Response to comments on BPA's methodology for closing out BPA's Energy Efficiency capital budget, fiscal years 2013 and 2014

This document responds to comments BPA received following the public review of its proposed hybrid methodology draft decision document for closing out the BPA Energy Efficiency budget for fiscal years 2013 and 2014. BPA's adoption of the hybrid methodology concludes an extensive effort BPA, its utility customers and nonpower stakeholders made to chart a path following the impacts of an excessive budget overrun in the 2011 fiscal year made to BPA's Energy Conservation Agreement program funding.

BPA notified customers of the potential for overrunning the budget in July 2011 and since then has been in ongoing conversations with its utility customer participants and nonpower stakeholders over possible approaches for addressing the overrun, including adjustments to the five-year budget in future years. In August 2011, BPA outlined several approaches for managing capital spending in future years. Each of these approaches reflected our decision to keep total capital spending on energy efficiency over the five-year budget period (fiscal years 2010 through 2014) at or under the Integrated Program Review budget of $459 million.

At the center of the budget overrun is the change from BPA's Power Subscription policy and contracts, under which BPA's ECA program was developed, to BPA's existing Regional Dialogue (contract high water mark) power sales contracts and the implementation of BPA's Tiered Rates Methodology. The overrun in the budget to fund implementation of ECA measures occurred as BPA was deciding how to address or adjust the funding for utility customers in the ECA post-2011 period. Consequently, there was a lag, or gap, in program requirements in the 2010 and 2011 fiscal years. Customer engagement under the ECA increased during this lag period, which led to unprecedented expenditures under the ECAs. Although the increased spending under the ECAs resulted in increased energy savings, the spending must be balanced with the subsequently developed post-2011 ECA program funding requirements.

Based on the feedback we received, BPA has kept FY 2012 Energy Efficiency Incentive budgets at levels previously established while addressing the fiscal year 2011 budget overrun by making adjustments to FY 2013 and FY 2014 EEI budgets. This decision was announced in a Sept. 12, 2011, decision document. BPA also said it would wait to establish individual impacts in FY 2013 and FY 2014 until the 2011 fiscal year concluded and after the actual budget overspend amount was known.

On Nov. 1, 2011, BPA released its proposed hybrid methodology for closing out BPA's Energy Efficiency budget for fiscal years 2013 and 2014.[1] That document identified the amount of BPA's fiscal year 2011 budget overrun and discussed BPA's intent to use a hybrid approach that melds an equity based and levelized-based approach to allocating the impacts of the budget

[1] This document along with other information on the FY 2011 capital budget situation can be found at http://www.bpa.gov/Energy/N/EECBI.cfm

overrun to individual utilities. BPA stated it would not finalize the decisions reflected in the draft decision document until after a period of public review and comment. This would give BPA's ECA customer participants in particular a final chance to consider their specific impacts and evaluate whether they would like to provide BPA with additional input prior to BPA's final decision.

BPA's draft decision document

In the Nov. 1, 2011, draft decision document, BPA proposed an initial resolution to the overspend of the energy efficiency capital budget incurred in FY 2011. In this document, we proposed the following course of action. BPA would:

- stay within the five-year Integrated Program Review budget set in an October 2010 IPR close-out memo,
- maintain Energy Efficiency Incentive budgets for FY 2012 at previously forecast amounts,
- apportion EEI reductions using a hybrid approach that allocates 50 percent of reductions according to a levelized-based methodology and 50 percent using an equity based methodology,
- reapportion funds from relative underspending utilities to offset relative overspending utilities within FY 2011 using a de facto "unassigned account,"
- enact equal reductions in FY 2013 and 2014 EEI allocations,
- calculate relative overspending on an annual basis (that is, based on actual FY 2011 expenditures) rather than on a rate period basis (that is, based on actual FY 2010 and 2011 expenditures) and
- provide EEI funds to our customers on a rate period basis for FY 2012 and 2013.

At the time we released our draft decision document, we opened a comment period in order to allow our customers and other regional stakeholders to provide their input on the decision we proposed, offer recommendations for adjustments to our methodology or propose alternate solutions to the situation. This comment period, after two extensions, closed Dec. 9, 2011. BPA is now releasing its final resolution to the FY 2011 capital budget overspend situation. Our final decision document,[2] summarizes our resolution to the situation. The information below summarizes the public comments BPA received and provides BPA's responses.

Public comments

BPA received 29 comments on its proposed final resolution. BPA has concluded that nine key issues raised in the comments need to be addressed in this document.

