

**BPA Clarification Regarding Term in
Standstill and Interim Relief Payment Agreements**

Section 2 of the Standstill and Interim Relief Payment Agreements (Agreements) offered preference customers and Federal agencies by the Bonneville Power Administration (BPA) sets forth definitions. “Settlement Agreements” is a defined term in Section 2. In the version BPA submitted for public review and comment, the term referred to the Settlements and amendments, revisions, novations or replacements thereto. As explained on page 24 of BPA’s evaluation of the ensuing comments, some preference customers expressed concern that this might somehow contemplate future amendments of the Settlements. One customer proposed language that it indicated would clarify that customers are not somehow being asked to waive rights to challenge later or future amendments to the Settlements. BPA inserted the customer’s proposed language in the definition of Settlement Agreement so that it would refer to the “existing” Settlements and amendments.

A question has now been raised whether the use of the term “existing” somehow constitutes agreement that the Settlement Agreements continue to exist, notwithstanding the Opinions of the Ninth Circuit Court of Appeals that are referenced in the Recitals of the Agreements. The answer is “no.” That was not the purpose of the reference, and it is not the meaning of it. “Existing” was intended to, and does refer to, the Settlement Agreements and amendments, revisions, novations or replacements thereto that were the subject of the Opinions. Other provisions of the Agreements, specifically section 5(c) and 7, also make clear that customers are free to, and waive no rights to, continue to challenge the Settlement Agreements.