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From:	mail@dvclaw.com
Sent:	Wednesday, January 04, 2006 3:30 PM
To:	BPA Public Involvement
Subject:	Comment on BPA's Service to DSI Customers
Attachments:	Comments on DSI Prototype Contract.doc

Comment on **BPA's Service to DSI Customers**
View open comment periods on http://www.bpa.gov/comment

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Attached please find the Comments of Melinda J. Davison on behalf of the Industrial Customers of Northwest Utilities regarding BPA's Service to DSI Customers. Please feel free to call us if you have any questions. Kind regards, Christian Griffen Paralegal Davison Van Cleve, PC 503.241.7242

This comment includes an attachment!

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January 4, 2006

Via Electronic Mail

Paul E. Norman
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Re: Comments on DSI Prototype Contract

Dear Mr. Norman:

The Industrial Customers of Northwest Utilities ("ICNU") submits the following comments in response to your November 28, 2005 letter requesting comment on the draft prototype contract available to the direct service industry ("DSI") aluminum companies for the Fiscal Year ("FY") 2007-11 period. ICNU believes that: 1) the DSIs' operational flexibility should not be increased; 2) the DSIs should not be allowed to advance benefits from a future year; and 3) the June 30, 2005 record of decision regarding the DSI benefits ("ROD") no longer strikes the correct balance and unnecessarily subsidizes the DSIs.

1. The Operational Flexibility in the Draft Prototype Contract Is Consistent with the June 30, 2005 ROD and There Is No Reason to Increase the Flexibility

The June 30, 2005 ROD established a benefit of $59 million a year to allocate among the aluminum company DSIs. The operational flexibility authorized by the ROD under the monetary credit option allows a DSI to reduce its megawatt ("MW") allocation by up to one-half, and thereby increase proportionately the credit for the remaining market purchases up to a maximum of $24 a MW hour ("MWh"). ROD at 11.

There is no reason to depart from the ROD and increase operational flexibility in the contract. In the ROD, BPA's decision was based on a high market forecast for FY07-09: BPA forecasted the price for flat power to exceed $30 a MWh approximately 70% of the time, to exceed $42 a MWh approximately 60% of the time, and to exceed $54 a MWh approximately 40% of the time. ROD at 11. Although current price forecasts remain high, they do not warrant a change.

Moreover, providing DSIs with additional flexibility undercuts the rationale BPA articulated for providing benefits to the DSIs. Increasing the DSIs' flexibility will provide the same amount of monetary benefits to the DSIs, but allow them to reduce their operations. This would result in a short-term subsidy that supports fewer jobs and reduces the likelihood of long-term DSI survival.

Finally, the ROD provides that the credit cannot reduce the effective rate to the DSIs below the priority firm ("PF") rate; it seems equally appropriate that the monetary value of the credit should not exceed the PF rate. Further flexibility would allow the DSIs to increase the credit, already up to $24 a MWh, to exceed the expected PF rate. This is unreasonable.

2. The DSIs Should Not Be Allowed to Advance Benefits from Future Years

The ROD does not allow any benefits unused in the current year to be carried forward to a future year. ROD at 12. The same principle should prevent the DSIs from bringing future benefits backward to a current year. Moreover, advancing future benefits circumvents the "known and capped" benefits principle and would create uncertainty in the rates, especially if BPA adopts an annual cost recovery adjustment clause ("CRAC") tied to BPA's reserves.

3. The $59 Million a Year Level of Benefits No Longer Strikes the Right Balance Between the DSIs and BPA's Preference Customers

BPA concluded in the ROD that the $59 million a year "level of benefits strikes the right balance between offering an amount of power at a rate low enough to help maintain—and provide opportunities to expand—DSI operations and employment, while keeping rates charged to its public preference customers as low as possible." ROD at 11. BPA recognized, however, that this balance did not account for additional salmon mitigation costs that could be imposed by Judge Redden. ROD at 12. In the intervening six months, additional costs have been imposed on BPA, including approximately $70 million in FY05 for additional spill. Larger cost increases could occur in FY06 to pay for additional spills and potentially greater flows.

While the amount of additional costs for FY07-09 is uncertain, the current level of additional costs already exceeds the $59 million a year DSI benefit. In context, BPA is proposing a base FY07-09 PF rate (i.e., excluding potential CRACs) that is greater than the current PF rate that includes the CRACs. A $59 million a year credit to support otherwise uneconomic smelter operations is no longer the "right balance."

ICNU's members, who overwhelmingly provide more jobs to the Region than the DSIs, are struggling to remain competitive. Burdening ICNU's members with these DSI costs is unwarranted. Imposing greater cost shifts will be harmful to the Region and undermine the stated objectives for voluntarily extending these benefits to the DSIs. Under no circumstances should BPA increase the benefits to the DSIs or increase the flexibility of the DSIs to utilize these benefits.

Thank you for your consideration of ICNU's comments.

Sincerely yours,

/s/ Melinda J. Davison
Melinda J. Davison