1. Should BPA allow firm power load customers to opt out of BPA's conservation acquisition program under the ECA and avoid sharing in paying the costs of such energy conservation as part of the preference customer's priority firm (PF) power rates?

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[2] This document along with other information on the FY 2011 capital budget situation can be found at http://www.bpa.gov/Energy/N/EECBI.cfm

2. Should BPA hold constant the five-year $459 million capital budget for energy efficiency?
3. What is the basis for determining if a utility was an overspender or an underspender in FY 2011 (that is, should BPA use a rate period spending view or an annual spending view)?
4. What method should BPA use to allocate the FY 2011 overspend (that is, equity, levelized or hybrid)?
5. After applying the level and equity portions of the hybrid methodology, should utilities be left with some minimum amount of EEI funding in FY 2013 and FY 2014?
6. Should BPA allocate FY 2013 EEI funds at a level equal to FY 2012 and resolve the FY 2011 budget overspend issue using a future public process such as the FY 2014 IPR?
7. Should BPA use post-2011 principles to establish equity in the FY 2011 overspend situation? If so, which post-2011 principles should we apply to this situation (for example, unassigned account methodology)?
8. Should customers be allowed to expend EEI funds over a (two-year) rate period rather than on an annual basis?
9. Should BPA change the percentage of the FY 2011 overspend taken out of FY 2013 and FY 2014 so that the Energy Efficiency capital budgets for the two years are more balanced?

The public comments received by BPA can be found at http://www.bpa.gov/applications/publiccomments/CommentList.aspx?ID=144.

Issue: **Should BPA allow firm power load customers to opt out of BPA's conservation acquisition program under the ECA and not share in paying the costs of such energy conservation as part of the preference customer priority firm (PF) power rates?**

Public comment

BPA should allow utilities to opt out of future BPA energy efficiency programs in exchange for a contract commitment to fund their applicable "share" of the regional conservation target. The conservation incentive cost component for projects should be eliminated from the BPA wholesale rate for utilities opting out. (Franklin PUD at 3)

The overcommitment issue has provided additional evidence that many utilities are at least as capable as BPA of managing conservation programs. Utilities choosing to independently manage their own programs should be allowed to do so. This is a good time to reopen this discussion. Allowing utilities to run their own programs would create a more focused and precisely managed BPA program for utilities still needing BPA assistance. The BPA program would no longer need to be all things to all utilities and could key on the greatest savings opportunities for these participating customers. Further, as BPA faces concerns in its access to capital, a reduction in BPA conservation program size would help address this problem as that spending is instead made directly by utilities. (Public Power Council at 3-4)

> The value of reopening the utility self-funding option has become clear. EWEB believes self-funding should be included as a fundamental principle of any solution to the conservation budget overcommitment. (Eugene Water & Electric Board at 3)

> The financial burden and program disruption placed on Snohomish PUD during FY 2011 by BPA's budget mishandling and the missteps in the launch of BPA's post-2011 program leave Snohomish PUD no choice but to insist that the District independently manage its energy efficiency programs and cease to fund BPA's conservation programs. The time to take this action is now, retroactive to Oct. 1, 2011. Snohomish PUD will agree to be the first utility to pilot this model. (Snohomish County PUD at 1)

BPA Response

During the post-2011 process, several of BPA's customers commented that BPA does not provide sufficient value to the region by acting as a central facilitator for the acquisition of energy efficiency. These customers suggested two potential options to address this situation. One, BPA should create an opt-out option that would allow customers to opt out of paying for energy efficiency programs financed in their BPA rates in exchange for a commitment to achieve their share of the public power target. Two, BPA should wholly stop its facilitation role and limit its energy efficiency activities to the creation of regional programs (for example, Energy Smart Industrial) and central support functions (for example, EE Central). During the FY 2011 budget overspend discussion, these opinions have resurfaced.

BPA recognizes that some customers seek to avoid sharing the cost of BPA's conservation acquisitions. This desire became particularly evident following the state of Washington's passage of Initiative 937 in November 2006. In response BPA has, over the past several years, noted that enactment of such state laws does not change nor lessen BPA's obligations under the Pacific Northwest Electric Power Planning and Conservation Act to acquire conservation to meet its firm power load obligations under contract. See for example, Response to Public Comments Bonneville's Phase 1 Post-2011 Energy Efficiency Proposal and Phase 1 Close-out (August 2010) at 3; Long-Term Regional Dialogue (July 2007) Record of Decision, at 192-195. Consequently, the above comments are out of scope for purposes of the public review and comment to adjust 2013 and 2014 fiscal year conservation funding levels. BPA will continue to incent conservation development and acquire energy savings as established under the ECAs and will allocate and recover the costs of such conservation in PF Tier 1 rates and redistribute those costs in the form of EEI funds based on customer Tier One Cost Allocators.

