

July 21, 2023

*Submitted via email to [REP2028@bpa.gov](mailto:REP2028@bpa.gov).*

Northwest Requirements Utilities (“NRU”) submits the following comments in response to the presentations and discussion that took place during the June 27<sup>th</sup> post-2028 Residential Exchange Program (“REP”) Workshop. NRU is a membership-driven organization comprised of 57 Load Following, Network Transmission, preference customers of BPA spread across 7 northwest states. NRU members represent roughly 30% of BPA’s total Tier 1 load.

We would like to thank PPC, WPAG, and the IOU parties for sharing their perspectives on the current REP Settlement as well as their thoughts and suggestions with respect to the prospects of a possible post-2028 REP Settlement. Going forward, whether the region continues to work toward a potential post-2028 REP Settlement or returns to Rate Case determination of REP exchange benefits between 7(b)(2) customers (including all NRU members) and non-7(b)(2) customers (including IOUs and potentially some NRU members), it is essential that BPA and all impacted customers continue to engage in good faith.

NRU believes that a post-2028 REP Settlement represents a significant potential value for NRU members, and the region as a whole. Further, we continue to support negotiated outcomes that avoid potentially expensive and contentious litigation and believe that a durable, legally sustainable post-2028 REP Settlement would avoid a significant administrative burden for all impacted parties.

Similar to the information and positions presented by both PPC and WPAG, NRU maintains the following expectations for the post-2028 REP process:

1. Any proposed REP Settlement must:
  - a. Be consistent with the statutory language in the Northwest Power Act (NWPAA).
  - b. Include consideration of the 7(b)(2) Rate Test, Average System Costs, and both eligible and ineligible loads.
  - c. Be both durable and legally sustainable, given the likelihood of legal challenge.
2. Recognize that the REP was not intended to eliminate retail rate disparity, but instead to provide residential and small farm customers of IOUs with the benefits of wholesale power costs consistent with BPA’s preference customer rates. However, and importantly, these benefits are subject to statutory limits, and those limits must be enforced.
3. Recognize that preference customers may not bear the cost of the REP.

On that last point, given the many interpretations that have been attempted as to the language in the statute itself, we have found legislative history to be especially helpful. For example, we believe it's especially worth highlighting the comments of Senator Jackson (WA) from the November 1980 debate of the Northwest Power Act, wherein he stated:

"The rate provisions of the bill make it possible to extend the economic benefits of low-cost Federal power to consumers of investor-owned utilities; this is accomplished by raising the rates to the aluminum companies. At the same time, preference customers' rates are limited by a rate ceiling to no greater than they would have been without the bill."<sup>1</sup> (*emphasis added*.)

With respect to the inclusion of the environmental attributes of the FCRPS as an economic benefit therefrom (and their resulting eligibility for inclusion in future REP calculations), NRU members strongly disagree with the treatment proposed by the IOUs both in their most recent Workshop presentation and as outlined in their [June 2, 2022 comments](#) as part of BPA's Provider of Choice process.

Leaving aside for the moment the legal insufficiency of such claims, from a policy perspective we would like to point out that NRU's position with respect to the environmental attributes of the FCRPS has been consistent since the outset of BPA's post-2028 process, beginning with the Guiding Principles shared with BPA in February 2020 which included a clear assertion of preference to all environmental attributes of the federal system. More recently this point was reinforced by all of public power with the March, 2022 Public Power Post-2028 Concept Paper, which states unequivocally that *"post-2028 contracts must recognize that preference rights include the environmental attributes of the federal base system output including attributes associated with unspecified secondary surplus sales."*<sup>2</sup> This understanding of preference, together with the certainty that the firm output of the federal system will be fully subscribed by preference customers in the post-2028 contract period, leads to the inevitable conclusion that any expectation that a future exchange could include the environmental attributes of the FCRPS is unsupportable.

Finally, and in the interest of continuing to engage in good faith, we would like to state clearly that any proposed post-2028 REP Settlement or rate case REP calculation methodology that includes the value of environmental attributes above and beyond the treatment of RECs in place today is unacceptable.

Thank you for your time and attention, and we look forward to the continued conversation. Please feel free to contact me if you have any questions about these comments.

Sincerely,

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Director of Operations and General Counsel  
Northwest Requirements Utilities

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<sup>1</sup> Senator Jackson at Cong. Rec. Senate S 14691 Nov. 19, 1980; Legislative History of the NWPA 106.

<sup>2</sup> Public Power Post-2028 Concept Paper, page 14.