February 9, 2022

Via email:
communications@bpa.gov

U.S. Department of Energy
Bonneville Power Administration

Re: Comments and Questions of Avista Corporation; M-S-R Public Power Agency; PacifiCorp; Portland General Electric Company; and Puget Sound Energy, Inc. Regarding BPA Financial Plan Refresh: Higher of Revenue Requirement

Avista Corporation; M-S-R Public Power Agency; PacifiCorp; Portland General Electric Company; and Puget Sound Energy, Inc. ("Commenting Parties") submit the following comments and questions on the BPA Financial Plan Refresh: Higher of Revenue Requirement. As discussed below, BPA's practice of determining revenue requirements based on the higher of forecasted accrued expenses or forecasted cash requirements ("higher of" methodology) raises important issues that must be examined with a view to revising the BPA revenue requirement methodology to avoid overstating the cost of asset acquisitions in revenue requirement.

As discussed below--

a. BPA is required to set rates to recover its costs; BPA is not authorized to set rates to collect more than its costs.

b. BPA determines revenue requirement based on the higher of forecasted accrued expenses (including depreciation) or forecasted cash requirements (including amortization of Federal investment).

c. Inclusion of depreciation of assets over their service lives in accrual revenue requirement results in revenue requirement for these assets over their service lives equal to their original cost minus net salvage value; the addition of Minimum Required Net Revenue ("MRNR") to accrual revenue requirement results in a revenue requirements over time that exceed costs.

d. The Power Marketing Administrations ("PMAs") other than BPA determine revenue requirement based on a cash flow projection revenue requirement.

e. BPA should abandon its higher of methodology; BPA should determine revenue requirement based on forecasted cash requirements (including amortization of Federal investment).

f. Regulatory liabilities are to be accrued under the FERC Uniform System of Accounts if costs are included for purposes of developing rates in a different period than they would be included under the general requirements of the Uniform System of Accounts.

g. If BPA uses the higher of methodology--which it should not--revenue requirement in subsequent rate period(s) must be reduced to account for MRNR and avoid statutorily-prohibited overstatement of revenue requirement; accruing a regulatory liability for MRNR should effect such reduction.

h. The 1991 FERC Order[1] fails to address (i) the statutorily-prohibited overstatement over time of revenue requirements due to the higher of methodology, (ii) the requirement to accrue regulatory liabilities for MRNR, and (iii) BPA's inappropriate practice of hardwiring the repayment study.

Commenting Parties appreciate the opportunity to discuss with BPA and its customers the BPA Financial Plan Refresh. These discussions should provide an opportunity to address, for example, fundamental issues regarding BPA's financial plans, which affect BPA's perspective on its rate proceedings. In this regard, the Financial Plan Refresh workshops should provide an opportunity to discuss not only the Financial Plan Refresh but also related rate issues in advance of the next BPA 7(i) rate proceeding--although such rate issues can only be determined in BPA's ratemaking processes.

A. BPA Is Required to Set Rates to Recover Its Costs; BPA is Not Authorized to Set Rates to Collect More than its Costs

BPA is required by statute to establish rates to recover its costs (including amortization of the Federal investment over a reasonable period of years) in accordance with sound business principles. This requirement, which is applicable to BPA and the other three PMAs,[2] is set forth in section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s):

> . . . Rate schedules shall be drawn having regard to the recovery (upon the basis of the application of such rate schedules to the capacity of the electric facilities of the projects) of the cost of producing and transmitting such electric energy, including the amortization of the capital investment allocated to power over a reasonable period of years. . . .[3]

Similarly, section 9 as amended of the Transmission System Act provides that BPA's rates are to be established to recover its costs (including amortization of the Federal investment over a reasonable period of years) in accordance with sound business principles:

> . . . . (1) with a view to encouraging the widest possible diversified use of electric power at the lowest possible rates to consumers consistent with sound business principles, (2)

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[1] *United States Dept. of Energy–Bonneville Power Admin*., 54 FERC ¶ 61,235, at 61,692 (1991) ("FERC Order")..

