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Northwest Requirements Utilities

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June 29, 2006

Steve Hickok, Deputy Administrator
Bonneville Power Administration
c/o Public Affairs Office – DKC-7
P.O. Box 14428
Portland, OR 97295-4428

Re: Interpretation of Section 4(c)(10)(B) of the Northwest Power Act

Dear Mr. Hickok,

On behalf of Northwest Requirements Utilities, I am responding to the June 15th announcement you signed asking for public comment regarding BPA's proposed interpretation of section 4(c)(10)(B) of the Pacific Northwest Electric Power Planning and Conservation Act ("Northwest Power Act"). The issue here generally is clarifying the underlying components to which a formula based statutory cap is applied, and thereby determining BPA's maximum funding obligation for the Northwest Power and Conservation Council. The specific question is whether the 0.10 mill per kilowatthour limitation contained in the act and applied to BPA's firm kilowatthours forecasted should include the Residential Exchange Program of the IOUs, when those benefits are exclusively a financial transaction rather than an actual sale or exchange of power. BPA has treated the settlement of the REP, and the financial payments to the IOUs as a component of the firm power forecast, and that assumption increases the overall cap applied to the Council commensurately.

While your letter did not get into specifics, it is important to recognize that due to the inclusion of the IOU REP payments, the cap applied to the Council is nearly 50% larger than would otherwise be the case. For example, materials BPA disclosed on March 8, 2006 show that for 2009, the \$9,663,582 cap for the Council at 0.10 mills includes \$3,016,835 attributed to the IOU payments.

It would be inappropriate using this forum, and at this time, to raise questions regarding the Council's budget, and we therefore take no position on that matter. However, it does appear as if BPA is misconstruing the statute to shape public financial policy, and as a result Northwest customers of BPA will be paying an additional \$3 million annually than if the cap was being effectively applied.

We need to point out that in deriving the \$3,016,835 figure for 2009 (and other years) BPA uses a Residential Exchange Benefit estimated at “3,400 to 3,700 aMW.” It is ironic and seemingly unfair for BPA to use this load proxy when BPA customers know that the IOU financial settlements only apply to 2,200 aMW of residential and small farm loads. Even if we could accept BPA’s logic to count financial settlement payments in the formula, the \$3 million figure is at least \$1.0 million too high.

The statute requires BPA to perform the calculation of the cap based on kilowatt hours of **firm power** to be sold. With no power to be sold to the IOUs, and no IOUs receiving benefits under the historic residential exchange benefit program, there is no compelling rationale for BPA’s inflated cap for the Council. Conversely, BPA seems to be ignoring clear statutory provisions and substituting its own judgment as to what is good for the region. That is not a proper role for the Agency, and makes it difficult for customers to know that sound business practices are being followed. BPA goes too far in arguing that monetary benefits are the equivalent of purchase and sales agreements and asserting that not treating them the same would “frustrate the statutory scheme envisioned by Congress.” Unfortunately, BPA fails to even identify what statutory scheme would be frustrated if the Agency complied with the clear intent of the statute.

In conclusion, a common sense reading of the statute appears to be at cross purposes with BPA’s interpretation, and even if the BPA interpretation were correct, the application of the math does not seem reasonable or fair. Therefore, we would request that you reconsider your interpretation of the Northwest Power Act and the determination of the BPA funding cap applied to the Council.

Best Regards,

A handwritten signature in black ink, appearing to read "John D. Saven". The signature is fluid and cursive, with a long horizontal stroke at the end.

John D. Saven

CC: Members of NRU
Marilyn Showalter, Manager, Public Power Council
Terry Mundorf, WPAG