

Draft Interpretation and Implementation of Endnote d(3) of the 2008 ASC Methodology

1.0 INTRODUCTION

This Draft Interpretation sets forth the Bonneville Power Administration's ("BPA") Draft Interpretation and Proposed Implementation of Endnote d(3) of the 2008 Average System Cost Methodology ("2008 ASCM").

1.1 Background

Section 5(c)(7)(A) of the Northwest Power Act requires BPA to exclude from a utility's average system cost ("ASC") "the cost of additional resources in an amount sufficient to serve any new large single load of the utility[.]" 16 U.S.C. § 839c(c)(7)(A). A "new large single load" or "NLSL" is a load that was not "contracted for or committed to" by a BPA customer prior to September 1, 1979, and results in an increase in power requirements of such customer of "ten average megawatts or more in any consecutive twelve-month period." 16 U.S.C. § 839a(13)(A)-(B).

To implement this provision in the 2008 ASCM, BPA developed Endnote d to the Appendix 1. In general, Endnote d describes three methods for removing the cost of resources associated with an NLSL from a utility's ASC. First, if the utility uses "dedicated resources" to serve the NLSL, then the costs of those resources (plus transmission) would be excluded from the utility's ASC. *See* 18 C.F.R. § 301, Appendix 1, En. d(1). Second, if the utility purchased power from BPA under BPA's New Resources ("NR") rate, then the costs to be removed from the utility's ASC are the costs of the NR rate. *Id.* at En. d(2). If neither of the above two subparts applies, then the cost of serving the utility's NLSL defaults to subpart (3). *Id.* at En. d(3). Under subpart (3), BPA calculates the resource costs sufficient to serve an NLSL by calculating the weighted fully allocated cost for all of the utility's resources in-service and dedicated to the utility's retail load after September 1, 1979. *Id.* The full text of d(3) is as follows:

To the extent that NLSLs are not served by dedicated resources plus the Utility's purchases at the NR rate, the costs of the excess load will be determined by multiplying the kilowatt-hours not served under paragraphs (d)(1) and (d)(2) above, by the cost (annual fixed plus variable cost, including an appropriate portion of general plant, administrative and general expense and other items not directly assignable) per kilowatt-hour of all resources and long term power purchases (five years or more in duration), as allowed in the regulatory Jurisdiction to establish retail rates during the Exchange Period, exclusive of the following resources and purchases: (a) purchases at the NR rate; (b) purchases at the PF Exchange rate, pursuant to section 5(c) of the Northwest Power Act; (c) resources sold to Bonneville, pursuant to section 6(c)(1) of the Northwest Power Act; (d) dedicated resources specified in endnote d(1) of this Methodology; (e) resources and purchases committed to the Utility's load as of September 1,

1979, under a power requirements contract or that would have been so committed had the Utility entered into such a contract; and (f) experimental or demonstration units or purchases therefrom. Transmission needed to carry power from such generation resources or power purchases must be priced at the average cost of transmission during the Exchange Period.

Id. This Draft Interpretation concerns only BPA's implementation of Endnote d(3).

1.2 Implementation of Endnote d(3)

In October of 2008, BPA commenced two concurrent ASC Review Processes to establish utility ASCs for FY 2009 and FY 2010-2011. These proceedings were the first ASC reviews BPA conducted under the terms of the 2008 ASCM. During the course of these proceedings, a number of NLSLs were reported in the ASC filings. Because none of these NLSLs were served with "dedicated resources" nor did any of the utilities with NLSLs purchase power from BPA at the NR rate, BPA used subpart (3) of Endnote d to calculate the cost of resources sufficient to serve these NLSLs. The operative language from Endnote d(3) that guided BPA's calculation was as follows:

. . . the costs of the excess load will be determined by multiplying the kilowatt-hours not served under paragraphs (d)(1) and (d)(2) above, by the cost (annual fixed plus variable cost, including an appropriate portion of general plant, administrative and general expense and other items not directly assignable) per kilowatt-hour of all resources and long term power purchases (five years or more in duration), as allowed in the regulatory Jurisdiction to establish retail rates during the Exchange Period . . .

