

ADMINISTRATOR'S RECORD OF DECISION

Firm Non-Requirements Products and Services Contracts

INTRODUCTION

The Bonneville Power Administration (BPA) has decided to offer long-term firm non-requirements (FNR) products and services contracts that can be customized for interested utility and Direct Service Industry (DSI) customers or other purchasers needing products and services beyond those which BPA is obligated to provide by statute. These contracts are for the sale of electric power and other power-related products. BPA would provide for transmission and other services associated with the sale of electric power, either in the FNR contract or in separate, companion contracts. BPA would negotiate FNR contracts to meet customers' needs.

This decision is a direct application of BPA's earlier decision to use a Market-Driven approach for participation in the increasingly competitive electric power market. BPA plans to offer these contracts, as needed by its customers, in order to: (1) provide products and services that better meet BPA's and the purchasers' needs to be competitive; (2) improve the long-term attractiveness of BPA as a power supplier; and (3) meet the purchasers' desires for more diversification and market choice.

The decision to negotiate and enter into FNR contracts is consistent with BPA's Business Plan, the Business Plan Environmental Impact Statement (BP EIS) (DOE/EIS-0183, June 1995) and the Business Plan Record of Decision (ROD) (August 15, 1995). In response to a need for sound policy to guide its business direction under changing market conditions, BPA explored six alternative plans of action in its BP EIS. The six alternatives were: Status Quo (No Action), BPA Influence, Market-Driven, Maximize Financial Returns, Minimal BPA, and Short-Term Marketing. In the subsequent Business Plan ROD, the BPA Administrator selected the Market-Driven alternative. Although the Status Quo and the BPA Influence alternatives were the environmentally preferred alternatives, the differences in total environmental impacts among alternatives were relatively small. Other business aspects, including loads and rates, showed greater variation among the alternatives. The Market-Driven alternative strikes a balance between marketing and environmental concerns. It also helps BPA to ensure the financial strength necessary to maintain a high level of support for public service benefits such as energy conservation and fish and wildlife mitigation activities.

The BP EIS and ROD were also intended to guide BPA in a series of related decisions on specific issues and actions. The decision to offer FNR contracts is one of these subsequent actions, and the subject of this tiered ROD. Tiering subsequent RODs to the Business Plan ROD helps delineate BPA decisions clearly and provides a logical framework for connecting broad programmatic decisions to more specific segment and contract actions. Before taking specific action on any of these issues, BPA affirmatively stated that it would review the BP EIS to ensure that a particular action was adequately covered within the scope of the BP EIS and, if appropriate, issue a tiered Record of

Decision. This ROD, which summarizes and incorporates information from the Business Plan ROD, is the result of such a review. It describes specific information on the decision to offer FNR contracts, and provides a summary of the environmental impacts associated with this decision, as described in the BP EIS.

NEW COMPETITIVENESS IN THE ELECTRIC INDUSTRY

The electric utility industry is becoming increasingly competitive and dynamic. Four factors are substantially affecting BPA's ability to compete: market change, increased non-power obligations, deterioration of BPA's cost/price advantage, and lost hydro output. The emergence of competition has led to significantly lower prices for wholesale electric power. At the same time, BPA's costs for providing major public benefits (including fish and wildlife enhancement and support of energy efficiency) have increased significantly, and a series of dry years and changes in hydro system operations have seriously affected BPA's ability to produce power and generate revenue.

However, BPA must be able to balance its costs and revenues. The availability of power at competitive prices from other suppliers prevents BPA from meeting costs simply by raising rates. The BPA firm power rate level, above which a rate increase would no longer increase BPA's revenue and cover BPA's costs, would produce BPA's maximum sustainable revenue (MSR). Allowing BPA's rates to exceed this level would not be consistent with sound business principles. It would result in a reduction in BPA's total revenue and BPA's ability to fund public benefits.

All of BPA's customers are being approached by other suppliers. Recently, the Eugene Water and Electric Board (EWEB) executed contracts with POWEREX, Portland General Electric, PacifiCorp, and the Washington Water Power Company (WWP) for 100 MW. This represents a significant portion of EWEB's total load which had been served by BPA. In addition, Clark County Public Utilities (Clark) executed contracts with PacifiCorp and WWP for 200 MW with the option to purchase winter capacity from WWP. As with EWEB, this represents a significant portion of Clark's total load and it had been served by BPA. Further, Grant County Public Utility District issued a Request for Proposal on October 5, 1995, for service to new industrial load in its service territory. That new industrial load will begin service at 20 MW in early 1998 and increase to nearly 70 MW in late 1999. The Snohomish County Public Utility District (Snohomish) entered into a one-year contract with WWP for 60 MW beginning in the summer of 1995 through the summer of 1996. This 60 MW had previously been served by BPA. Snohomish would like to take additional load off of BPA for longer periods as well.

