

**Horizon Wind Energy LLC Comments on “Connecting Variable Generating Resources to the Federal Columbia River Transmission System (FCRTS),” December 29, 2008 and proposed LGIA Appendix C Additions and Revisions:**

- A. Regarding the Dispatch Standing Order 216/ ‘Connecting Variable Generating Resources to the Federal Columbia River Transmission System (FCRTS)’:**
1. During the 01/09/09 WIT meeting BPA clarified that it is its intention to integrate the information contained in the paper titled, Comments on “Connecting Variable Generating Resources to the Federal Columbia River Transmission System (FCRTS)” dated December 29, 2008 (“the Paper”) in Dispatch Standing Order 216 (“DSO 216”), which has yet to be drafted. We understand that DSO 216 will contain detailed information on events or situations which may lead to orders to reduce generation output, detailed procedures and protocols to be followed by BPA and by the Generating Facility Operator during and resulting from the exercise of orders to reduce generation output and post-event requirements. Following are our comments on the Paper and terms we request you include in DSO 216.
    - a Under “Testing and Acceptance Procedure,” in addition to conducting random tests during the operational period of a Generating Facility when there is no threat of running out of reserves, BPA should commit to arrange testing times with Operators prior to the implementation of DSO 216, or prior to the commercial online date of a Generating Facility if DSO 216 is already in effect. BPA should not trip generators under these testing and acceptance situations and should not count any test failures against the facility’s three allotted violations. Operational period random tests should be conducted on a semi-annual basis and once the curtailment is validated, the plant should be allowed to return to service within a period of no more than 20 minutes.
    - b BPA should commit to issuing a report of system conditions after every order to reduce generation output pursuant to DSO 216. The report should include: total load, total variable generation, total variable generation schedule, reserve usage levels, secondary sales, any physical event on the system, what generators were curtailed and what the total curtailment amount (MWh). We believe such a report is a reasonable request and will assist BPA and Operators in understanding the relation of their operations to reliability events.
    - c We support the allocation of reserves based on installed capacity (equation 1). Regarding equations 3 and 4 our choice would be to produce more and adjust often. Regarding equation 5, per our

previous comments limiting production in the early part of the hour is not in our best interest nor do we believe it is more beneficial.

2. A draft of DSO 216 should be made available Operators of Variable Generating Facilities connected to BPA's transmission system or who have signed LGIAs with BPA and who will be subject to the DSO 216 for the purpose of reviewing and commenting on the protocols contained in the draft of DSO 216. Please confirm this in writing.
3. Please calculate and provide a statement from BPA estimating the risk of limit-to-schedule events assuming (a) BPA holds reserves associated with two-hour persistence scheduling and the wind fleet schedules with two-hour persistence scheduling accuracy, (b) BPA holds reserves associated with two-hour persistence scheduling and the wind fleet schedules with ½ hour persistence accuracy, (c) BPA holds reserves associated with ½ hour persistence scheduling and the wind fleet schedules with ½ hour persistence accuracy, and (d) BPA holds reserves associated with ½ hour persistence scheduling and two-hour persistence scheduling persists.

**B. Regarding the proposed Appendix C language:**

1. The description of the DSO in Section 3(b)(i) (everything following, "pursuant to which") should be deleted. It is sufficient to state that Operators must comply with DSOs.
2. Article 9.4 of the LGIA states that an Interconnection Customer shall "operate, maintain and control" its generating facility and its interconnection facilities "in a safe and reliable manner" and "in accordance with all applicable requirements of the Control Area of which it is part, as such requirements are set forth in Appendix C," and BPA has the right to determine the "applicable reliability criteria" in Appendix C without an Interconnection Customer's consent. *United States Department of Energy-Bonneville Power Administration*, 112 FERC ¶61,195, P 20 (2005). BPA is limited to adopting Control Area requirements that are necessary for the reliability of its Transmission System, or to assure that an Interconnection Customer will "operate, maintain and control" its Generating Facility "in a safe and reliable manner."

Section 3(b)(i) of Appendix C would, if adopted, permit BPA to order an Interconnection Customer to reduce the output of its Generating Facility to avoid a violation of the Clean Water Act ("CWA") or the Endangered Species Act ("ESA"). Although BPA should avoid such violations, avoidance of such violations is on a par with avoidance of violating other

Federal statutes and regulations, including those having to do with the environment. Regardless of merit, actions taken to comply with the CWA or the ESA are not necessary for the reliability of BPA's Transmission System.