To implement this language, BPA developed the NLSL resource cost spreadsheet ("NLSL Tab"). The NLSL Tab allowed parties to input resource-specific data for all cost categories except (1) General Plant and (2) Administrative and General Expense ("A&G"). For these two accounts, the NLSL Tab required exchanging utilities to use a ratio based on installed generating capacity. Although the NLSL Tab met the requirements of Endnote d(3), the spreadsheet and BPA's proposed allocation factors did not receive much scrutiny during the ASC Review Processes.

Following the publication of the FY 2009 and FY 2010-2011 ASC Reports, BPA performed a detailed review of the models and spreadsheets used in the ASC calculation. As part of this review, BPA revisited the NLSL Tab. This review revealed two problems with the existing NLSL Tab spreadsheet. First, BPA discovered that two cost categories, General Plant Depreciation Expense and Federal and State Employee Taxes, were inadvertently missing from the NLSL Tab. These cost categories should have been included in the NLSL calculation.

Second, BPA found the method BPA had been using to determine the cost of resources for NLSL purposes was different than the method BPA had been using to determine the cost of resources for ASC purposes. For example, in the NLSL Tab, Plant Materials and Supplies costs were determined through a direct analysis performed by the utility. In the Appendix 1, however,

Plant Materials and Supplies costs were functionalized using the PTD¹ ratio. *See* 18 C.F.R. § 301, Table 1. A&G costs were similarly misaligned. In the NLSL Tab, all A&G costs were allocated using the ratio of post-September 1, 1979 generating capacity to total generating capacity. In the Appendix 1 and ASC Forecast Model, however, A&G costs were broken out into fifteen separate FERC accounts, each assigned a ratio by the 2008 ASCM. *Id.* Of the fifteen A&G accounts in the Appendix 1 and ASC Forecast Model, six accounts are allocated using the Labor Ratio, six are assigned to Distribution, two are allocated by the PTDG ratio and one by the General Plant ratio. *Id.* A similar difference existed for General Plant, where the NLSL Tab used the previously described plant capacity ratio for all General Plant costs, while the Appendix 1 and ASC Forecast Models broke out General Plant into twelve FERC accounts and used three different ratios to assign the individual General Plant accounts. *Id.*

After discovering the inconsistent functionalization treatment, BPA reviewed the ASCM to determine whether there was any basis for calculating NLSL resource costs differently than resource costs in ASC. Finding none, BPA proposed to revise the NLSL Tab.

1.3 Revised Implementation of Endnote d(3)

Endnote d(3) requires BPA to include in the NLSL resource calculation “an appropriate portion of general plant, administrative and general expense and other items not directly assignable. . .” *See* 18 C.F.R. § 301, Appendix 1, En. d(3). The ASCM does not describe how BPA must determine the “appropriate portion” of cost categories not directly assignable, such as General Plant, A&G, General Plant Depreciation Expense, Property Taxes and Federal and State Employee Taxes. BPA proposes to revise its implementation of Endnote d(3) by conforming the ratios and allocation factors used in the NLSL Tab to the ratios and allocation factors used in the ASC Appendix 1 and ASC Forecast Model. The specific changes made through this interpretation will be as follows:

Account	Previous Method	Revised Method
Plant Materials & Supplies	Direct Analysis	PTD
General Plant	Plant Capacity Ratio	See Functionalization Codes for Accounts 389-399.1
General Plant Depreciation Expense	None	GP
Administrative and General Expense (A&G)	Plant Capacity Ratio	See Functionalization Codes for Accounts 920-935; 404-406
Property Taxes	Direct Analysis	PTDG
Federal and State Employee Taxes	None	LABOR

¹ Production, Transmission, and Distribution.

BPA's decision to revise its implementation of Endnote d(3) with the above functionalization codes is reasonable for several reasons. First, the revised implementation mitigates the differences between the NLSL resource cost calculation and the ASC calculation. The previous NLSL calculation used allocation factors and methods different from the methods BPA used when calculating a utility's ASC. This resulted in conflicting allocation treatments for cost categories that were the same in both the ASC calculation and the NLSL calculation. For example, as noted above, Plant Materials and Supplies are line items in both the NLSL resource cost calculation and the Appendix 1. However, these costs were allocated under a direct analysis under the NLSL calculation but allocated using the PTD functionalization ratio under the Appendix 1. Using the same functionalization codes in both the NLSL calculation and the Appendix 1 will avoid these inconsistencies, and ensure that the costs removed from ASC as a result of an NLSL adjustment are determined in the same manner as the costs included in ASC.