FIRM NON-REQUIREMENTS POWER CUSTOMERS

BPA will negotiate firm non-requirements contracts for up to 20 years with any of its customers for transactions that do not fit within the terms and limited flexibility of the requirements contract templates or, in the case of the DSIs, the Block Sale Contract. Potential customers include utilities and DSIs within the region, and other power purchasers inside and outside the PNW. BPA will not negotiate firm non-requirements contracts that provide service identical to requirements service available under the templates or the DSI Block Sale Contract. (See more detail under *Proposed Products*, below.)

DESCRIPTION OF PROPOSED PRODUCTS

Within the context of increased marketplace competitiveness, BPA must develop new strategies to retain existing customers and attract new ones. Customers are receiving competing firm-power offers for fixed periods at fixed prices, typically for 5 to 10 years, and sometimes for 20 years and more, from utilities (inside and outside the PNW), independent power producers (IPPs), marketers and brokers. Until now, BPA has been constrained in offering firm non-requirements contracts for terms longer than 5 years. To offer comparable products, BPA must increase its flexibility and recognize that the requirements templates contracts may not adequately meet the specific needs of some customers. Customized FNR contracts and related transmission and other agreements are one way to meet this need. These contracts are offered in accordance with the Bonneville Project Act of 1937 and the Pacific Northwest Electric Power Planning and Conservation Act (Northwest Power Act).

In response to the opportunity presented by the FNR contract, BPA is likely to sell a wide variety of power, transmission, and energy services. Below are examples of the types of products and services that BPA is likely to sell under the FNR contracts.

Power Products and Services

BPA is likely to sell annual and seasonal “blocks” of power at load factors (the ratio of minimum to maximum loads) from zero to 100 percent. These customized FNR sales may include the following terms and conditions:

- rights to displace (suspend delivery under the contract and replace the load factors from another source) for economic reasons;
- BPA-provided “call” and “put” options to buy or sell capacity or energy from or to BPA, to change purchase declarations any time up to the workday prior to delivery, and to change power schedules up to 30 minutes prior to any hour;
- provisions for BPA to sell power to replace power lost in transmission from resource to load;

- after-the-fact ability to move the allowable take of power from month to month;
- meeting deviation of actual loads from forecasts;
- band widths of deviations from specified purchase amounts;
- “load factoring” of resources diurnally and seasonally;
- storage of excess generation or purchases for 18 months or more, with potential limits on hourly or annual storage;
- load following to match customer’s second-by-second load variations, including variations associated with “eccentric” loads which are loads with the ability to change more than 50 MW in level at a rate greater than 50 MW per minute, regardless of the duration of the change;
- backup and reserves for customer or consumer-owned resources or purchases, for both planned and unplanned resource outages; and
- automatic generation control for resources owned by other entities which would respond to actual generation output second by second.

BPA may package these and other products to give the customer all of the characteristics and flexibilities that would come with ownership of various kinds of resources, including combustion turbines (CTs). These characteristics could include fixed and variable price components, some of which may track indices such as natural gas prices.

Finally, in addition to these power products, BPA is likely to offer current requirements service purchasers options to return to requirements service on short notice. It is also probable that BPA will offer purchasers the right to resell power that is surplus to their needs.

Product Acquisitions

As a part of the FNR contracts, BPA may agree to acquire various products or services from customers to enhance its business success. These products (primarily power products) could include the following:

- “cold snap” protection that would enable BPA to avoid or mitigate high-cost purchases during periods of unusually severe weather;
- stability or operating reserves to protect the integrity of power supplies to other customers; and
- rights to obtain power supplies or curtail customer loads to assist fish and wildlife, or other environmental needs.

Transmission Products

Transmission and delivery services may be included with BPA sales of power products. Transmission and delivery costs may be rolled into the product price, may be separately identified, or may be paid under separate tariffs consistent with comparability required by the Federal Energy Regulatory Commission. The rates BPA charges for transmission in FNR contracts ,will be comparable to the rates BPA charges itself. At times, costs related to specific facilities used for service to the individual customer may be included in the contract price. BPA may also sell products such as reactive power. Finally, contracts may provide point-of-delivery alternatives.

Energy Services

In order to increase business and enhance BPA's revenue potential, BPA may provide products and services other than power, transmission, and delivery products. Examples of these products or services are as follows:

- rebates or incentives for achieving energy or capacity conservation;
- demand-side management (DSM) services;
- brokering, scheduling, dispatching, or otherwise managing purchases or sales of power and other services;
- power quality services;
- load forecasting and planning for resource needs;
- tracking and accounting for the use of power and other services under the terms of customized contracts;
- research or mapping services;
- laboratory services for the testing of products or procedures;
- fish, wildlife, and environmental analyses, products, and services;
- transmission and engineering services;
- planning, design, and construction of power or transmission facilities; and
- operation and maintenance of power or transmission facilities.

Other Charges

BPA's basic approach to stranded cost is to retain sufficient load, by offering attractive products and prices, so that imposition of stranded cost charges is unnecessary. Given that BPA will be negotiating with its customers over the next 8 to 10 months regarding power sales and load commitments by each customer, it may take some time before BPA can assure itself that it has retained sufficient load to avoid employing a stranded cost recovery mechanism. Therefore, FNR contracts will include language related to collection of stranded cost charges that could become unrecoverable by BPA if a customer were to remove a substantial portion of its load from BPA through an FNR contract. BPA is embarking on development of a policy to define "substantial portion." Such language would tie a customer's stranded cost liability to the revenues BPA would have received had the customer not entered into the FNR contract and instead continued service under its requirements power sales contract.

