

CON-071

Larson, Cheryl A - PS-6

From: Hustad, Kenneth H - PSE-SPOKANE
Sent: Thursday, October 02, 2008 8:05 AM
To: 'Chuck Dawsey'
Cc: John Porter
Subject: RE: Benton REA BPA Contract Negotiations

Chuck -

We will review your proposed Exhibit D addition and get back to you. Restating what you said below, I understand that your objective is to preserve your right to exchange your Boardman share in the future. Please let me know if there is any more to it.

Ken

From: Chuck Dawsey [mailto:chuck@bentonrea.org]
Sent: Thursday, October 02, 2008 7:21 AM
To: Hustad, Kenneth H - PSE-SPOKANE
Cc: John Porter
Subject: RE: Benton REA BPA Contract Negotiations

Ken

Here is the language that has been prepared by Terry to address the Boardman Issue.

Additional Language for Exhibit D

If Benton REA dedicates some or all of its share of the Boardman Generating Project to serving a portion of its Total Retail Load in accordance with the terms of this Agreement, then subsequent to such dedication BPA will treat such portion of Boardman Generating Project for all purposes and for all contracts as being declared to its firm load as of September 30, 2006.

Let me know if you think this language works, otherwise we will need to continue to work on the issue.

Thanks
 Chuck

From: Hustad, Kenneth H - PSE-SPOKANE [mailto:khustad@bpa.gov]
Sent: Wednesday, October 01, 2008 9:14 AM
To: Chuck Dawsey
Subject: FW: Benton REA BPA Contract Negotiations

Hi Chuck -

Thanks for inviting me to your October 29th board meeting. It is on my calendar and I am looking forward to a good discussion.

We are also looking into how we might address your issues and will get back to you shortly.

Ken

From: Chuck Dawsey [mailto:chuck@bentonrea.org]

10/2/2008

Sent: Tuesday, September 30, 2008 7:26 AM
To: Hustad, Kenneth H - PSE-SPOKANE
Cc: Terry Mundorf (terrym@millcreeklaw.com)
Subject: Benton REA BPA Contract Negotiations

Ken

There are two issues that we specifically need to address that may be unique to Benton REA. They are as follows:

- 1) A section to address that non-federal resources used during the contract period, that expire or are not available after the last date of the contract will not decrement Benton REA's ability to place its full load on BPA as a full requirements customer after contract expiration.
- 2) A section to address the fact that in the event that Benton REA uses the Boardman Plant to serve load during the contract period, that Boardman being a resource in existence prior to 2006 and constructed in response to BPA's notice of insufficiency in the 80's will qualify for the Residential Exchange program.

That about covers it for now. We will be providing some contract language to address these two issues shortly. In addition we were wondering if you could attend our October regular board meeting which will be October 29th. It is an evening meeting starting at 6:00?

Thanks
Chuck

Larson, Cheryl A - PS-6

From: Wilson, Scott K - PS-6
Sent: Thursday, October 02, 2008 12:57 PM
To: Clark, Harry W - PTL-5; Larson, Cheryl A - PS-6
Subject: FW: Benton REA BPA Contract Negotiations
Attachments: RE: Benton REA BPA Contract Negotiations

From: Hustad, Kenneth H - PSE-SPOKANE
Sent: Thursday, October 02, 2008 8:29 AM
To: Wilson, Scott K - PS-6; Thompson, Garry R - PSE-SPOKANE; Miller, Thomas - LP-7
Cc: Gomez, Gailynn J - PSSE-SPOKANE; Gendron, Mark O - PS-6; Hobson, Claire A - PSW-6; Sigurdson, Ryan M - LT-7
Subject: RE: Benton REA BPA Contract Negotiations

Attached is the proposed Exhibit D Boardman language drafted by T. Mundorf for BREa. Does it look OK? Any qualifications/modifications?