Second, the revised implementation will be less burdensome to implement for BPA and the exchanging utility. For BPA, having consistent functionalization codes means the NLSL Tab can be interconnected with the utility's Appendix 1 filings, reducing the burden on BPA Staff of calculating completely separate allocation factors. For utilities, the new implementation method will also reduce the administrative burden of filling out the NLSL Tab. The previous NLSL Tab required utilities to manually input data into the Plant Materials and Supplies and Property Taxes cost categories for each resource. To obtain these values, the utility had to determine the portion of Plant Materials and Supplies and Property Taxes to assign to each of its resources. BPA, in turn, had to review the utility's values. The revised implementation, which adopts the default functionalizations from the ASCM, removes this burdensome process.

Third, the revised implementation is also more consistent with the ASCM's general policy of limiting direct analysis. The 2008 ASCM provides exchanging utilities with limited opportunities to perform a direct analysis on a cost category. Indeed, the ASCM specifically prohibits direct analysis on an account unless "Table 1 states specifically that a Utility may perform a direct analysis. . ." 18 C.F.R. § 301.7(a). This general limitation on performing direct analysis, however, was not being followed under the previous version of the NLSL Tab. As noted above, the NLSL Tab allowed exchanging utilities to perform a direct analysis on the cost categories of Plant and Materials and Property Taxes. Table 1 of the ASCM, however, requires that these cost categories be functionalized with the PTD and PTDG ratios. BPA's revised implementation corrects this inconsistency by changing the functionalization method for Plant and Materials and Property Taxes to the functionalization requirements in Table 1 of the ASCM.

Finally, BPA's proposed changes to the NLSL Tab should have a minor impact on the overall cost of resources sufficient to serve an NLSL. For example, in the initial NLSL resource cost calculation, Plant Materials and Supplies and Property Taxes were allocated based on total installed generation capacity. In the revised calculation, BPA will use ratios from the 2008 ASCM, modified to incorporate the language of Endnote d(3) which requires that only resources in service after September 1, 1979, be in the calculation, to allocate those costs. BPA distributed a detailed example which compared the original NLSL worksheet with the revised NLSL resource cost calculation at the October 6, 2009, public workshop. The comparison showed the NLSL resource cost calculations using 2007 data from Portland General Electric's ("PGE") 2010-2011 Final ASC Report. Under the revised NLSL resource cost model, PGE's NLSL

resource costs increased by a total of two percent. Half of the increase, however, was due to the inclusion of General Plant Depreciation Expense and Federal and State Employment taxes previously omitted from the NLSL Tab. Thus the total increase in PGE's NLSL resource cost due to BPA's revised implementation model was a mere one percent. For other utilities, the change also should be minimal.

2.0 RESPONSE TO COMMENTS

2.1 Introduction

BPA presented its revised interpretation and implementation of Endnote d(3) at a public workshop on October 6, 2009. At this workshop, BPA walked through its proposed changes to the existing method of calculating NLSL and discussed the revisions with interested parties. BPA also notified parties that the agency was accepting comment on the proposed revisions until November 9, 2009. On October 22, 2009, at the request of the workshop participants, BPA posted a revised NLSL Calculation Template that incorporated the changes BPA proposed at the October 6 workshop. The revised NLSL Calculation Template allowed parties to input their own resource data into BPA's NLSL model to see the practical impact of BPA's revised interpretation of Endnote d(3) on their respective ASCs.

After the close of the first comment period, BPA commenced another workshop on February 25, 2010, where again BPA discussed its proposed revised interpretation of Endnote d(3). On March 1, 2010, BPA requested additional comments from parties on the items discussed during the February 25 workshop, including the proposed NLSL calculation.

2.2 Issues

Issue 1

Whether the proposed revisions to the NLSL Tab result in substantive changes to the NLSL resource cost calculation established in Endnote d(3) of the ASCM.