[2] The other three PMAs are Southeastern Power Administration (Southeastern), Southwestern Power Administration (Southwestern), and Western Area Power Administration (Western).

[3] Essentially the same requirement is established in Section 7 of the Bonneville Project Act of 1937 as amended:

> Rate schedules shall be drawn having regard to the recovery (upon the basis of the application of such rate schedules to the capacity of the electric facilities of Bonneville project) of the cost of producing and transmitting such electric energy, including the amortization of the capital investment over a reasonable period of years.

16 U.S.C. §832f.

having regard to the recovery (upon the basis of the application of such rate schedules to the capacity of the electric facilities of the projects) of the cost of producing and transmitting such electric power, including the amortization of the capital investment allocated to power over a reasonable period of years and payments provided for in section 838i(b)(9) of this title, and (3) at levels to produce such additional revenues as may be required, in the aggregate with all other revenues of the Administrator, to pay when due the principal of, premiums, discounts, and expenses in connection with the issuance of and interest on all bonds issued and outstanding pursuant to this chapter, and amounts required to establish and maintain reserve and other funds and accounts established in connection therewith.[4]

Pacific Northwest Electric Power Planning and Conservation Act ("Northwest Power Act") section 7(a) also requires BPA to establish rates to recover its costs (including amortization of the Federal Investment over a reasonable period of years) in accordance with sound business principles:

> (1) The Administrator shall establish, and periodically review and revise, rates for the sale and disposition of electric energy and capacity and for the transmission of non-Federal power. Such rates shall be established and, as appropriate, revised to recover, in accordance with sound business principles, the cost associated with the acquisition, conservation, and transmission of electric power, including the amortization of the Federal investment in the Federal Columbia River Power System (including irrigation costs required to be repaid out of power revenues) over a reasonable period of years and the other costs and expenses incurred by the Administrator pursuant to this chapter and other provisions of law. <u>Such rates shall be established in accordance with sections 9 and 10 of the Federal Columbia River Transmission System Act (16 U.S.C. 838) [16 U.S.C. 838g and 838h], section 5 of the Flood Control Act of 1944 [16 U.S.C. 825s], and the provisions of [the Pacific Northwest Electric Power Planning and Conservation Act]</u>.
>
> (2) Rates established under this section shall become effective only, except in the case of interim rules as provided in subsection (i)(6) of this section, upon confirmation and approval by the Federal Energy Regulatory Commission upon a finding by the Commission, that such rates—
>
> > (A) are sufficient to assure repayment of the Federal investment in the Federal Columbia River Power System over a reasonable number of years after first meeting the Administrator's other costs,
> >
> > (B) are based upon the Administrator's total system costs, and
> >
> > (C) insofar as transmission rates are concerned, equitably allocate the costs of the Federal transmission system between Federal and non-Federal power utilizing such system.[5]

[4] 16 U.S.C. §838g.
[5] 16 U.S.C. § 839e(a) (emphasis added).

BPA has stated that "[t]he Northwest Power Act reiterates and clarifies the cost recovery principle [which is set forth in section 9 as amended of the Transmission Act]."[6] In other words, the statutory cost recovery principle (under which BPA's rates are to be established to recover its costs (including amortization of the Federal investment over a reasonable period of years) in accordance with sound business principles) was reiterated and clarified--but not fundamentally changed--in the Northwest Power Act.

In short, BPA is statutorily required to establish rates to recover its costs (including amortization of the Federal investment over a reasonable period of years) in accordance with sound business principles.[7] This statutory requirement to establish rates to recover costs precludes and does not authorize the establishment of rates to recover more than costs.[8] Indeed, requiring that BPA's rates be established to collect its costs--but not more than its costs--is consistent with the statutory standard of BPA's establishing rates "encouraging the widest possible diversified use of electric power at the lowest possible rates to consumers consistent with sound business principles . . . ."[9]

B. BPA Determines Revenue Requirement Based on the Higher of Forecasted Accrued Expenses (Including Depreciation) or Forecasted Cash Requirements (Including Amortization of Federal Investment)

A March 2000 GAO report examined the ratesetting practices of power marketing administrations.[10] In Appendix III of the 2000 GAO Report, "Comments From the Bonneville Power Administration", BPA explained at page 52 how it determines revenue requirements:

> Revenue requirements are set at the higher of forecasted accrued expenses (including depreciation expense) or cash requirements (including cash requirements to repay Federal debt and to mitigate risks - see below). Revenue requirements include forecasts of operating expenses, including depreciation expense; Federal interest expense; and planned net revenues to fulfill cash requirements, including risk requirements.

