

May 30, 2018

Via Email (techforum@bpa.gov)

U.S. Department of Energy
Bonneville Power Administration
Transmission Services

Re: TC-20 Comments of Avangrid Renewables, LLC, Avista Corporation, Idaho Power Company, PacifiCorp, Portland General Electric Company, and Puget Sound Energy, Inc. on Certain of BPA's Proposed Tariff Changes and Related Matters from April 23, 2018 TC-20 Meeting

Avangrid Renewables, LLC, Avista Corporation, Idaho Power Company, PacifiCorp, Portland General Electric Company, and Puget Sound Energy, Inc. (together, the "Commenting Parties") hereby comment on) on certain of BPA's Proposed Tariff changes and related matters presented in the April 23, 2018 TC-20 Meeting.

1. BPA's Guiding Principles for the *Pro forma* Tariff Deviations

BPA has indicated it is working to ensure business certainty and stability for its customers by adopting the FERC *pro forma* tariff for BPA's transmission services to the extent possible. In doing so, BPA has explained that its revised transmission tariff "will only differ from the *pro forma* tariff if the differences are based on the needs of our customers and other stakeholders, the reliable and efficient operation of the FCRTS, or BPA's statutory obligations."¹ Subsequently, BPA announced in the February 21, 2018 meeting² that it would consider differences from FERC's *pro forma* tariff if the differences meet at least one of four guiding "Principles":

1. Implement BPA's statutory and legal obligations, authorities, or responsibilities;
2. Maintain the reliable and efficient operation of the federal system;
3. Prevent significant harm or provide significant benefit to BPA's mission or the region, including BPA's customers and stakeholders; or

¹ Bonneville Power Admin., *Transmission Business Model Working Draft* (Sept. 2017) at 15, available at https://www.bpa.gov/transmission/Customervolvement/TransmissionBusinessModel/Documents/Transmission_Business_Model_Working_Draft_v3.pdf (last accessed May 23, 2018).

² See Bonneville Power Admin., *BPA Strategic Plan and Pro Forma/Industry Standard Gap Analysis Customer Workshop* (Feb. 21, 2018) at 5.

4. Align with industry best practice when the FERC *pro forma* tariff is lagging behind industry best practice, including instances of BPA setting the industry best practice.³

These principles appear intended to provide “strategic guidance” for BPA policy determinations underpinning BPA’s proposed deviations from the FERC *pro forma* tariff. However, BPA has not yet explained its rationale behind these Principles, nor allowed customers the opportunity to comment on them. Engaging customers before adopting certain policy choices such as the Principles is a necessary first step in helping to ensure the “certainty,” “predictability,” and “transparency,” that BPA has committed to providing for its customers.⁴ BPA should explain its rationale behind these Principles and, as discussed below, should clarify and revise various of these Principles.

Commenting Parties note that the first principle is familiar and has been historically used by BPA when addressing issues unique to BPA’s statutory and legal obligations, but the other principles are overbroad and ambiguous.

Principles 2 and 3 should be revised to focus on BPA’s transmission system and transmission customers and avoid for example suggestions that BPA may revise its transmission tariff to the benefit of BPA power customers or to shift the costs associated with the operation of federal generation from power customers to transmission customers. Such a provision could well be contrary to the statutory standards under Federal Power Act sections 211 or 211A.⁵ In addition, if the terms “significant harm” or “significant benefit” are retained, BPA should define those terms.

As written, Principle 4 appears to be an overbroad Principle under which BPA would revise its tariff unilaterally to implement any practice that it deems to be “industry best practice.” To the extent that other transmission providers in the region have revised their tariffs to reflect an industry best practice—pursuant to either section 205 or 206 of the FPA—such industry best practices should generally be incorporated in BPA’s tariff. BPA should not, however, revise its tariff to set what it views to be an “industry best practice,” as Principle 4 apparently allows. A Principle under which BPA sets what is in its view is an industry “best practice” is likely to result in an overbroad view of what constitutes “best practice” and could result in regional inconsistency.