Parties' Positions

Idaho Power Company ("IPC") alleges that BPA's proposed interpretation is a reformulation of the methodology established in Endnote d(3) of the ASCM. IPC Comment at 3. IPC contends that because BPA is revising its interpretation, BPA should consider making substantive changes to the text of Endnote d(3). *Id.* at 1.

Evaluation and Decision

IPC comments that BPA Staff has "proposed to change the NLSL rate calculation from the existing methodology that uses actual cost value to a new methodology that uses allocated functionalized costs." IPC Comment at 1. Elsewhere in its comments, IPC argues that because BPA proposes to "reformulate or reinterpret the ASC methodology," it should reassess Staff's current understanding of how to assess the costs of service to NLSLs. IPC Comment at 3. In

both of these instances, IPC alleges that BPA proposes to change the ASC Methodology, rather than to interpret the existing language in Endnote d(3). IPC is incorrect.

The NLSL calculation BPA proposes in this interpretation *implements* the existing language in Endnote d(3), not “reformulates” or “changes” the 2008 ASC Methodology. The language in Endnote d(3), while providing that BPA include “all resources” in the NLSL calculation, does not specify *how* BPA must determine these costs. Previously, BPA implemented this provision by developing a spreadsheet that allocated the cost of resources based on direct analysis and a plant capacity ratio. While this was one way of implementing Endnote d(3), it was inconsistent with the allocation factors and methods used in the Appendix 1 and the ASC Forecast Model. To eliminate this inconsistency, BPA proposed to use the allocation factors used in other aspects of the ASC calculation to determine the allocation of resource costs in the NLSL calculation. Although IPC characterizes these revisions as a “reformulation” of the NLSL calculation, IPC has not explained how BPA’s proposed interpretation deviates from the operative language in Endnote d(3). As explained in this Draft Interpretation, the revised NLSL Tab conforms to the existing language in Endnote d(3).

The fact that BPA has clarified Endnote d(3) through this interpretation should also come as no surprise to IPC. The ASCM specifically allows BPA to issue interpretations. *See* 18 C.F.R. § 301.5(b) (“The Administrator may, from time-to-time issue interpretation of the ASC methodology.”) The ASCM Record of Decision (“ASCM ROD”) explained that this provision was added to the ASCM to “give all parties notice that BPA may use this form of administrative interpretation to aid in the implementation of the ASCM.” ASCM ROD at 153. BPA’s proposed NLSL calculation does just that. As explained more fully above and below, the revisions being discussed in this interpretation work within the existing language of Endnote d(3).

Issue 2

Whether BPA has proposed to revise its interpretation of Endnote d(3) to simplify the Above Rate Period High Water Mark calculation.

Parties’ Positions

IPC asserts in its comment that the motivation behind BPA’s current proposal is to resolve implementation issues associated with BPA’s Rate Period High Water Mark (“RPHWM”) calculation. IPC Comment at 1-2. IPC claims that easing the administration of the RPHWM is not grounds for adopting a revised NLSL calculation that will reduce Residential Exchange Program (“REP”) benefits to exchanging utilities. *Id.* at 2.

Evaluation and Decision

IPC claims that BPA Staff’s proposed revisions to the NLSL calculation are borne from the agency’s desire to “have a uniform method for calculating the NLSL, and the Rate Period High Water Mark Tier II rate. . .” IPC Comment at 1-2. IPC contends that BPA’s revised methodology removes more costs from a utility’s ASC than BPA’s previous method, which results in further reductions in REP benefits. *Id.* at 2. IPC claims that ease of calculating the

RPHWM is not a sufficient reason to “penalize” a utility’s small farm and residential customers by using “less accurate data.” *Id.* IPC also asserts that because BPA is proposing to “reformulate or reinterpret the ASC methodology to apply to BPA’s regional dialogue long-term contracts, BPA should reassess the insufficient factual basis upon which BPA Staff base their current understanding of how to assess the costs of service to NLSLs.” *Id.* at 3.