BPA's methodology for determining revenue requirement for a busines line such as transmission may be generally summarized in the following three steps:

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[6] BP-22 Rate Proceeding Final Proposal Transmission Revenue Requirement Study, BP-22-FS-BPA-09 (July 2021) (available at https://ratecase.bpa.gov/openfile.aspx?fileName=BP-22-FS-BPA-09+Transmission+Revenue+Requirement+Study.pdf&contentType=application%2fpdf) at page 7, line 1.

[7] The express statements in the Northwest Power Act that FERC is to approve BPA rates upon finding, *inter alia,* that they are based on total system costs and that transmission rates are to equitably allocate the costs of the Federal transmission system between Federal and non-Federal power utilizing such system are not inconsistent with the basic requirement that BPA rates are to be set to recover its costs (including amortization of the Federal Investment over a reasonable period of years) in accordance with sound business principles.

[8] This is not to argue that BPA is precluded from establishing rates that recover costs including appropriate risk mitigation measures such as an appropriate amount of Planned Net Revenues for Risk.

[9] Transmission System Act, section 9, as amended.

[10] U.S. General Accounting Office, Power Marketing Administrations: Their Ratesetting Practices Compared with Those of Nonfederal Utilities (March 2000) ("2000 GAO Report"), available at https://www.gao.gov/assets/240/230206.pdf.

Step 1: BPA develops an accrual accounting transmission revenue requirement from a transmission revenue requirement income statement, using accrual accounting forecasts for the rate period. This revenue requirement includes depreciation on

> all plant placed into service regardless of the source of financing, including customer financed investments. The only exception is for facilities funded by customers that are exclusively for their use.[11]

BPA's use of depreciation in Step 1 in revenue requirement over the life of the plant fully recovers the cost of plant at the end of its depreciable life (as further discussed in Section C below).

Step 2: BPA develops a transmission revenue requirement Statement of Cash Flows, which uses a cash flow projection for the rate period (including planned repayment of Federal debt).

Step 3: If and to the extent the statement of cash flows developed in Step 2 is negative, BPA adds MRNR to the transmission revenue requirement income statement in Step 1.

BPA includes the full cost of capital assets (through depreciation over the depreciable lives of the assets) in the accrual method revenue requirement (in Step 1) and, in addition, in some rate periods increases revenue requirement through the inclusion of MRNR (determined in Step 3)..

In sum, (i) BPA's higher of methodology over time results in overstatement of the revenue requirements by the amounts of MRNR, which means that the higher of methodology results in rates over time that are set to collect more than BPA's costs; and (ii) BPA is not authorized to set rates to collect more than its costs.

C. Inclusion of Depreciation of Assets Over Their Service Lives in Accrual Revenue Requirement Results in Revenue Requirement for These Assets Over Their Service Lives Equal to Their Original Cost Minus Net Salvage Value; the Addition of MRNR to Accrual Revenue Requirement Results in Revenue Requirements Over Time that Exceed Costs

In addressing depreciation in revenue requirement, BPA describes depreciation as follows:

> Depreciation is an expense in FERC's system of accounts, which BPA is obligated to follow. As noted in the workshop, depreciation does not represent the original cost of the asset but rather the loss of value of an asset including its end of life cost. Depreciation may recover much more or much less than the original investment cost. . . . .[12]

[11] BP-20 Rate Case Workshop: Revenue Requirement Follow-up (August 22, 2018) ("August 22, 2018 Workshop Presentation") at page 6 (available at https://www.bpa.gov/Finance/RateCases/BP-20/Meetings/RateCase/2018.08.22_BP20_RevReq.pdf).