In the Phase 1 Post-2011 EE Framework (August 2010) at page 2, BPA stated that the framework

> *proposed is flexible enough to evolve over time and adapt to new and changing drivers in the energy efficiency marketplace. BPA will work closely with public utility customers and other stakeholders during Phase 2 of the public process to ensure the framework is robust and meets the needs of customers. The framework will be reviewed once BPA and the public utilities have gained experience operating under tiered rates to determine if there are changes that will lead to more effective delivery of energy efficiency in the region. The Agency is committed to commencing this evaluation of the energy efficiency framework prior to the second rate period under tiered rates (FY 2014-2015).*

To reiterate, BPA will review its EE framework and believes the passage of time will produce the experience by which to assess the framework's efficacy. There is nothing in the above language, however, to suggest that BPA supports customers to opt out of BPA conservation programs, let alone avoid paying the cost conservation in rates. When BPA reviews the framework, we recognize that a significant range of approaches could be used to meet BPA's conservation needs and that they may differ from what BPA is currently pursuing.

Issue: **Should BPA hold constant the five-year $459 million capital budget for energy efficiency?**

Public comment

> We continue to urge BPA to develop and adopt a solution that restores FY 2013 and FY 2014 budgets to their original levels. Options include a very modest rate adjustment, third-party debt financing, cost reductions in other BPA program areas and drawing on reserves generated by surplus sales. (NW Energy Coalition at 2)
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> At a time of robust utility and customer confidence in energy efficiency, we believe that BPA can support the existing momentum, economic benefit and energy conservation generated by its energy efficiency programs by reconsidering its decision to cut the FY 2013 and FY 2014 program budgets. We strongly urge that you do so, particularly given that energy efficiency remains extraordinarily cost effective and is contributing significant economic benefits to the region. (Ron Wyden, Jeff Merkley and Earl Blumenauer at 1)

BPA response

As has been pointed out by many of our customers and other regional stakeholders, any budget reduction in FY 2013 or FY 2014, regardless of how it is applied, will potentially have a negative effect on BPA's energy efficiency programs and would not avoid a "funding roller coaster" that BPA has previously indicated it would strive to avoid. During this process, a variety of stakeholders, including the NW Energy Coalition and the Oregon congressional delegation, have called on BPA to avoid reducing 2013 and 2014 fiscal year energy efficiency capital budgets. Suggestions for how to do this include using BPA reserves, instituting a modest rate increase and using outside resources such as Treasury borrowing or third-party financing.

BPA is firmly committed to acquiring conservation through programs that promote efficient use of energy in the Northwest loads BPA serves. The economic and environmental benefits conservation provides deliver an exceptional value for meeting BPA's firm power load obligations, a value that far exceeds its cost. BPA is also firmly committed to prudent budget management and rate stability. Each of the suggestions that would allow BPA to resolve this situation without reducing customer EEI budgets would create long-term or immediate upward pressure on BPA's rates. Pursuing a solution with a rate impact would have the net effect of spreading the cost of the FY 2011 overspend over all of our customers over a much longer period in a manner that would not selectively distribute any of the costs to those who received the greatest benefit.

Since the outset of this public process, BPA has committed to maintaining its five-year $459 million budget set in 2010 in alignment with the Integrated Program Review and the Northwest Power and Conservation Council's Sixth Power Plan. The amount of conservation acquired in fiscal years 2010 and 2011 greatly exceeded BPA's and its public customers' share of the regional target. This achievement was made at a cost far lower than was anticipated and at a substantial discount when compared to cost projections for future savings. Because of the excess achievement at a comparatively reduced cost per average megawatt, BPA expects to achieve more energy savings than we originally anticipated within our five-year budget and to exceed the original targets even with budget reductions in FY 2013 and FY 2014.

While BPA understands the effects budget reductions will have on the conservation programs of its public customers, we have maintained our commitment to this plan. For planning purposes, BPA expects that, with the flexibility to move EEI funds within a rate period and with dramatically increased utility self-funding compared to FY 2011, the region will continue to achieve high levels of energy efficiency savings.