IPC is incorrect to assert that BPA has proposed the current interpretation simply to ease BPA’s implementation of the RPHWM calculation. BPA Staff proposed to change the NLSL calculation to make the allocation factors in the NLSL calculation consistent with other parts of the ASC determination process, not because it made calculating the RPHWM simpler. IPC’s accusations apparently come from its misinterpretation of statements BPA Staff made at the October 2009 workshop. In that workshop, BPA Staff explained that one of the tertiary benefits of the revised NLSL Tab was that it would make the RPHWM simpler to implement. At no time, however, has BPA Staff represented that the only reason for these changes is to implement the Above RPHWM calculation.

Issue 3

Whether IPC’s comment raises issues that are outside of the scope of BPA’s interpretation of Endnote d(3).

Parties’ Positions

IPC argues that BPA’s decision to consider “peaking units” within the calculation of costs of an NLSL is inappropriate because these units are rarely used to serve the industrial loads. IPC Comment at 2. IPC also claims that large industrial loads provide substantial benefits that make them less costly to serve. *Id.* at 2-3. Another alleged error cited by IPC is BPA’s decision to include market purchases in Endnote d(3). *Id.* at 3. IPC also contends it was error for BPA to not consider in drafting Endnote d(3) the resources in existence at the time the NLSL occurred. *Id.* at 5.

Evaluation and Decision

Throughout its comment, IPC raises several substantive concerns with the text of Endnote d(3). As IPC is undoubtedly aware, the Commission approved the 2008 ASCM on a final basis on September 4, 2009. *See* Sales of Electric Power to the Bonneville Power Administration, Revisions to Average System Cost Methodology, 74 Fed. Reg. 47,052-01 (Sep. 4, 2009). No challenges to the Commission-approved ASCM were filed, and the time for filing an appeal of the 2008 ASCM with the courts has long passed. Inasmuch as IPC seeks to challenge the text of Endnote d(3), which is final and unreviewable, IPC’s comments are outside of the scope of this interpretation and cannot be considered by BPA.

To maneuver around this jurisdictional bar, IPC casts much of its comment as a criticism of BPA’s proposed “interpretation.” However, a careful reading of IPC’s comment reveals that most of IPC’s objections relate to the text of Endnote d(3) and not BPA’s proposed interpretation of the existing language. For example, IPC claims that BPA’s decision to consider “peaking units” within the calculation of costs of an NLSL is inappropriate because these units are rarely

used to serve the industrial loads. IPC Comment at 2. For support, IPC attaches to its comments the objections it filed on Endnote d(3) when the 2008 ASCM was pending before the Commission. See IPC Comment, Attachment A. These comments are clearly substantive challenges to the Endnote d(3), and therefore, must be rejected. Endnote d(3) unequivocally states that BPA must include in its NLSL calculation the cost of “*all resources* and long term power purchases . . .” 18 C.F.R. § 301, Appendix 1, En. d(3). No provision in the ASCM exempts “peaking units” from being considered in NLSL calculation. Nor is BPA proposing to change the types of units included in the calculation through this interpretation. IPC’s comment thus has nothing to do with BPA’s interpretation, but seeks to challenge the substance of Endnote d(3).

IPC’s intent to challenge the substance of the ASCM is made clear by IPC’s decision to append to its comment its filings with FERC. Attachment A is IPC’s substantive challenge to Endnote d(3), to which BPA responded in its own filing before the Commission. See BPA Motion for Leave to Respond to IPC Arguments that were Improperly Raised in Reply Comments, Docket Nos. EF08-2011-000, RM08-20-000, dated January 12, 2009. The Commission ultimately rejected IPC’s challenges, and approved the ASCM as filed by BPA. See Sales of Electric Power to the Bonneville Power Administration, Revisions to Average System Cost Methodology, 74 Fed. Reg. 47,052-01 (Sep. 4, 2009). While IPC may wish to revisit these issues in its comment, BPA cannot do so. The ASCM is final and the time for challenging BPA’s decisions has passed. The purpose of this interpretation is to address the technical implementation of the existing language, not debate the merits of the factual underpinnings that led to the current text of Endnote d(3). IPC’s attempt to revisit the merits of Endnote d(3) must be denied.