[12] Financial Plan Refresh Public Comment Summary from grounding workshop, BPA Response (November 16, 2021) (available at https://www.bpa.gov/Finance/FinancialPublicProcesses/Financial-Plan-Refresh/Documents/Nov.%2016%20Comment%20Response.pdf.) at page 3.

However, the statement that "depreciation does not represent the original cost of the asset but rather the loss of value of an asset including its end of life cost" fails to reflect the fact that--as discussed below--the original cost of an asset (minus its net salvage value) is reflected in depreciation over the depreciable life of the asset.[13]

Under the definitions in the FERC Uniform System of Accounts--[14]

> 12. *Depreciation*, as applied to depreciable electric plant, means the loss in service value not restored by current maintenance, incurred in connection with the consumption or prospective retirement of electric plant in the course of service from causes which are known to be in current operation and against which the utility is not protected by insurance. . . . .
>
> 37. *Service value* means the difference between original cost and net salvage value of electric plant.
>
> 19. Net salvage value means the salvage value of property retired less the cost of removal.

(Emphasis added.) [15]

Under accrual ratemaking using these definitions in the FERC Uniform System of Accounts, inclusion of depreciation of assets over their service lives in accrual revenue requirement should result in revenue requirement for these assets over their service lives equal to their original cost minus net salvage value. The addition of MRNR (determined using a cash basis) to the accrual revenue requirement results in revenue requirements over time that exceed BPA's costs.

D. The PMAs Other Than BPA Determine Revenue Requirement Based on a Cash Flow Projection Revenue Requirement

Footnote 4 of the 2000 GAO Report at page 4 compared the revenue requirement determinations of the other three PMAs[16] with revenue requirement determinations of BPA:

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[13] Further, BPA's statement fails to recognize that--if accrual revenue requirement is increased through a cash requirement such as MRNR--an adjustment such as accrual of a regulatory liability must be made to ensure a credit to ratepayers in subsequent rate periods to offset such increase and ensure that over time BPA does not establish revenue requirements that exceed its costs.

[14] 18 CFR Part 101 - Uniform System of Accounts Prescribed for Public Utilities and Licensees Subject to the Provisions of the Federal Power Act ("Uniform System of Accounts") (available at https://www.law.cornell.edu/cfr/text/18/part-101).

[15] *See also* BPA's "Definitions" (available at https://www.bpa.gov/news/pubs/Pages/Definitions---D.aspx), which defines "depreciation as follows: "1) In accounting and many ratemaking applications, a systematic means of recognizing or allocating the non-cash expense of a long-lived asset to a particular year. 2) In land acquisition usage, a loss of value of real estate caused by deterioration, obsolescence, or both and can affect personal or real property." (Emphasis added.)

[16] Southeastern Power Administration (Southeastern), Southwestern Power Administration (Southwestern), and Western Area Power Administration (Western).

> The three PMAs' rates are based on cash flow projections of the revenue required to recover costs. Bonneville's revenue requirements are set at the higher of forecasted accrued expenses (including depreciation expense) or cash requirements. Revenue generated in any given year is used to repay annual expenditures of the year, such as operating and maintenance costs, interest costs, and the cost of power purchased from other utilities for resale. Any revenue remaining after payment of such annual expenditures is allocated to repay appropriated debt.

(Emphasis added.) This methodology

In short, the other PMAs generally determine revenue requirements based on forecasted cash flow (which includes repayment of Federal debt) and do not use the "higher of" methodology; by contrast BPA determines revenue requirements based on the higher of forecasted cash flow and forecasted accrued expenses.[17]

As discussed above, each PMA including BPA is required statutorily to establish rates to recover its costs (including amortization of the Federal Investment over a reasonable period of years) in accordance with sound business principles.