In the event that the initial 25 year sale to Turlock is terminated early (before ~FY2019?) is there any reason why BREa can't request an exchange at that time? FYI - BPA settled the 1981 RPSA agreement (DE-MS79-81BP90681) with BREa and paid liquidated damages of \$301,919 under Contract 96MS-95315. It seems clear enough that the settlement was not intended to cover any future res exch claims thru the initial sale period Turlock but rather only claims thru June 30 2001 as stated in the latter agreement.

We still need to address item #1 below as well (end of contract resource issue). Please comment by 10/6/08.

Ken

From: Hustad, Kenneth H - PSE-SPOKANE
Sent: Wednesday, October 01, 2008 3:14 PM
To: Wilson, Scott K - PS-6; Thompson, Garry R - PSE-SPOKANE; Miller, Thomas - LP-7
Cc: Gomez, Gailynn J - PSSE-SPOKANE; Gendron, Mark O - PS-6; Hobson, Claire A - PSW-6; Sigurdson, Ryan M - LT-7
Subject: FW: Benton REA BPA Contract Negotiations

FYI - Terry Mundorf (cc'd by Chuck) is providing legal advice to BREa on this and is apparently drafting some language for BREa. My initial thoughts are noted in red. Mark's comments which I delivered to the BREa board in August are included in the attached email. Mark leaves open the possibility of a Boardman provision in Exhibit D.
Ken

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10/2/2008

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Cc: Terry Mundorf (terrym@millcreeklaw.com)
Subject: Benton REA BPA Contract Negotiations

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- 1) A section to address that non-federal resources used during the contract period, that expire or are not available after the last date of the contract will not decrement Benton REA's ability to place its full load on BPA as a full requirements customer after contract expiration.

Ken's proposed response per RD policy:

The statutes still apply and will transcend the transition to a new PSC after FY2028. Dedicated contract resources must continue to be applied to load including any extensions or renewals. Dedicated generating resources must also continue to be applied to load unless BPA determines a Loss of Resource has occurred.

PLEASE NOTE: THIS "END OF CONTRACT TERM RESOURCE ISSUE" HAS BEEN RAISED BY OTHERS. THE CONCERN IS THAT IF BPA RETURNS TO A MELDED PF RATE IN THE POST FY2028 FUTURE, THE CUSTOMERS WILL BE STUCK WITH HIGH COST RESOURCES THAT THEY ACQUIRED TO SERVE LOAD GROWTH IN THE RD CONTRACT PERIOD. I WOULD PROPOSE THAT A SPECIAL PROVISION BE ADDED IN EXHIBIT D THAT ALLOWS THE CUSTOMER TO UNDEDICATE AND RESELL "NEW RESOURCES" on 10/1/2028 IN THE EVENT BPA REVERTS TO A MELDED PF RATE IN FY2029.

- 2) A section to address the fact that in the event that Benton REA uses the Boardman Plant to serve load during the contract period, that Boardman being a resource in existence prior to 2006 and constructed in response to BPA's notice of insufficiency in the 80's will qualify for the Residential Exchange program.

Ken's proposed response per RD Policy:

Boardman is defined as an Existing Resource under the RD Policy and contracts because had been used for BREA's load prior to 10/1/2006. Therefore, BREA's share of Boardman is eligible for further Public Exchange consideration after the initial export and sale to the Turlock Irrigation District.

QUESTION - COULD BREA BOTH EXPORT AND EXCHANGE BOARDMAN IN THE FUTURE? THIS WAS APPARENTLY ALLOWED IN THE 80'S/90'S BECAUSE THE EXPORT SALES REVENUE WAS BELOW ACTUAL COST OF THE RESOURCE? NEW CO2/CARBON SEQUESTRATION COSTS MIGHT CAUSE THIS TO HAPPEN.

That about covers it for now. We will be providing some contract language to address these two issues shortly. In addition we were wondering if you could attend our October

regular board meeting which will be October 29th. It is an evening meeting starting at 6:00?

Thanks

Chuck