Public Power Council
825 NE Multnomah, Suite 1225
Portland, OR 97232
503.595.9770
Fax 503.239.5959

May 9, 2007

Submitted via electronic mail and regular mail

Stephen J. Wright
Administrator and Chief Executive Officer
Bonneville Power Administration
c/o Public Affairs Office – DKC-7
P.O. Box 14428
Portland, OR 97293-4428

Subject: Southern California Edison Proposed Settlement Agreement

On April 24, 2007, BPA announced that it has reached a potential settlement agreement with Southern California Edison (SCE), which would resolve the last of three lawsuits SCE filed against BPA after a series of disputes under a 20-year surplus power sales and exchange contract. Under the settlement agreement, BPA would pay SCE $13.4 million, plus applicable interest, in exchange for SCE's surrender of its claim for $32 million resulting from BPA's charging SCE a rate established subsequent to the contract instead of a pre-existing demand charge.

In its April 24th announcement, BPA asked for public comment on the proposed settlement. In response to BPA's announcement, the Public Power Council (PPC) offers the following brief comments.

Customers' Interest in the Settlement

PPC appreciates that BPA has made considerable efforts over approximately the last year to keep PPC and other customer groups apprised of the status of the litigation with SCE. Because any proposed settlement affects BPA's rates, which are set to recover its total costs, PPC has an intense interest in BPA's decisions regarding the settlement of claims. In a real sense, BPA obligates its customers' funds when it agrees to a settlement. PPC therefore believes that seeking the input of its customers should be a fundamental part of the process through which BPA makes decisions such as the one at hand, and hopes that BPA will continue those efforts.

Terms of the Settlement

As in most settlements, the parties to this dispute have more information than others about the details involved, the considerations at play, and the reasons for the litigation and any settlement. As a non-party to the proceeding, therefore, it is difficult for PPC to offer an opinion on the appropriateness of the amount of the proposed settlement payment. As stated above, because BPA's customers bear the burden of the costs of the settlement, they rely on BPA to ensure that the settlement payment is justified under the circumstances and minimized to the greatest extent possible. PPC trusts that the claim at issue in the settlement was defended in earnest by BPA, and that BPA feels certain the settlement payment reflects the value of avoiding the agency's exposure in the underlying litigation. To the extent an objective evaluation does not support the settlement payment as justified by the risks, PPC would of course expect BPA to refuse the settlement agreement.

With regard to the rate impact of the settlement, PPC points out that the proposed settlement does not provide for any measures to mitigate against unnecessary rate increases or volatility. This is in contrast to the settlement agreement reached with SCE last year, which provided that BPA will not incur any obligation to pay SCE under the settlement until BPA's own claims in the California refund proceeding are resolved. Because BPA expects to receive substantial compensation from the California refund proceeding, the hope is that the payment of last year's settlement will be offset by incoming revenues from the refund proceeding. PPC supported this effort by BPA to avoid unnecessary rate impacts to its customers, and urges BPA to consider whether the current settlement could be similarly tailored. This consideration is especially important given BPA's current rate structure, which contains rate adjustment mechanisms that could be unnecessarily triggered depending on the timing of any BPA payout under the settlement.

Thank you for your serious consideration of these comments, and for the opportunity to provide them.

Sincerely,

Scott Corwin

Scott Corwin
Executive Director
Public Power Council