BPA and the other PMAs all generally test--under U.S. Department of Energy Order RA 6120.2[18]--their rates using forecasted cash requirements in repayment studies over a period that is typically 35 or more years to evaluate whether rates are adequate to pay costs including timely repayment of Federal debt. In other words, the PMAs do not adopt revenue requirement merely by evaluating cash requirements over a single rate period, in which cash flow accounting could diverge significantly from accrual accounting.[19] BPA should explain and justify using

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[17] It appears that in limited instances Western has included depreciation in transmission and ancillary services formula rates developed in conjunction with Western's placing certain transmission facilities into the Integrated Marketplace of Southwest Power Pool, Inc. ("SPP"). See *Western Area Power Administration*, Docket No. EF15-8-000, Order Confirming and Approving Rate Schedules on a Final Basis (November 19, 2015) ("Western Order"), 153 FERC ¶ 61,213 at paragraphs 4 and 8. However, the requirement to perform a repayment study in connection with such formula rates was expressly waived. *In other words, Western did not determine a revenue requirement for these rates based on the higher of higher of cash flow and accrued expenses; rather, Western determined a revenue requirement for these rates based on accrued expenses only.* Indeed, the costs used in these formula rates are trued up: "The costs under the formulas in these rate schedules will be recalculated annually and those utilizing estimates for the upcoming year to calculate revenue requirements will be trued-up to actual costs in a subsequent year. . . ." Western Order at paragraph 8.

[18] U.S. Department of Energy Order RA 6120.2 (9-20-79), available at https://www.swpa.gov/pdfs/ra6120-2.pdf .

[19] "Accrual accounting means revenue and expenses are recognized and recorded when they occur, while cash basis accounting means these line items aren't documented until cash exchanges hands." Investopedia at https://www.investopedia.com/ask/answers/09/accrual-accounting.asp . The repayment study evaluates the adequacy of rates using cash flows but ensures that the adequacy of rates are evaluated over a long period of time. This avoids the distortion that may occur through looking at cash flows over a short period:

> . . . though the cash method provides a more accurate picture of how much actual cash your business has, it may offer a misleading picture of longer-term profitability. Under the cash method, for instance, your books may show one month to be spectacularly profitable, when actually sales have been slow and, by coincidence, a lot of credit customers paid their bills in that month.

forecasted accrued expenses in addition to using forecasted cash requirements in determining revenue requirement in light of the fact that BPA conducts repayment studies over a period of 35 year or more, which should prevent distortion of cash flow timing.

E. BPA Should Abandon Its Higher of Methodology; BPA Should Determine Revenue Requirement Based on Forecasted Cash Requirements (Including Amortization of Federal Investment)

BPA apparently takes the position that it is statutorily *permitted or required* to follow the higher of methodology but has not explained specifically how the applicable statutes permit or require such methodology. In that regard, BPA responded to a stakeholder comment as follows:

Comment

> Could BPA determine revenue requirements based on forecasted cash flow, as is done by the other PMAs? Please explain

BPA Response

> This is not BPA's interpretation of its statutes. In a given rate period, forecasted cash flow could be lower than what is required to recover forecasted accrued expenses, thereby failing to meet BPA's interpretation of the statutory requirement to recover total system costs. [20]

BPA responded to another stakeholder comment as follows:

Comment

> Is it BPA's view that BPA's determination of revenue requirements based on the higher of forecasted cash flow and forecasted accrued expenses is (a) required by statute or (b) permitted but not required by statute? Please explain.

BPA Response

> Statutes require that BPA's rates must be sufficient to recover total system costs and to ensure the repayment of the Federal investment over a reasonable number of years. BPA has determined that its "higher of" test ensures BPA meets both requirements.[21]

BPA has indicated that it apparently views the higher of methodology as *permitted* by statute but has neither explained this view nor indicated if it views the higher of methodology as

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Cash vs. Accrual Accounting (available at https://www.nolo.com/legal-encyclopedia/cash-vs-accrual-accounting-29513.html).

[20] Financial Plan Refresh Public Comment Summary from grounding workshop, BPA Response (November 16, 2021) (available at https://www.bpa.gov/Finance/FinancialPublicProcesses/Financial-Plan-Refresh/Documents/Nov.%2016%20Comment%20Response.pdf.) at page 3.

