



DEPARTMENT OF JUSTICE
GENERAL COUNSEL DIVISION

March 17, 2010

Re: ASC Review Process Review Request for Comment PFE-6

The Public Utility Commission of Oregon (“OPUC”) appreciates the opportunity to comment on BPA’s proposed modifications to the Average System Cost Methodology (“ASCM”). These comments are limited to BPA’s proposed Rules Governing The Disclosure of Confidential Information In BPA’s Average System Cost Review Proceedings (hereinafter referred to as the “Proposed Rules”).

BPA’s Proposed Rules are not intended to protect information that may be sought in discovery. Instead, BPA contemplates that intervenors and utilities will come to an understanding regarding disclosure of confidential information in discovery, and that if an understanding is not reached, seek BPA’s intervention in the discovery dispute. BPA noted at the February 25, 2010 workshop that this proposal is based on BPA’s concern that a utility may wish to preclude certain persons from seeing certain confidential discovery request responses even though the utility does not object to these persons viewing confidential information in the utilities’ initial filings.

The OPUC asks BPA to revise the Proposed Rules so that they apply to discovery requests as well as the utilities’ initial ASC filings. The Proposed Rules allow utilities to seek additional protection for certain information. See Section 8.1. That additional protection could include an order precluding the requested discovery on the ground the information is too sensitive to be revealed to the party seeking the discovery.

BPA has a relatively short response-time for data requests, presumably because the period parties have to seek discovery is relatively short. BPA’s current proposal regarding discovery of confidential information is inconsistent with the relatively short period for discovery. Further, there is no reason to not include discovery of confidential information in BPA’s thoughtful process for disclosure of confidential information in utilities’ initial filings.

Sincerely,

/s/ Stephanie S. Andrus

Stephanie S. Andrus
Senior Assistant Attorney General
Of Attorneys for Public Utility
Commission of Oregon