Issue: **What is the basis for determining if a utility was a relative overspender or a relative underspender in FY 2011 (that is, should BPA use a rate period or an annual view of spending) and does that basis weaken BPA's rationale for the hybrid approach and create conflict among public power customers?**

Public comment

> The equity approach is unacceptable because the methodology is based on expenditures in one fiscal year only. A utility may incur expenditures in one year and BPA credit it to another year. Or a program may slowly ramp up and achieve full success in FY 2011. In any case, the equity approach loses sight of what was really achieved in FY 2010 and FY 2011. (Emerald PUD at 2)

> This approach is both unfair and arbitrary. It is unfair because Tacoma Power had absolutely no indication that the timing of our accessing ECA funds within the WP-10 rate period would have a material impact on future ECA funding. It is patently unfair for BPA to after-the-fact penalize Tacoma Power for exercising the flexibility specifically allowed for in the ECA. (Tacoma Power at 1)

> Seattle City Light believes that all five years of funding should be considered in addressing appropriate and equitable allocation of what it is treating as a five-year budget. (Seattle City Light at 1)

> Fiscal year 2010 is excluded from the proposed allocation algorithm. Since it was part of the five-year Bonneville conservation budget, it is inconsistent with the principle of holding to the five-year budget to leave it out of the algorithm for allocation of the overspend. The conditions of decrement and high water mark in 2010 had a profound impact on utilities' invoicing decisions in both the 2010 and 2011 fiscal years. (Eugene Water & Electric Board at 2)

> Including 2010 destroys the rationale for the hybrid and will subject the region to continuing acrimony regarding the issue of how large utilities have prospered with the use of conservation dollars compared to smaller ones … We do not believe there is a sustainable rationale [for including FY 2010 expenditures] that makes sense for the public power community as a whole … [W]ithin the NRU membership, a number of utilities have unique sets of circumstances regarding the history of EEI spending, which they believe would require

> special attention if BPA opens the door to fundamental changes in the hybrid recommendation. We would strongly recommend that the agency limit the hybrid approach to FY 2011. Otherwise, we will want to re-engage both on the basic design of the option, as well as on the premise that BPA should stay within the stated FY 2010 – FY 2014 capital budget of $459 million. (NRU at 2)
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> BPA should not expand the hybrid approach to include FY 2010. This proposal from some of the larger utilities results in even more disparity of funding between larger and smaller utilities and exacerbates the swings in budget levels. Again, under this approach, some utilities are zeroed out. OMEU cannot support this proposal. (OMEU at 2)

BPA response

BPA received comments that included a request to examine both FY 2010 and FY 2011 ECA expenditures to determine the level of the relative overspend. Customers such as Emerald PUD and Seattle City Light correctly pointed out that BPA has maintained a commitment to a five-year budget but has not taken into account the first year of that five-year period. This deadline does not account for program ramp-up that occurred in FY 2010 nor does it address the variability of spending for those utilities that plan their conservation programs on a rate period basis. Given BPA's focus on long-term budget management, we understand the calls to expand our examination of the overspend to include a full rate period.

Tacoma points out that the high water mark deadline of the end of October in FY 2011 and the lack of a requirement to report FY 2010 spending within FY 2010 created a substantial amount of spending that was attributed to an FY 2011 funding source but that, in actuality, funded work performed in FY 2010. They suggest the actions taken by some utility customers happened because there were no clear requirements. Because customers submitted invoices and requested conservation funding at a moderate rate in earlier years under the ECA, BPA did not anticipate that customers would accelerate their conservation activities and funding requests in FY 2011.

On the other hand, the customers represented by NRU and OMEU have suggested that, by including FY 2010 spending in BPA's calculations, the rationale for the equity portion of the hybrid methodology will be undermined and small utilities will be unfairly penalize in order to benefit larger customers.

Given BPA's focus on long-term budget management, we understand the calls to expand our examination of the overspend to include a full rate period, but we are also aware that, by including spending that occurred outside of the FY 2011 overspend in our examination, we could penalize a group of customers for actions that did not directly contribute to this situation.

In light of the above, BPA believes a solution that minimizes disproportionate impacts to either group of customers is warranted. Given the lack of reporting requirements and the situation created by high water mark deadlines, BPA agrees with comments that it would be incongruous to manage to a five-year budget period without accounting for customer spending in the period's first year. BPA also agrees with comments that suggest that any spend outside of the FY 2011 timeframe is out of scope and would penalize BPA's smaller customers for actions that did not contribute to the FY 2011 overspend.

BPA recognizes some of our customers undertook conservation actions in response to high water mark deadlines that shifted their FY 2010 spending into FY 2011 while others were unaffected and had no shift in spending. For those customers who acted according to high water mark drivers or who designed their programs to account for longer term (five year) budget horizons, using the full rate period to allocate overspend accounts for BPA-driven anomalies and prevents artificial inflation of FY 2011 spend totals.