If BPA receives customer load commitments that make imposition of stranded cost charges unnecessary, subsequent FNR contracts would most likely not include language related to collection of stranded cost charges.

ENVIRONMENTAL ANALYSIS

Consistent with the Business Plan ROD, the Administrator reviewed the Business Plan EIS to determine whether offering customized contracts for firm non-requirements products and services was adequately covered within the scope of the Business Plan EIS. The BP EIS was intended to support a number of decisions, including contract terms BPA would offer to PNW publicly owned utilities, investor-owned utilities, and DSIs; sales to IPPs, marketers, and brokers; and extra-regional sales. The Business Plan EIS alternatives analyzed a range of ways for BPA to enter into contracts with its customers. The Market-Driven alternative included offering long-term contracts with full requirements customers as well as more flexible arrangements, under both short- and long-term agreements such as these firm non-requirements products and services contracts.

The Business Plan EIS showed that environmental impacts are determined by the responses to BPA's marketing actions, rather than by the actions themselves. These market responses include resource development, resource operation, transmission development and operation, and consumer behavior.

Environmental Impacts

The primary source of environmental impacts is customers' decisions on whether to buy power from BPA to serve their firm loads, or to buy from non-BPA suppliers. Selling products and services under these firm non-requirements contracts would help BPA retain firm loads. Therefore, it could reduce opportunities for IPPs, brokers, marketers, or other utilities to develop new CTs. These new CTs would have fewer environmental impacts--especially air, land, and water impacts--than older, less efficient thermal resources. Less new CT construction and operation could mean that, instead of

replacing it, non-BPA suppliers continue or increase the operation of this existing thermal generation.

Marketing Impacts

To the extent that BPA is successful in applying a Market-Driven approach to its business activities, customers will be less likely to reduce their power purchases from BPA. BPA firm loads would be reduced if customers chose other suppliers, but systematic efforts to meet customer needs would lessen BPA's firm utility load losses. As part of these efforts, flexibility in contract terms would lessen the incentives for customers to reduce their BPA loads. With a stronger load base, BPA would be more likely to maintain revenues and be better able to fund public benefits. Also, more firm load placement reduces the uncertainty surrounding BPA's operations and reduces BPA's resource development risks.

The Market-Driven alternative includes flexible contract arrangements to respond to the increasingly competitive and deregulated electric power market. FNR contracts offer competitive BPA products and services and allow customers to make decisions about power supplies based on their own criteria.

Public Service Benefits

Consistent with the Market-Driven approach, the offer of FNR products and services contracts strikes a balance between marketing and environmental concerns. BPA will be a more active participant in the competitive market for power, and will use its success in the market to ensure the financial strength necessary to better produce the public benefits that BPA affords to the region.

Mitigation

In offering contracts for FNR products and services under the Market-Driven approach, BPA understands that conditions that permit the agency to function successfully may change over time. Therefore, the Market-Driven approach contains preparatory mitigation measures (response strategies) to respond to change and to allow the agency to balance costs and revenues. Such mitigation will enhance BPA's ability to adapt to changing market conditions.

These response strategies--which include means to decrease spending, increase revenues, and transfer costs--could be implemented if BPA's costs and revenues did not balance. BPA has already decided (in the Business Plan ROD) to apply as many mitigation response strategies as necessary whenever BPA's costs and revenues do not balance. These mitigation strategies, or equivalents, will be implemented to enable BPA to best meet its public service and environmental obligations, while remaining competitive in the wholesale electric power market.

PUBLIC AVAILABILITY

This ROD will be distributed to all interested and affected persons and agencies. Copies of the Business Plan, Business Plan EIS, the Business Plan ROD and this ROD are available from BPA's Public Involvement Office, P.O. Box 12999, Portland, Oregon 97212. Copies of these documents may also be obtained by using BPA's nationwide toll-free document request line, 1-800-622-4520.

CONCLUSION

I have decided that BPA will offer long-term firm non-requirements products and services contracts that can be customized for utility and DSI customers, or other purchasers needing products and services beyond those which BPA is obligated to provide by statute. BPA would provide for transmission and other services associated with the sale of electric power, either in the FNR contract or in separate, companion contracts, and would negotiate FNR contracts to meet customers' needs.

This decision is consistent with BPA's Market-Driven approach for participation in the increasingly competitive electric power market. BPA plans to offer these contracts, as needed by its customers, in order to provide products and relationships that better meet BPA's and the purchasers' needs to be competitive; improve the long-term attractiveness of BPA as a power supplier; and meet the purchasers' desires for more diversification and market choice. BPA seeks to be responsive to its customers' needs while ensuring the financial strength necessary to produce public benefits such as fish and wildlife mitigation and energy conservation.

Issued in Portland Oregon, on October 17, 1995.

/s/ Sue F. Hickey
Acting Administrator