³ See also Bonneville Power Admin., *Terms and Conditions TC-20 Tariff Proceeding Customer Workshop 4/23/18* (“April 23 Presentation”), available at <https://www.bpa.gov/Finance/RateCases/BP-20/Meetings/Tariff-Proceeding/April%2023,%202018/Customer%20Workshop%20Presentation%20for%20April%2023%202018.pdf> (last accessed May 23, 2018), at page 7.

⁴ Bonneville Power Admin., TSPP-TPP-2, *Letter to the Region 2*, (Nov. 22, 2016), available at <https://www.bpa.gov/transmission/CustomerInvolvement/TariffEngagementDesign/Documents/Letter-to-Stakeholders-Customer-112216.pdf> (*hereinafter* Nov. 22, 2016 Letter to the Region).

⁵ See 16 U.S.C. § 824j(a) and 16 U.S.C. § 824k(a); 16 U.S.C. § 824j-1(b); see also *Iberdrola Renewables, Inc. et seq.*, 137 FERC 61,185 at P64 (2011).

BPA should seek and consider comments before adopting any “Principles”. In any event, BPA should not adopt Principles without revising them to rectify the deficiencies described above and should avoid reliance on broad “Principles” that cannot substitute for or supersede applicable statutory provisions. This is particularly true inasmuch as BPA has indicated that it may consider differences from FERC’s pro forma tariff if the differences meet *at least one* of its four guiding “Principles”.

2. Capacity for Generator Imbalance Service

BPA proposes to move the methodology for determining the amount of “Capacity for the Generator Balancing Services” that BPA will supply from the rate case proceedings to a business practice.⁶ This is inappropriate. The balancing service and rates therefor are dependent on the amount of Capacity for the Generator Balancing Services that is held by BPA.

Due to the rate impact of the Capacity for the Generator Balancing Services determination, the manner of the determination should not be housed in a business practice. Rather, consistent with BPA’s commitment to transparency and industry “best practices,” BPA should follow the industry standard by including “those practices that affect rates and service significantly, that are realistically susceptible of specification, and that are not so generally understood in any contractual arrangement as to render recitation superfluous” into the BPA Tariff.⁷ Alternatively, BPA has previously asserted that “the rate process is an appropriate mechanism for identifying and responding to customer concerns” regarding the determination of the amount of capacity for the Balancing Reserves that BPA will supply during a rate period.⁸ BPA could edit the proposed Schedule 10 to provide that the Transmission Provider will establish a forecast of the quantity of balancing reserve capacity needed to provide this service through its rate case process.

3. Clarifications and Assurances Needed

a. Removal of Attachment N (SGIP/SGIA) Without Explanation

In the materials provided at the April 23 Workshop, BPA indicated that several of the tariff’s attachments are currently under review by BPA or are going to be addressed during the formal TC-22 process, including Attachment N, which would presumably be the Small Generator Interconnection Procedures and Small Generator Interconnection Agreement. This

⁶ Bonneville Power Admin., *BP-20 Rate Case Kickoff for Power and Transmission Presentation* at 5 (Apr. 24, 2018).

⁷ See e.g., *KeySpan Ravenswood v. FERC*, 474 F.3d 804, 811 (D.C. Cir. 2007) (citing *City of Cleveland v. FERC*, 773 F.2d 1368, 1376 (D.C. Cir. 1985)).

⁸ *Bonneville Power Admin.*, FERC Docket No. NJ12-3, “Petition for Declaratory Order Granting Reciprocity Approval and Exception from Filing Fee” at 28 (Mar. 29, 2012). To place the determination into the rate process, BPA had proposed to add a schedule into its tariff that would set the total planned amount of capacity reserves as being within the rate setting process. *Id.* at 27.

Attachment has been deleted from BPA's New Tariff, which contains no indication that an Attachment N is under review. BPA should clarify the status of Attachment N.

b. Provisions Marked "Under Review"

BPA has stricken several parts for its new tariff and inserted "Under Review" placeholders. The April 23, 2018 presentation stated that customers should submit comments on Tariff development (specifically, Section 9, provisions aligned with pro forma, and the legal/statutory deviations), Ancillary Services, and the Hourly Firm Update; however, BPA should clarify that customers are not expected to comment on the "Under Review" provisions. Furthermore, BPA should clearly specify when it will propose language for the "Under Review" sections, such as in the techforum notice or materials preceding the relevant TC-20 meeting.

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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.