On the other hand, for those customers that managed their conservation programs within individual fiscal years or were not affected by high water mark drivers, a rate-period-based allocation has the opposite effect and serves to artificially inflate their total allocated overspend. By combining both the rate period and FY 2011-only allocation methodologies in equal measure in our allocation of total overspending, BPA intends to minimize disproportionate impacts to either group of customers by ameliorating the temporal impacts of EEI expenditures and the submission of invoices.

Issue: **What method should BPA use to allocate the FY 2011 overspend?**

Public comment

> In the present case, some utilities received much more than their fair share of funding from BPA in 2011. It only makes sense for the burden of future reductions to fall on those utilities. Grays Harbor favors the equity approach, as it is the method of reallocation that comes closest to being fair to all customers. (Grays Harbor PUD at 1)
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> It seems that the best way out of this situation is that the utilities that benefited from the overspending should pay for it. We cannot ask our ratepayers to pay for benefits that they don’t receive. We feel this problem should be solved using cost causation rules, not spreading it around to all parties involved. How can anyone complain in good conscience about paying for benefits they received? (Klickitat PUD at 1)
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> It seems that the best way out of this situation is that the utilities that benefited from the overspending should pay for it by having their benefit reduced. We should not even consider having to ask our ratepayers to pay for benefits that they don’t receive. (Harney Electric at 1)
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> Penalizing those who championed BPA goals, followed BPA guidelines and funded energy efficiency programs with BPA authorization is unacceptable. (Monmouth Power & Light at 2)
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> Peninsula Light feels the “pro rata” method should be employed as all utilities are treated equally going forward and not penalized for playing by the rules that were then in affect. (Peninsula Light Company at 1)
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> Clark continues to strongly oppose any option that approaches the Equity Impact Scenario. The “Level” method is the alternative Clark feels is the fair and practical method. It offers the added benefit of providing funding for all utilities. (Clark Public Utilities at 1)

BPA response

BPA appreciates the views expressed by Grays Harbor, Klickitat and Harney Electric. BPA’s approach seeks to balance the concerns expressed by customers that operated consistently with BPA’s acceptance of their ECA measures during this period. BPA believes it is reasonable, therefore, that any solution must contain some attribution beyond a pro rata distribution of the overspend to those utilities that received the greatest benefit from FY 2011 expenditures.

In retrospect, the benefits of the FY 2011 overspend were concentrated in the service territories of those utilities that spent more than “what would have been” their Tier One Cost Allocation-based allocation. However, there was no TOCA-based funding allocation decision at the time. In August 2010 BPA had only announced that it would include the cost of the EEI to acquire conservation in its PF rate. BPA would allocate the revenue collected in the PF rate earmarked to fund the EEI to utility customers based on the TOCA relative to the amount of energy efficiency that needs to be acquired to reach the public’s share of the regional target. On Jan. 12, 2011, BPA released its Final Energy Efficiency Post-2011 Implementation Proposal. In it BPA affirmed its previously announced decision that it would assign an EEI budget based on a customer’s TOCA. BPA notes, however, that it had not yet developed the specific details for transitioning from the Subscription-based ECA funding model to the new Regional Dialogue-based ECA funding model.

As noted by both Monmouth and Peninsula Light, BPA began FY 2011 without any indication that the TOCA-based funding approach established for the post-2011 ECA implementation would be applied retroactively. They also note BPA continued to encourage as much efficiency acquisition and, thus, spending as possible. Given the policies in place at the beginning of FY 2011, BPA believes it would be unreasonable to retroactively apply the post-2011 equity principle in its entirety. Thus, BPA will not fully allocate the cost of the FY 2011 overspend to those customers that, at BPA’s encouragement, successfully achieved conservation with funding beyond what would be considered an “equitable” share.

BPA recognizes there was a mixture of customer activity during this time. On the one hand, some customers increased the number of conservation measures under their ECAs, which increased the amount of funds being expended from BPA’s conservation budget. On the other hand, some customers did not actively increase their activity under the ECA. The outcome of the increased conservation measures implemented has benefitted all customers because it resulted in BPA-acquired conservation that met the Council’s target, reduced the amount of firm power load BPA was obligated to supply and, hence, reduced the amount of physical power BPA needed to acquire to supply its firm power load requirements. The “hybrid” methodology has been the option BPA has suggested since early in this process and represents a reasonable approach to resolving the FY 2013-2014 budget situation. Use of the hybrid methodology allows BPA to account for BPA-driven anomalies, provides flexibility to make adjustments that take into consideration regional benefits and impacts to individual utility customers, and acts as a transition step to the post-2011 equity based funding model.

