



Department of Energy
Bonneville Power Administration
P.O. Box 3621
Portland, Oregon 97208-3621

POWER BUSINESS LINE

AUTHENTICATED

June 22, 1998

In reply refer to: PSB-5

Amendment No. 1
Contract No. 95MS-94855
POWER SALES AGREEMENT

Mr. James D. Stromberg, Vice President
Columbia Falls Aluminum Company
500 - 108th Ave. NE., Suite 1760
Bellevue, WA 98004-5538

Dear Mr. Stromberg:

This letter agreement (Amendment) constitutes an amendment to Contract No. 95MS-94855 (Power Sales Agreement) between the Bonneville Power Administration (BPA) and Columbia Falls Aluminum Company (Company). BPA and the Company are hereinafter sometimes referred to individually as "Party" and collectively as "Parties." Under the Power Sales Agreement, BPA has provided the Company with transmission service over the Federal Columbia River Transmission System (FCRTS) for the delivery of Firm Power, and the cost of such transmission has been included in the total cost of delivered power under such agreement. The Parties are negotiating the terms and conditions of a separate transmission service agreement (PTP Service Agreement) which will supersede the transmission provisions of the Power Sales Agreement. The Parties have agreed to amend the Power Sales Agreement as follows:

- 1. EFFECTIVE DATE.** This Amendment, when executed, shall become effective as of the date that the PTP Service Agreement becomes effective.
- 2. DEFINITIONS.** All capitalized terms used herein shall be as defined in the Power Sales Agreement or, if not defined in the Power Sales Agreement, as defined in the General Rate Schedule Provisions, unless otherwise specified in this Amendment.
- 3. AMENDMENT OF POWER SALES AGREEMENT.** The Power Sales Agreement is amended as follows:
 - (a) Section 8(b)(2) is deleted and replaced by the following:

"(2) **Revision of Exhibit I.** Exhibit I may be revised by BPA in the same manner and under the same terms and conditions for revision of the use-of-facilities charge under the PTP Service Agreement, as amended or replaced, except as limited by the terms and conditions of Exhibit I."

(b) Section 9(d) is deleted in its entirety and replaced by the following:

“(d) **Transmission Losses.** BPA shall supply, without additional charge to the Company, any power needed to make up Transmission Losses or delivery facility losses associated with the Firm Power purchased by the Company under this Agreement, and shall hold the Company harmless from any liability for such losses.”

(c) Section 10(a) is deleted and replaced by the following:

“(a) **Monthly Amounts of Firm Power.** Not later than the February 1 immediately prior to October 1 of each Contract Year, the Company shall specify monthly amounts of Demand and HLH and LLH Firm Energy for such Contract Year. The total of the monthly amounts of HLH and LLH Firm Energy shall equal the annual amounts specified in section 9(b) for such Contract Year. The Company may set its Demand in each month in the 1996-1997 Contract Year at any level up to its Contract Demand. Each year, Exhibit D shall be revised to reflect the amounts specified by the Company, consistent with this section 10(a).”

(d) The first paragraph of section 11(a) is deleted and replaced by the following:

“(a) **Rate Test for Delivered Firm Power.** The total average price (excluding the use-of-facilities charge) for Firm Power delivered to the Company pursuant to this Agreement and the PTP Service Agreement during each Contract Year, including all charges for Firm Energy; Demand; reactive power; transmission on a point-to-point basis (excluding the delivery charge); load regulation, which shall be assumed to be 0.28 mills per kilowatthour, so long as the Company purchases load regulation from an entity other than BPA; and any other applicable charge is 22.1 mills per kilowatthour or less.”

(e) Section 11(c) is deleted and replaced by the following:

“(c) **Rate Test for Use-of-Facilities Charge.** The use-of-facilities charge specified in Exhibit I is less than or equal to the use-of-facilities charge that is used for deliveries of non-Federal power under the PTP Service Agreement, and is subject to section 1(b) of Exhibit I.”

(f) Section 12(a) is deleted and replaced by the following:

“(a) The rates and charges for all services provided by BPA (1) under this Agreement (exclusive only of charges for additional power or optional services specifically requested by the Company), and (2) under the PTP Service

Agreement, to the extent that the transmission services the Company purchases under the PTP Service Agreement are used to transmit Firm Power purchased under this Agreement, shall be as specified in Exhibit B, the Rate Schedule in Exhibit C, Exhibit I, and the PTP Service Agreement, and shall include no other fee or charge, other than those specified in Exhibits B, C, and I. Such Rate Schedule in Exhibit C, as it applies to this section 12(a) shall not be revised during the term of this Agreement, except as required in a remand order of FERC or a court upon direct review of the Rate Schedule. Exhibit I may be revised pursuant to the provisions of section 8(b)(2).”

(g) Section 12(b) is deleted in its entirety.

(h) Section 14(e) is deleted and replaced by the following:

“(e) **Restricted Energy.** The Company shall not be required to pay BPA the Rate Schedule energy charge for the amount of energy restricted by BPA, or the amount of energy the Company cannot use prior to the restoration of plant operations following any such restriction; **provided, however,** that if Firm Energy deliveries are restricted by BPA because the Company has failed to secure sufficient firm transmission capacity, then the Company shall not be relieved of its Take-or-Pay obligation for such amounts of Firm Energy.”