IPC also claims that large industrial loads provide substantial benefits that make them less costly to serve. IPC Comment at 2-3. IPC points to statements BPA made in the litigation of *Pac. Nw. Generating Coop. v. Bonneville Power Admin.*, 580 F.3d 792 (9th Cir. 2009) (“*PNGC*”) and claims that the NLSL rate calculation as interpreted and implemented by and through the ASC Methodology “is not an accurate representation of the costs required to serve large loads, as understood by both Idaho and BPA.” *Id.* at 3. IPC’s assertion that “large industrial loads” provide certain benefits that make them less costly to serve is irrelevant to this interpretation. Endnote d(3) does not concern the net benefits of large industrial loads nor does it concern the actual cost of serving an NLSL. Endnote d(3) simply implements Congress’s directive to exclude from ASC the cost of resources “in an amount sufficient to serve any new large single load of the utility[.]” 16 U.S.C. § 839c(c)(7)(A). Whether Endnote d(3) could have been developed to recognize the alleged “substantial benefits” IPC states is not an issue that BPA can now determine. The time to raise concerns with the text of Endnote d(3) was during BPA’s eight month consultation process. That consultation process ended in June of 2008, and the ASCM has since been reviewed and approved by the Commission on a final basis. No party, including IPC, challenged the ASCM and it is now unreviewable. The fact that BPA may have stated in a completely different context that large industrial loads provide certain benefits is irrelevant to whether BPA’s *proposed interpretation* complies with the language in Endnote d(3).

Moreover, even if BPA's statements in an unrelated case mean what IPC alleges, these statements cannot trump regulatory language that has been reviewed and approved by the Commission. As the Ninth Circuit recently noted, "[u]ntil BPA adopts new regulations, FERC or this court disapprove the existing regulations, or Congress changes the law, BPA is bound by its regulations." *Portland General Elec. v. Bonneville Power Admin.*, 501 F.3d 1009, 1035-36 (9th Cir. 2007) (internal citations omitted). In the instant case, Endnote d(3) requires BPA to consider all post-1979 resources in determining the cost of resources sufficient to serve an NLSL. BPA's proposed interpretation does just that, and IPC has not stated otherwise. The requirements of the ASCM and Endnote d(3) cannot be varied simply because IPC believes that large loads may provide benefits not recognized in the existing language.

IPC also asserts that, under BPA Staff's interpretation, large industrial loads are served at costs well above market prices because the full cost of new plants are allocated to those customers, without taking into account the fundamentally different economics associated with base-load and peak units which are built to serve loads, not large flat blocks of power. IPC Comment at 3. IPC's concerns over whether the NLSL calculation results in resource costs above or below prevailing market prices are not pertinent to whether BPA is performing the calculation correctly. BPA Staff's responsibility is to implement the ASCM in accordance with Endnote d(3), which *requires* BPA to consider "*all resources*" of the utility when calculating resource costs of an NLSL. As stated previously, the purpose Endnote d(3) is not to determine the actual costs of serving NLSLs unless they are served by dedicated resources. Other than that limited situation, the NLSL resource cost calculation is concerned with the costs of resources *sufficient* to serve NLSLs, which necessarily requires BPA to consider all of the utility's resources. To that end, BPA Staff have complied with the ASCM by including *all* resources in the NLSL calculation.

Furthermore, IPC's concern that Endnote d(3) improperly assumes that the cost of resources sufficient to serve large industrial loads is above market prices could be readily remedied if IPC were to dedicate a low cost resource to serve its entire NLSL. Under Endnote d(1), resources "dedicated" to serving an NLSL are excluded from ASC. If IPC believes that Endnote d(3) does not properly reflect the costs of serving its NLSL, then IPC may dedicate a resource to serve its NLSL. If IPC's entire NLSL is served by low-cost dedicated resources and the retail rates to the NLSLs were based on the costs of such low cost dedicated resources, then Endnote d(3) would not apply. IPC's comment does not explain why that approach does not solve its concern.