Issue: **After applying the level and equity portions of the hybrid methodology, should utilities be left with some minimum amount of EEI funding in FY 2013 and FY 2014?**

Public comment

> Although EPUD cannot endorse any of the proposed solutions, it strongly recommends BPA not zero out any utility EEI budgets for FY 2013 or FY 2014. There is already some feeling in the region that the third-party program cuts currently being implemented in direct response to this budget overrun may reduce utility participation and achievements in the impacted programs. To layer those cuts with EEI budgets zeroed out in FY 2013 and FY 2014 will almost certainly create the "roller coaster" effect that is so difficult to manage at the local level. (Emerald People's Utility District at 2)
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> The top-down hybrid approach must be partnered with a bottom-up approach to reach a holistic answer. Merely devising how to spread program dollars among utilities without then devising how to reconcile, at a minimum, a zero-funding result is like budgeting for new car tires and only inflating three out of the four. You can't keep going without doing serious damage. (Canby Utility Board; McMinnville Water & Light; Efficiency Services Groups, LLC, at 2)
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> The hybrid approach as presented does not provide a suitable answer. BPA should go further in its analysis to mitigate the program damage the hybrid approach creates. (Monmouth at 2)
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> No utility should have its EEI budget zeroed out. This should be a guiding principle of any proposed solution. (Clark Public Utilities at 1)
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> Utilities that had a reduction in funding under the "hybrid" approach to less than 35 percent of their 2013 base case level should receive a capital distribution such that they will have access to 35 percent of their base case EEI 2013 funds. Since the larger utilities in this situation have a likely sustainable funding level for at least basic EEI services, utilities receiving more than $100,000 per year in EEI funds under the hybrid approach would not receive this adjustment. (Northwest Requirements Utilities at 3)

BPA response

One of the most universal comments BPA received during the public comment process was that BPA should not zero out the EEI funding for any utility customers. Customers such as Emerald and Canby pointed out that, by enacting budget cuts that would result in zero or near-zero EEI funding, BPA would create an existential risk for the affected conservation programs. These customers joined other comments that indicated the hybrid approach as outlined in the November draft decision document needed modification to avoid serious harm to the region's ability to achieve conservation. BPA is in full agreement with customer requests to avoid completely eliminating any EEI budgets. By providing all customers with at least a minimal level of funding for energy efficiency programs, BPA hopes there will be a continuation of established programs. Although this has the net effect of slightly increasing the levelized portion in the hybrid overspend allocation, the benefit to the region far outweighs the minimal cost.

While there was nearly universal agreement that BPA should set a floor for EEI budgets, customers suggested two alternative approaches for setting the floor. Several parties suggested the floor be 35 percent and BPA not reduce any customer's EEI allocation below that level. BPA has accepted the suggestion to use a percentage and has selected 35 percent because it reflects a level of funding BPA believes would avoid the need for a customer to eliminate its utility conservation program. This percentage also roughly reflects the amount utilities received under the Conservation Rate Credit. NRU offered to slightly modify this approach, setting a “not to exceed” dollar threshold of $100,000. Although BPA appreciates NRU’s attempt to reduce the financial impact of the 35 percent adjustment on other utilities, BPA does not believe it is needed, and it may lead to unintended impacts to utilities based on their size.

Issue: **Should BPA allocate FY 2013 EEI funds at a level equal to FY 2012 and resolve the FY 2011 budget overspend issue using a future public process such as the FY 2014 Integrated Program Review?**

Public comment

> The process leading to the decision was not appropriately collaborative or clearly defined considering the magnitude of the problem and impact on utilities. (Eugene Water & Electric Board at 1)
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> This proposal offers a better solution than the ones currently proposed by BPA and acceptance would also begin to renew trust between customers and BPA, healing the damaged relationship by creating certainty within the program’s next two years. This proposal offers a reasonable amount of certainty through FY 2013, time to plan for FY 2014 and beyond, and opportunity for customers to help fully resolve this issue within the formal and well-established processes available in the next two years. (Public Power Council at 2)
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> BPA and the customers could help to forge the particulars of the capital budget for energy efficiency in FY 2014 in the context of an overall capital spending plan for the agency. This will enable the region’s energy efficiency plans to move forward without a pending major reduction. We can avoid the divisiveness associated with applying a hybrid allocation model to FY 2011 versus FY 2010 and FY 2011. Utilities and BPA will have more time to digest the final numbers associated with FY 2011 (as well as FY 2010) and to construct a more orderly approach for the years ahead. (Northwest Requirements Utilities at 4)
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> Our PUD recognizes that the agency may fear that the financial risk for the overrun spending is postponed to FY 2014, but it is believed those concerns can be ameliorated through a longer planning perspective and a lessons learned approach. This approach places a premium on maintenance of programs and, as such, successful past momentum is not scaled back or diminished. (Pacific County PUD No. 2 at 1)
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> Concern has been expressed that if this approach were adopted, nearly all of the risk of the cost of the overcommitment has the potential to be borne in FY 2014, potentially causing a region-wide setback to conservation programs. We understand there is risk but believed it can be managed by the processes in place, the planning horizon [and] additional progress made toward the Sixth Power Plan. (Cowlitz at 1)

