(i) process. It is likely that we will be unable to participate in the rate case that will cement the rate methodology for the term of Regional Dialogue contracts. We therefore would very much appreciate our issues being heard prior to the final draft.

In addition to the TRM issues, we still have concerns with Regional Dialogue in general. We would appreciate a meeting or call to discuss those issues with staff, or some other resolution of those issues.

### TRM Issues:

ATNI supports Public Power in their presentation of issues with the March 7 TRM draft. In addition to our issues below, we support changes to the draft to simplify the TRM and to resolve those issues.

ATNI's first issue coincides with Public Power's bullet #3- (unduly restrictive notice provisions). Currently, the top of Page 22, Section 2.1.8 reads: "Once qualified under BPA's Standards of Service, a New Public must provide a three-year binding notice before it will be eligible to purchase power with a HWM. During this intervening period, if necessary to serve load, the New Public may purchase power from BPA at rates that are established for this specific purpose. These rates will be similar to the Targeted Adjustment Charge (TAC). Details of these rates will be determined in the applicable rate cases." This is totally unworkable, as the first three years of a utility's life requires clear financial/credit obligations that can't be committed to with a rate to be determined. Especially for small utilities, a small rate change can significantly impact the entire budget. Further, in public discussions of the issue of notice, BPA agreed that the notice could be given pending meeting the standards of service, since that often takes 2-3 years.

Further, the TAC is based on using surplus federal power. Contrary to our request in earlier comments, we understand that the new rate design anticipates using all surplus to lower the cost of Tier 1 power, leaving nothing upon which to establish a TAC like charge. It will be important for new utilities to immediately (after a *reasonable* notice) receive a known amount of Tier 1 power. Reasonable notice could include as much prior (non-binding) notice as possible while the necessary utility formation negotiations take place, plus an up to one-year binding notice. This should not create a significant resource acquisition problem for Bonneville since there is a 50MW rate period limit.

Our second issue is a needed clarification. Section 2.1.8.1. CHWM for New Publics Formed from and Existing COU currently reads: "A New Public that forms out of all or part of an existing consumer-owned utility will receive a share of the existing public's CHWM. Such an assignment will be proportionate to its annexed share of the existing utility's Total Retail Load, net of any Existing Resources that are either transferred to the New Public by virtue of the annexation or dedicated by the New Public by virtue of the annexation or dedicated by the New Public to serve its load...". The likelihood that someone will annex load and also get the other utility's Schedule C resources is highly unlikely. It is quite more likely that load will be annexed *without* also getting the previous utility's Schedule C resources that served all or part of that load. In that case, the proportionate share of the CHWM should be adjusted upwards to make up for the new public's lack of that resource.

#### Other Regional Dialogue Issues:

We appreciate your time and effort to address the issues we have raised in the past. Most of our earlier issues have been clarified, even though we do not believe that all the clarifications go far enough to meet Bonneville's statutory obligations of encouraging widespread use of federal power and encouraging tribal energy businesses. We previously had transmission concerns that we believe have been resolved through meetings with transmission executives. It was explained that access to federal transmission for regional loads (even if they are new public loads) will not require new applications for service that must be part of a transmission queue. We appreciate this assistance.

Some of our remaining issues include:

- Transfer Service: We have a number of issues with Policy Part VIII, Section F "Transfer Service for New and Annexed Load".
  - We are concerned with the requirement that Bonneville will only arrange and pay for transfer service for power deliveries to a new utility annexing load in situations where written consent is given by the utility losing load or if a court has made a final determination that a utility has a legal right to serve the annexed load. This consideration should be made on a case-by-case basis rather than creating policy language that may not be workable in every situation.

- We are waiting for updates to Bonneville's transfer service policy implementation regarding the dollars per MW caps and total transfer service limits. These limitations will prohibit new publics that may have a CHWM from having the power delivered at a rate equal to other Bonneville customers. This will be especially true if it is considered "transfer service" to wheel power from the Bonneville system through an existing public's system (or another utility that is not currently a transferring customer) to the imbedded new public. For example, if a tribal utility formed in the middle of an existing Bonneville customer now served by Bonneville transmission, power must be delivered from that Bonneville substation to the new public, likely using the existing Bonneville customer's facilities.
- That section of the policy also addresses annexations before and after October 2009. We have previously asked that the date be changed to October 2011.
- Net Requirements: Another major concern that arose in our November 2007 meeting is Bonneville's mention that a tribe's settlements under FERC dam relicensing processes may be applied to determine a tribal utility's "net requirements". For example, if a tribe received a share of a private power resource as compensation for flooding of lands, cultural resources, and other treaty and trust resources, Bonneville attorneys suggested that on a case-by-case basis, those power resources may be netted against a tribal utility's load to determine the "net requirements". We propose that the Net Requirements policy be clarified to state that the net requirements of tribal utilities will not be decreased by an Indian Tribe's power resources acquired pursuant to Federal Power Act dam licensing agreements where the power resource is related to compensation to a tribe for the taking of a trust or treaty resource. To do otherwise will, in most cases, totally block formation of a tribal utility. It makes not sense for a tribe to use its valuable compensation for taking of trust resources in place of low cost public power. Trust resources were intended for particular purposes and this policy would by implication change the use and purpose of a trust resource.
- Flexibility: We request that a statement of flexibility be inserted in Regional Dialogue Policy Implementation to allow Bonneville to consider special circumstances that arise over the next 30 years to permit the encouraging of tribal energy businesses and meeting other statutory obligations. We are concerned that overly detailed and inflexible policies may not always be workable or even sensible after 20 years. One such example is the inflexibility of the Residential Exchange language and the fall-out from that inflexibility. Please give the Regional Dialogue Policies options for unforeseen events. Appropriate processes for making changes can be suggested.
- Tier 2 vintage rates, ATNI has proposed that Bonneville create a tribal renewable power product, specifically designed for federal customers who receive a double credit for using such power towards their renewable portfolio standard.

Thank you again for your consideration of these issues. I will be happy to involve tribal leadership in these issues if we believe it is necessary for their resolution. I look forward to discussing these issues with you.

Sincerely,

*Margie Schaff*

Energy Director