Another alleged error cited by IPC is BPA's decision to include market purchases in Endnote d(3). IPC claims that BPA Staff's "implementation and interpretation" of the ASCM frustrates the intent of Congress by isolating PURPA costs and attributing them to NLSLs in a manner that reduces the residential exchange benefits to utility customers. IPC Comment at 3. Here again, IPC's challenge is to the ASCM, not BPA Staff's interpretation of Endnote d(3). Endnote d(3) specifically *requires* that market purchases be included in the NLSL resource calculations:

. . . the costs of the excess load will be determined by multiplying the kilowatt-hours not served under paragraphs (d)(1) and (d)(2) above, by the cost (annual fixed plus variable cost, including an appropriate portion of general plant, administrative and general expense and other items not directly assignable) per

kilowatt-hour of all resources and *long term power purchases* (five years or more in duration). . .

18 C.F.R. § 301, Appendix 1, d(3) (emphasis added). BPA Staff have *no choice* but to include market purchases in the NLSL calculation because *Endnote d(3)* specifically calls for the inclusion of these purchases. If IPC believed Endnote d(3) should not have included market purchases, it should have raised this point during the consultation on the ASCM and challenged the ASCM in court. It did not, and BPA cannot now change the text of Endnote d(3) to accommodate IPC's late-filed objections.

IPC also claims that including market purchases in the NLSL calculation frustrates Congress's intent under PURPA, but again IPC's charge is against the ASCM, not BPA Staff's interpretation.

IPC also contends it was error for BPA not to consider the resources in existence at the time the NLSL occurred, when drafting Endnote d(3). IPC Comment at 5. IPC points to charts which it claims demonstrate that it had not purchased peaking units at the time of the NLSL. *Id.* IPC claims that this evidence demonstrates that it is improper for BPA to assume that IPC uses its peaking units to serve its NLSL. *Id.* Endnote d(3), however, does not permit BPA to remove resources from the NLSL resource calculation based on whether the resource was in existence at the time of the NLSL. Indeed, BPA specifically rejected the "vintage" approach to the NLSL resource calculation in the ASCM ROD:

By the same rationale, BPA cannot support PPC/NRU's position that the resource cost determination should be based on "vintage" resources in place when a load was determined to be an NLSL. Again, BPA believes this would create a record-keeping burden on the filing utilities, BPA and parties to the ASC review process because of the need to track the cost of individual resources and any replacements, upgrades and other modifications for the life of the NLSL.

ASCM ROD at 90. IPC's attempt to reargue these issues in its comment must be denied.

IPC next turns its attack to the Northwest Power Act itself. IPC argues that the 10-average MW increase that resulted in its current NLSL determination has been offset by a much larger loss in its regional load. IPC Comment at 3-4. IPC claims that BPA Staff erred in never considering lost load in the NLSL calculation. *Id.* IPC then presents a series of charts which show it has lost 240MW of industrial load since its original NLSL was determined. *Id.* This comment is clearly outside of the scope of BPA's interpretation of Endnote d(3). How NLSLs are determined and whether future load loss can negate an existing NLSL are issues IPC must raise with BPA's NLSL Policy. These issues have nothing to do with BPA's implementation of Endnote d(3), which concerns only how to *calculate the costs* of serving an NLSL once an NLSL has been determined.

In summary, IPC's comments raise a number of substantive challenges to the text of Endnote d(3) and the ASCM itself. These comments do not concern BPA's interpretation of Endnote

d(3). Because these comments seek to challenge the ASCM or other BPA policies, they are outside of the scope of this interpretation.

Issue 4

Whether IPC's proposals for calculating the cost of resources sufficient to serve NLSLs are consistent with the ASCM.

Parties' Positions

IPC offers several proposed solutions to the alleged errors in BPA's current implementation of Endnote d(3). First, IPC suggests that BPA change the plant capacity factors of the resources included in the NLSL calculation to better match the load characteristics of IPC's NLSL. To do this, IPC argues BPA should use the "weighted portion of fixed plant costs taking into consideration the NLSL customers' high load factor. . ." IPC Comment at 6. Second, IPC recommends that BPA use the variable rate from IPC's Combined Cycle Combustion Turbine ("CCCT"), which IPC plans to operate beginning in 2012, as the measure for NLSL resource costs. *Id.*

Evaluation and Decision

IPC claims BPA Staff can correct the mismatch between a peaking plant's capacity factors and the load factors associated with large flat industrial loads by changing the capacity factors of the plants used in the NLSL rate calculation. IPC Comment at 3. To do this, IPC argues BPA should use the "weighted portion of fixed plant costs taking into consideration the NLSL customers' high load factor. . ." *Id.* at 6.