BPA response

Many commented that the BPA public process associated with the FY 2011 capital overspend was insufficient to deal with the task at hand and that the process to resolve this situation was not appropriately collaborative, formal or inclusive. EWEB commented that, given the severity of the problem, BPA pursued an ad hoc engagement process that was not clearly defined. Others proposed that BPA address this issue by holding EEI funding levels constant in both FY 2012 and FY 2013 and use the FY 2014 IPR process as a forum to resolve this issue. This position was widely supported not only by customers such as Cowlitz PUD and Seattle City Light but also by interest groups such as NRU and PPC.

Given the unexpected increase in ECA spending so late in FY 2011, BPA felt the need to respond quickly to a problem that it did not anticipate because of the slower rate of annual ECA program expenditures in prior years. The acceleration in customer ECA expenditures in FY 2011 was unprecedented. BPA has been transparent in making the problem publicly known and has sought cooperation and collaboration with its utility customer participants and nonpower stakeholders in developing a resolution. BPA has attempted to weigh the value of inclusivity and formality against our desire to provide our customers a rapid resolution to a difficult situation. The Nov. 1 draft decision document was the culmination of information BPA received and gathered through meetings and discussions with its customers and nonpower stakeholders going back to July 2010 when BPA first signaled to our customers there was a problem. When we sent the draft decision document to all BPA customers via their account executives and/or Energy Efficiency Representatives, we requested input from all customers and stakeholders. Subsequently, BPA extended the public review and comment period twice to allow for more time.

BPA also appreciates the desire for the increased certainty a FY 2013 energy efficiency budget equal to FY 2012 would provide. This would indeed minimize, at least in the short term, the funding roller coaster necessitated by the FY 2011 overspend but would also risk a precipitous drop in capital funding in FY 2014. Given the agency's commitment to stay within the $459 million budget over five years, BPA is not willing to accept this risk and its potential adverse impact on energy efficiency programs should it occur.

BPA understands the desire many customers have to wait until the 2014 IPR process to provide both a more formal decision-making process and greater near-term funding certainty. However, to wait until the 2014 IPR process would mean that all reductions must occur in FY 2014 if BPA is to maintain its five-year $459 million capital budget for energy efficiency. Assuming this were the case, the utility customer participants would see a precipitous decline in BPA funding to support their conservation programs in FY 2014. A decline of this magnitude would jeopardize a majority of public power's conservation programs and could seriously reduce BPA's conservation acquisition and, hence, our ability to meet the conservation targets established in the Sixth Power Plan. It would also draw into question our ability to maintain robust conservation programs in the future. Pursuing a course of action that could create a funding roller coaster of this magnitude is unacceptable to BPA.

Issue: **Should BPA use post-2011 principles to establish equity in the FY 2011 overspend situation? If so, which post-2011 principles should we apply to this situation (for example, the unassigned account methodology)?**

Public comment

> As part of the "equity" adjustment, Snohomish PUD does not support BPA's method to reallocate amounts underspent to overspender utilities that already benefited from BPA 2010-2011 allocations. Rather than distributing the unassigned account benefit to the overspenders who have already received benefits in excess proportions to their TOCA share, Snohomish feels it is equitable to allocate the underspent funds back to each underspending utility at half of the value per year up to 100 percent of the FY 2013 base case scenario. (Snohomish County PUD at 3)

BPA response

Snohomish's comment suggests that one of BPA's fundamental principles for allocating the overspend is flawed and should be reconsidered. Snohomish attaches its own calculation for allocating dollars between over- and underspending utilities to redistribute spending under an "equitable" allocation as determined by a retroactively applied TOCA. Snohomish claims the hybrid approach to overspending utilities further subsidizes those utilities because they already received the benefit of the FY 2011 overspend. Snohomish suggested returning these funds in future years to utilities that did not take advantage of more than their fair share of BPA funds in FY 2011 (up to a maximum of their FY 2013 base case EEI).