[21] *Id.*

required by statute. BPA has not explained (i) its interpretation of its statutes and what provisions it believes permit the use, or impose a requirement to use, the higher of methodology and (ii) how BPA is to avoid setting revenue requirements under the higher of methodology that exceed costs as a result of MRNR. In short, BPA has not demonstrated that the higher of methodology is statutorily permitted or required. For example, what specific statutory provisions does BPA believe require or permit that BPA rates be established to recover not only forecasted accrual revenue requirement and in addition MRNR?

BPA should determine revenue requirement based on forecasted cash requirements (including amortization of Federal investment). Use of such cash flow revenue requirement methodology to establish rates (as is done by the other PMAs) (i) meets the requirement in the Flood Control Act and Northwest Power Act to establish rates to recover BPA's costs (including amortization of the Federal Investment over a reasonable period of years) and (ii) avoids overstatement of revenue requirement as a result of MRNR.

BPA has in recent years used significant amounts of revenue financing and recently indicated it is considering an amount of revenue financing as a standard practice for upcoming rate cases.[22] Any revenue financing and resulting MRNR exacerbates the overstatement of revenue requirement due to MRNR, which underscores the importance of avoiding such overstatement.

The higher of methodology appears to be unique to BPA. Investor owned utilities generally use accrual accounting transmission revenue requirements, and the other PMAs use cash flow revenue requirements. The higher of methodology, which BPA should abandon, attempts to combine cash flow and accrual accounting, which results in revenue requirements that exceed costs over time. Indeed, BPA has not identified other utilities that use its "higher of" approach and has not identified statutory provisions that require or permit BPA to follow such an approach.

Hardwiring repayment should be abandoned. The November 16 Presentation at page 16 indicates that--

• Rates are set to meet two tests.

1. Income statement test: sufficient revenue to meet the forecast of expenses.

2. Cash flow test: sufficient cash to make principal payments.

• Sometimes more cash is produced than is needed for principal payments calculated by the repayment model.

• In these cases, repayment is increased above what the model is calculating to fully utilize the available cash flow [known as hardwiring].

[22] The reference to such a proposed revenue financing practice in these Comments does not endorse it. Indeed, such a revenue financing practice is unwarranted, particularly in light of the recent substantial increase in BPA Federal borrowing authority and BPA's unique borrowing authority flexibility.

– This results in added debt repayment with no negative rate impact.

• Fixing the amount of repayment is called "hardwiring"

BPA should not fix the amount of repayment through hardwiring. When more cash is produced by proposed rates than is needed for principal payments calculated by the repayment model (which at least in part is due to BPA's higher of methodology) , BPA should reduce the proposed rates to produce only cash needed for principal payments. This should be consistent with amortizing of the Federal investment "over a reasonable period of years". There is a negative rate impact if BPA fails to make such a reduction, and increasing repayment through hardwiring appears to result in repaying the Federal investment in *fewer than a reasonable period of years.*

BPA apparently asserts that the higher of methodology and hardwiring should be acceptable because a leverage policy would likely have a similar effect:

> It is likely that a cash-only test would have little if any impact on the total revenue requirement. Cash requirements dominate Power's total revenue requirement as is evidenced by the large minimum required net revenues in BP22. For Transmission, the repayment hardwires would be eliminated which would reduce repayment but this would almost certainly be reversed by the Leverage Policy. Transmission leverage is currently expected to stay roughly level with hardwires in place. Removing them would worsen Transmission's leverage picture and result in revenue financing to fill in for the missing debt repayment.[23]

However, speculation that a Leverage Policy would likely reverse much or all of the effect of eliminating the higher of methodology and hardwiring of repayment studies does not provide adequate basis for continuing with the higher of methodology and hardwiring (both of which should be abandoned, as discussed above). This is particularly true inasmuch as the higher of methodology and hardwiring are part of the section 7(i) ratemaking process.[24]

F. Regulatory Liabilities Are to be Accrued Under the FERC Uniform System of Accounts if Costs Are Included for Purposes of Developing Rates in a Different Period than They Would be Included under the General Requirements of the Uniform System of Accounts