(i) A new section 14(f) is added as follows:

“(f) BPA shall relieve the Company of its Take-or-Pay obligation for any Firm Energy that is not delivered because BPA has exercised its rights to curtail firm transmission service under the Point-to-Point Tariff or its successor. The Company shall not be relieved of its Take-or-Pay obligation for Firm Energy if the Company is utilizing nonfirm transmission to deliver the Firm Energy at the time BPA exercises its rights to curtail nonfirm transmission service to the Company under the Point-to-Point Tariff or its successor.”

(j) Section 18(a) is deleted and replaced by the following:

“(a) **Curtailment of Excess Firm Energy for a Fixed Fee.** The Company may curtail its Plant Load below the sum of its Take-or-Pay Obligation plus any amount of Non-Federal Service the Company identifies at the time it elects this curtailment option. BPA shall relieve the Company of its Take-or-Pay Obligation for Firm Power for any such curtailed amounts and the Company shall pay BPA the fixed curtailment fee in mills per kilowatthour for each kilowatthour of such curtailed amounts, as specified in the Rate Schedule.

“(1) The Company shall provide BPA as much notice as possible, but not less than 48 hours, of any curtailment of Firm Power usage.

“(2) If the Company chooses to use Non-Federal Service for part of its Plant Load, the Company shall specify the monthly amounts of demand, HLH energy, and LLH energy of Non-Federal Service, if any, for the term of this Agreement. BPA shall not be obligated to serve these specified monthly amounts, and any service to these amounts shall be subject to an Unauthorized Increase charge, as provided for in section 15(c).

“(3) Curtailed energy shall be equal to the Company’s Take-or-Pay Obligation for Firm Energy reduced by the relief from take-or-pay provisions of section 14, minus the Measured Energy for Firm Power delivered under this Agreement.”

(k) A new section 18(b)(1)(C) is added as follows:

“(C) the assignment to BPA of that portion of the Company’s rights under the PTP Service Agreement, associated with the energy to be remarketed and necessary to allow BPA to use such assigned rights to remarket Excess Firm Energy for the Company, subject to the assignment provisions of the Point-to-Point Transmission Services tariff and the terms of section 18(b)(4)(F).”

(l) Section 19(d) is deleted and replaced by the following:

“(d) **Unbundled Products and Other Transmission Services.** BPA shall offer to the Company the ancillary services, the network integration transmission product, the point-to-point transmission product, and the intertie transmission products that BPA offers to its utility customers. BPA may offer to the Company other unbundled services. If the Company elects to purchase such products, the Parties agree to amend the appropriate provisions of this Agreement and/or the PTP Service Agreement.”

(m) Section 19(f) is deleted in its entirety.

(n) Section 20(a) is deleted and replaced by the following:

“(a) **Delivery to Company’s Firm Load.** BPA shall make available Firm Power at the points of interconnection specified in Exhibit C-1 of the PTP Service Agreement. Delivery of such Firm Power over the Network to the Company’s Plant Load shall be as provided for in the PTP Service Agreement.”

(o) Section 20(b) is deleted and replaced by the following:

“(b) **Other Provisions Relating to Delivery.** Other provisions applicable to delivery (1) at the points of interconnection specified in Exhibit C-1 of the PTP Service Agreement shall be as specified in Exhibit A of this Agreement, and (2) over the Network to the Company’s Plant Load shall be as specified in the PTP Service Agreement.”

(p) Section 26 is deleted and replaced by the following:

“**26. DAMAGES FOR FAILURE BY BPA TO DELIVER.** In the event BPA fails to deliver the hourly amounts of Firm Energy scheduled by the Company under this Agreement to the plant’s Point of Delivery, and such delivery is not restricted by BPA pursuant to its Reserve rights under this Agreement, or pursuant to the curtailment rights under the PTP Service Agreement, or such delivery is not excused by section 4(f) of Exhibit A, BPA shall pay the Company (on the date payment by the Company for the Firm Energy would otherwise have been due under this Agreement):

“(a) an amount for each megawatthour of such nondelivery equal to the price at which the Company is, or would be, able to obtain comparable supplies of power at a commercially-reasonable price (adjusted to reflect differences in transmission costs, if any) minus the applicable payment under this Agreement; **provided**, if such sum as determined above is negative then it shall be deemed to equal zero; or

“(b) liquidated damages as provided for an Event which exceeds an Event Magnitude Limit, if the Company or its agent is unable, notwithstanding its diligent effort to do so, to obtain replacement power.”

(q) Exhibit E is deleted in its entirety.

4. TERMINATION OF THIS AMENDMENT. If the PTP Service Agreement is terminated for any reason, then this Amendment shall terminate on the effective date of termination of the PTP Service Agreement.

5. The Parties hereby acknowledge and agree that, except as specifically amended hereby, the Power Sales Agreement shall remain in full force and effect in accordance with its terms.

If this Amendment is acceptable to the Company, please so indicate by signing both originals and returning one original to me. The remaining original is for your files.

Sincerely,

/S/ DENNIS OSTER

Account Executive

Name Dennis Oster
(Print/Type)

ACCEPTED:

COLUMBIA FALLS ALUMINUM COMPANY

By **/S/ JAMES D. STROMBERG**

Name James D. Stromberg
(Print/Type)

Title Vice President

Date 7/1/98

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