As discussed previously, BPA believes the hybrid methodology provides flexibility to adjust ECA budgets to account for those customers that received the greatest benefit from the FY 2011 overspend. From a BPA resource perspective, all customers have benefitted from the increase in conservation BPA acquired. At the same time, BPA understands that customers now want to direct their share of conservation costs, as derived by applying their TOCA, to BPA's cost of conservation to support their individual conservation programs under the ECA. The example Snohomish makes in its comment rests on the assumption that funds can be carried forward across rate periods. However, cross-rate-period funding has never been allowable in the BPA post-2011 energy efficiency framework policy, and any funds, spent or unspent, from FY 2011 have never been under consideration for use in future rate periods. Given the bright line at the close of FY 2011 established by the post-2011 process, BPA cannot support the use of underspent funds to benefit underspending utilities in the future. Using an unassigned account methodology to distribute underspent funds to offset overspending reduces the impact to all of BPA's customers.

Issue: **Should customers be allowed to expend EEI funds over a (two-year) rate period rather than on an annual basis?**

Public comment

> It makes no sense to fund utility conservation programs annually. Program stability demands otherwise. In fact, if we are managing to a five-year program, it makes better sense to allow utilities to manage to that term (and perhaps a rolling five-year period) and not be limited by the rate period. (Franklin at 4)

> NRU strongly recommends that BPA allow EEI funds to be available over a rate period basis, as opposed to a yearly basis, after FY 2012-2013. Removing this flexibility altogether by moving to an annual-only distribution of EEI funds would even more severely harm a customer's ability to effectively acquire energy efficiency under the post-2011 construct. (NRU at 3-4)

BPA response

BPA agrees that access to EEI funds over a rate period would provide flexibility to accommodate customer planning and implementation necessary for large projects with long-term completion times while also providing some measure of elasticity in funding to help offset cuts in FY 2013 and FY 2014. BPA understands the importance such flexibility offers and has decided to allow rate period flexibility not only in FY 2012 and 2013 but also in FY 2014 and FY 2015. BPA believes this increased flexibility should also reduce or remove the BPA-driven anomaly that could be created by annual funding. By making this allowance, however, BPA and customers place at risk our ability to maintain the established five-year $459 million budget. In addition, since FY 2014 and FY 2015 span the period during which the next Council power plan is expected and, thus, the setting of two five-year budgets, there is risk for a potential shift of EEI funds from FY 2015 to meet customer expenditures based on FY 2014 funds. Given this risk, BPA will need to ensure it has appropriate measures to track and measure customer EEI expenditures and to receive customer cooperation and assistance in forecasting expenditures that will occur in FY 2014. With accurate forecasting, BPA and its customers can take the steps necessary to avoid another surprise budget overrun.

Issue: **Should BPA change the percentage of the FY 2011 overspend taken out of FY 2013 and FY 2014 so that the EE capital budgets for the two years are more balanced?**

While this is not an issue identified directly in public comment, we have become concerned that BPA's initial construct of a 50/50 allocation of cost between FY 2013 and FY 2014 is likely to unnecessarily increase the FY 2014 EEI allocation and unnecessarily decrease the FY 2013 allocation. Without a change to this structural problem, the decision would have further contributed to the energy efficiency funding roller coaster we have attempted to minimize.

To address this situation, BPA will make the FY 2013 and FY 2014 budgets equal by changing the percentage of the FY 2011 overspend that will come out of FY 2013's capital budget to 43.5 percent and that will come out of FY 2014's capital budget to 56.5 percent. This adjustment results in the same amount of total EEI available to customers between the two years; however, the exact EEI allocations in FY 2014 will depend on customer FY 2014 TOCAs. In addition, BPA's Post-2011 commitment that at least 70 percent of available capital will be distributed to customers via the EEI fund remains unchanged.

Conclusion

BPA understands the difficulty that the fiscal year 2011 energy efficiency capital overspend has created for our customers and the stakeholders of the region. BPA closely considered the comments and issues raised therein, paying close attention to the following deliberative points: 1) adhere to BPA's overall five-year capital budget for energy efficiency programs; 2) weigh regional benefit over the benefit to any individual utility; 3) maximize certainty and minimize the conservation funding "roller coaster"; 4) provide a solution that accounts for BPA-driven anomalies and minimizes the consequences of retroactively applying policy; 5) avoid solutions that create undue harm for classes of customers; and 6) include some measure of accountability for those customers that spent the most. While BPA understands that its solution to this issue will not please everyone, BPA believes it is the most reasonable approach to take given the concerns and complexities of each individual utility customer participating in BPA's ECA program.