Under the definitions in the FERC Uniform System of Accounts--[25]

> 31. <u>Regulatory</u> Assets and <u>Liabilities</u> are assets and liabilities that result from rate actions of regulatory agencies. <u>Regulatory</u> assets and <u>liabilities</u> arise from specific revenues,

[23] Financial Plan Refresh Public Comment Summary from grounding workshop, BPA Response (November 16, 2021) (available at https://www.bpa.gov/Finance/FinancialPublicProcesses/Financial-Plan-Refresh/Documents/Nov.%2016%20Comment%20Response.pdf.)BPA Response to Comment at page 1.

[24] In that regard, "the decision [establishing rates under Northwest Power Act section 7] shall include a full and complete justification of the final rates pursuant to [section 7]." Northwest Power Act section 7(i)(5).

[25] 18 CFR Part 101 - Uniform System of Accounts Prescribed for Public Utilities and Licensees Subject to the Provisions of the Federal Power Act ("Uniform System of Accounts") (available at https://www.law.cornell.edu/cfr/text/18/part-101).

expenses, gains, or losses that would have been included in net income determination in one period under the general requirements of the Uniform System of Accounts but for it being probable:

A. that such items will be included in a different period(s) for purposes of developing the rates the utility is authorized to charge for its utility services; or

B. in the case of regulatory liabilities, that refunds to customers, not provided for in other accounts, will be required.

(Emphasis added.) The FERC uniform system of accounts provide for the accrual of a regulatory liability (which will reduce revenue requirement in future period(s)).[26]

Under this definition and the Uniform System of Accounts, BPA must accrue a regulatory liability if it accelerates expenses for ratemaking purposes to a period earlier than the period such expenses would be recognized under the Uniform System of Accounts.

G. If BPA Uses the Higher of Methodology--Which It Should Not--Revenue Requirement in Subsequent Rate Period(s) Must Be Reduced to Account for MRNR and Avoid Statutorily-Prohibited Overstatement of Revenue Requirement; Accruing a Regulatory Liability for MRNR Should Effect Such Reduction

Under the higher of methodology, the addition of MRNR to accrual revenue requirement results as discussed above in overstatement of revenue requirement. If BPA uses the higher of methodology--which it should not--revenue requirement in subsequent rate period(s) must be reduced to account for MRNR and avoid statutorily-prohibited overstatement of revenue requirement. Accruing a regulatory liability for MRNR should effect such reduction in subsequent rate period(s) and eliminate statutorily-prohibited overstatement of revenue requirement due to MRNR.

For example, BPA revenue financing typically results in MRNR,[27] the inclusion of which in revenue requirement represents an acceleration of expenses for ratemaking purposes to a period earlier than such expenses would be recognized under the Uniform System of Accounts (as depreciation). As such, BPA is required to accrue a regulatory liability for the MRNR. Amortization of this regulatory liability should reduce revenue requirement in subsequent rate period(s) and eliminate overstatement of revenue requirement due to MRNR.[28]

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[26] *See* Uniform System of Accounts Account 254 Other regulatory liabilities.

[27] BPA defines Revenue Financing Minimum Required Net Revenue as follows: "This represents the amount of revenue financing chosen for the implementation of the Leverage Policy or for any other purpose." BP-22 Rate Proceeding Final Proposal, Transmission Revenue Requirement Study Documentation, BP-22-FS-BPA-09A (available at https://ratecase.bpa.gov/openfile.aspx?fileName=BP-22-FS-BPA-09A+Tx+Rev+Req+Study+Documentation.pdf&contentType=application%2fpdf) at page 4. In BP-22-FS-BPA-09A, Revenue Financing Minimum Required Net Revenue is shown on line 4 of Table 1-2 at page 8.

[28] At the January 26, 2022, Financial Plan Refresh conference call, BPA was asked (i) to describe how BPA proposes to account for revenue financed amounts and how it will affect revenue requirements over time, and (ii) for

In any event, if the accrual and amortization of such regulatory liability is not effective in eliminating the overstatement of revenue requirement, BPA as discussed above should abandon its higher of methodology and determine revenue requirement based on forecasted cash requirements.