3. The proposed language for Appendix C also includes a paragraph to be inserted after the list of required Control Area Services providing that an Interconnection Customer cannot seek to self-supply or have a third-party supply the required Control Area Services without BPA's consent, and further requiring an Interconnection Customer receiving such consent to pay BPA's stranded costs, whatever BPA determines such costs to be.
  - a. The language proposed in this paragraph is vague and overbroad. BPA proposes that it have unbounded authority to determine whether to permit an Interconnection Customer to find another supplier of Control Area Services. We would proposed modifying the language as follows:

At any time during the course of this LGIA, Interconnection Customer may self supply, or acquire from a third party, any of the Control Area Services listed above and/or those added after the execution of this LGIA, ~~if Transmission Provider agrees that Interconnection Customer may do so. Interconnection Customer;~~ provided that any Control Area Services(s) provided by Interconnection Customer or a third party are (1) comparable to the Control Area Services provided by Transmission Provider and (2) consistent with Transmission Provider's Open Access Transmission Tariff and associated business practices. Interconnection Customer's obligation to take and pay for ~~any~~ Control Area Service will terminate if as soon as Interconnection Customer ~~(i)~~ self supplies such Control Area Service (s) and/or acquires it from a third party, ~~and (ii) compensates Transmission Provider for Transmission Provider's stranded costs, as determined by Transmission Provider, that result from.~~

- a. This paragraph also addresses recovery of stranded costs, which may be appropriate to enable BPA to recover its costs and equitably allocate its costs among customers, but it does not address Transmission System reliability. This paragraph is not related to Control Area reliability requirements and should not be a part of Appendix C. We believe this is not the appropriate place for BPA to address cost recovery mechanisms. This matter should be addressed as a new section in the LGIA, or as a rate matter, or both. We are willing to work with BPA to further explore this issue.

- b. Because this paragraph creates a take-or-pay obligation for listed Control Area Services, the paragraph more appropriately belongs in the text of the LGIA. Section 9 of the OATT describes the process for changing the terms and conditions for tariff service. Pending completion of that process, we could consider including in new LGIAs a provision stating that an Interconnection Customer will accept a change to its executed LGIA that provides a take-or-pay obligation for Control Area Services upon FERC determinations required by Section 9 of the OATT.

**C. Regarding additional amendments to the LGIA:**

1. There are a number of additional concerns we have around the concept of BPA taking direct operational control of a project. We do not believe BPA has yet made an adequate argument as to why it should have direct operational control of a generating facility upon multiple failures to comply with orders to reduce output. What basis does BPA have for asserting this right? Is there precedent for a utility taking direct control of projects? Has this been successfully done elsewhere in the US where we could look at how these issues we are concerned about have been addressed?
2. Generating Facility Owners have obligations arising under construction warranties, scheduling agreement, power sales contracts. The LGIA should be amended to specify BPA's liability during periods when BPA has assumed direct control of a Generating Facility for BPA's actions that cause (i) breaches of Owners' obligations arising under construction warranties, (ii) breaches of Owners' power sales contract obligations, (iii) damage to the Generating Facility, and (iv) other damages and costs. We would propose BPA add the following language to address this concern:

"Transmission Provider agrees to assume liability for any losses, damages, costs, or expenses any special, indirect, incidental, consequential, or punitive damages, including but not limited to loss of profit or revenue, loss of the use of equipment, cost of capital, cost of temporary equipment or services, whether based in whole or in part in contract, and which are related to the operation of the Generating Facility for the period during which Transmission Provider has operational control over the Generating Facility."
3. Given these issues we propose BPA reconsider its proposal to take direct control of the generating facility.
4. The LGIA should explicitly state the circumstances under which BPA is liable for damages for lost power sales and any penalties or other liabilities incurred as a result of the exercise of the DSO in which BPA:

- a. Fails to contact the appropriate parties;
  - b. Fails to send the signal appropriately; and
  - c. Dispatches the Generating Facility inappropriately
3. What is the venue for dispute resolution related to the exercise of the DSO? Please include a dispute resolution provision or reference where disputes arising from the exercise of any of the provisions contained in the Dispatch Standing Order. We would suggest that a new section be added to the LGIA to provide a mechanism for dispute resolution to clearly cover disputes arising from the exercise of any of the provisions contained in the Dispatch Standing Order.
4. In the event that BPA takes direct control of a Generating Facility pursuant to Section 3(b)(iii) of Appendix C, the Generating Facility should not be subject to charges for Generation Imbalance Service. BPA should either amend the LGIA or revise the Generation Imbalance Service Rate Schedule to state that an Interconnection Customer will not be assessed Generation Imbalance Service charges during periods when BPA has assumed direct control of such Interconnection Customer's Generating Facility.