IPC's suggestion is unreasonable because it contravenes one of the guiding principles of the 2008 ASCM, which is to rely on FERC Form 1 data in order to reduce the cost and complexity of the ASC Filing and Review process. Using the FERC Form 1 for the source of data for resource information was one of the major improvements BPA proposed in the 2008 ASCM that was universally accepted by parties. As noted in the ASCM ROD:

BPA proposed to use the FERC Form 1 (Form 1), a data source that is uniform and that facilitates ease of administration for all parties. ASCM ROD at 16. Snohomish, IPUC, WUTC, PPC, IOUs and PSE support BPA's use of FERC Form 1 as the primary data source for ASC determinations. *Id.* at 23. BPA's proposal to rely on a uniform data source (FERC Form 1) will improve access to data, transparency of data, and provides a more practical and administratively efficient way for BPA and all interested parties to accomplish the necessary review and approval of ASCs.

ASCM ROD at 26. All power plant specific operating information used in the original NLSL worksheet and in BPA's revised NLSL calculation comes directly from the Generating Statistics section of the utility Form 1 filings. The numbers from the Generating Statistics section are not changed in any way. The plant capacity factors and associated fuel and operating and maintenance expenses are based on the actual operations of each generating facility. In both the

original and new NLSL resource cost calculation, BPA also included depreciation and appropriate overhead costs (described above) to determine the fully allocated costs of each plant. BPA did not change the Plant Generating Statistics information. If BPA understands IPC's suggestion correctly, it would require BPA to estimate fuel, operating and maintenance costs of the peaking units as if they ran at some high capacity factor similar to the industrial load they reference. Putting aside the considerable difficulty of determining the fuel, operating and maintenance costs of peaking turbines run as a base load units, IPC's suggestion turns the clock back to the 1980's and starts BPA and its customers on the road back to complex, expensive and contentious ASC filings and reviews.

IPC's second suggestion is equally misplaced. IPC recommends that BPA use the variable rate from IPC's yet-to-be completed CCCT in the NLSL resource calculation. IPC Comment at 6. Endnote d(3), however, does not permit BPA to use only a single resource in determining the cost of resources sufficient to serve an NLSL. Rather, Endnote d(3) specifically requires BPA to consider "all resources." IPC's comment does not explain how using a single CCCT in the NLSL resource calculation comports with the language in Endnote d(3), nor does BPA see how the language in Endnote d(3) may be construed to achieve this end. BPA notes, however, that Endnote d(1) permits IPC to dedicate a resource to serve its NLSL. Thus, if IPC wants to exclude only the cost of its CCCT from its ASC, IPC need only dedicate this resource to serving its NLSL and base the retail rate to the NLSL on the costs of the CCCT.

Issue 5

Whether BPA should allow the direct assignment of overhead costs in the NLSL resource cost calculation.

Parties' Positions

The Pacific Northwest Investor-Owned Utilities (Puget Sound Energy, Portland General Electric Company, PacifiCorp, and Avista Corporation) would like to retain the option to direct assign overhead costs, when they can be identified and differ from the allocate amounts, in the NLSL Resource Cost Calculation Methodology. Comments of the Pacific Northwest Investor-Owned Utilities in response to BPA's Request for Comments on October 6, 2009, ASC Workshop, at 3-4.

Evaluation and Decision

BPA's intent in updating the NLSL calculation methodology was to abide by the direction given in Endnote d of the 2008 ASC Methodology. The Pacific Northwest Investor-Owned Utilities are suggesting they be given the opportunity to directly assign overhead costs in the NLSL Resource Cost Calculation Methodology. *Id.* The direct assignment of overhead costs in the NLSL Resource Cost Calculation Methodology is inconsistent with the assignment of these costs in the Appendix 1 and ASC Forecast Model. Staff proposed the change to allocate overhead costs in the NLSL resource cost calculation to improve the consistency in determining ASCs.

Decision

BPA will not allow utilities to directly assign overhead costs in the NLSL resource cost calculation.

3.0 CONCLUSION
[To Be Completed When Final Interpretation Is Issued]