H. The 1991 FERC Order Fails to Address (i) the Statutorily-Prohibited Overstatement Over Time of Revenue Requirements due to the Higher of Methodology, (ii) the Requirement to Accrue Regulatory Liabilities for MRNR, and (iii) BPA's Inappropriate Practice of Hardwiring the Repayment Study

BPA may argue that the Federal Energy Regulatory Commission ("FERC") has stated that it is appropriate for BPA to include the higher of depreciation or amortized expenses when setting rates. In *United States Dept. of Energy–Bonneville Power Admin.*, 54 FERC ¶ 61,235 (1991), FERC generally approved BPA's rates for FY 1988-89 and stated as follows:

> On the basis of Bonneville's submittals and our own analysis, we find that Bonneville's proposed rates are sufficient to assure repayment of the Federal investment over a reasonable number of years after meeting Bonneville's other costs, and that the rates are based on Bonneville's total system costs.
>
> Several intervenors have raised questions regarding Bonneville's submittal. One party takes exception to Bonneville's practice of including both depreciation and future replacement costs in the determination of the required revenue level. This intervenor asserts that Bonneville's filing is double-counting by including monies for depreciation and replacement related to the same asset. However, the Commission has concluded that Bonneville's filing is not double-counting. The depreciation component is not added to the repayment (amortization) component but the greater of annual depreciation or amortization expense is included in the income statement to demonstrate the adequacy of current revenues, thus enabling Bonneville to satisfy both DOE, using repayment accounting, and its independent auditors, using depreciation accounting. Bonneville's approach is reasonable and this methodology does not result in revenues in excess of Bonneville's repayment requirement.

54 FERC at 61,692. FERC's summary conclusion

(i) restates the statutory standard for FERC approval of BPA proposed rates,

(ii) states that BPA is demonstrating the adequacy of BPA's proposed rates, and

(ii) states that BPA is reasonable and not double-counting because BPA's using the greater of depreciation and amortization in setting the proposed rates does not result in revenues in excess of BPA's repayment requirement.

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an explanation of whether BPA proposes to accrue a regulatory liability for revenue financed amounts. BPA responded that these matters will be addressed in an upcoming Financial Plan Refresh workshop. These matters are important, and BPA's indication they will be addressed in an upcoming workshop is appreciated.

However, the FERC Order did not address

(a) the fact that BPA's higher of methodology results in statutorily-prohibited revenue requirements over time that exceed BPA's costs (regardless of whether BPA proposed rates for a particular two-year period are adequate and do not result in revenues in excess of Bonneville's repayment requirement in that two-year period); or

(b) the impact of revenue financing in recent years on statutorily-prohibited overstatement over time of revenue requirements.

Further, the FERC Order does not address accrual of regulatory liabilities for MRNR. If BPA uses the higher of methodology--which it should not--revenue requirement in subsequent rate period(s) must be reduced to account for MRNR and avoid statutorily-prohibited overstatement of revenue requirement. Accruing a regulatory liability for MRNR should and will effect such reduction in subsequent rate period(s) and eliminate statutorily-prohibited overstatement of revenue requirement due to MRNR.

In addition, the FERC Order does not address BPA's inappropriate hardwiring of the repayment model. When more cash is produced than is needed for principal payments calculated by the repayment model, BPA should (as discussed above in Section E) reduce the rates to produce only cash needed for principal payments.

In short, the FERC Order fails to address (i) the statutorily-prohibited overstatement over time of revenue requirements due to the higher of methodology, (ii) the requirement to accrue regulatory liabilities for MRNR, and (iii) BPA's inappropriate practice of hardwiring the repayment study.

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Nothing contained in these comments constitutes a waiver or relinquishment of any rights or remedies provided by applicable law or provided under BPA's Tariff or otherwise under contract. Commenting Parties appreciate BPA's review of these comments and consideration of the recommendations contained herein. By return e-mail, please confirm BPA's receipt of these comments.