

JUL 13 1992

PMCG

Mr. Wilbur L. Anderson, General Manager  
Vigilante Electric Cooperative, Inc.  
225 East Bannack Street  
Dillon, MT 59725

Dear Mr. Anderson:

We have reviewed your April 24, 1992, letter to George Eskridge, formally requesting service from the Bonneville Power Administration (BPA) at the Priority Firm Power rate to serve Vigilante Electric Cooperative, Inc.'s (Vigilante) new load at Rhone-Poulenc Basic Chemicals Company (RP), formerly Stauffer Chemical Company (Stauffer).

I would like to take this opportunity to clarify the issue of transferring RP's load from the Montana Power Company (MPC) to Vigilante.

The RP load was not "contracted for, or committed to" prior to September 1, 1979, by Vigilante. As stated in the enclosed memo dated January 9, 1992, from Lawrence E. Kitchen to George E. Eskridge, RP was a direct service industrial (DSI) customer of BPA in 1982 when it switched service from BPA to MPC making it a new large single load (NLSL) to MPC. Additional enclosed letters dated October 7, 1982, and April 7, 1983, respectively, between Richard F. Cromer of MPC and G.H. Brandenburger/George E. Eskridge of BPA clearly acknowledge this change in status of the load by stating that the transfer of the 55 average megawatt (aMW) Stauffer load to MPC beginning October 1, 1982, was an increase in MPC load of 10 aMW or more in 12 months, a NLSL as defined in section 8 of the BPA Power Sales Contract. Moreover, as an existing DSI load which changed service from BPA to a utility, the Stauffer load was a NLSL when served by MPC.

The determination that Stauffer and its successor-in-interest's (RP) load was and is a NLSL remains unchanged. Therefore, the load sharing/shedding arrangement between RP, MPC and Vigilante mentioned in RP's April 14, 1992, letter to Vigilante, is irrelevant to an existing NLSL and not "recognized" or "permitted" by BPA's NLSL Guide. BPA does not permit the "phasing on" of existing NLSL load to a new serving utility; nor does the statute, the utility contract, or the NLSL Guide recognize or permit a change in the serving

utility for an existing NLSL (such as the RP load from MPC to Vigilante) to be served at the PF rate. If a NLSL could avoid that status simply by changing utilities, all such loads could attempt to do this to evade the intent of the Northwest Electric Power Planning and Conservation Act.

It is BPA's interest to meet the needs of its customers; however, the utility service decisions made by RP's predecessor in interest cannot be ignored. Consequently, BPA will only be able to serve Vigilante's increased obligations to RP at the New Resource Firm Power rate.

Sincerely,

*/s/* Sydney D. Berwager

Sydney D. Berwager  
Director, Division of Contracts  
and Rates

3 Enclosures

PBlood:rs:3555:07/10/92 (VS10-PMCG-0369b)

cc:

S. Jensen - APP  
V. Jetmalani - APP  
T. Miller - APP  
L. Kitchen - PMC  
G. Bell - PMCG  
C. Combs - PMCG  
H. Stevens - PMCG  
A. Harlow - U  
G. Eskridge - UM  
Official File - PMC

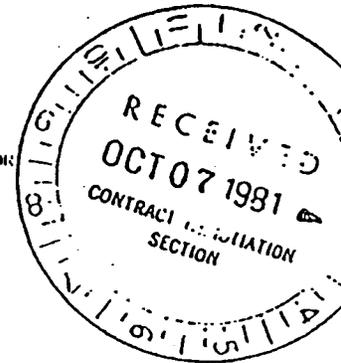


Department of Energy  
Bonneville Power Administration  
P.O. Box 3621  
Portland, Oregon 97208

In reply refer to PCI

OFFICE OF THE ADMINISTRATOR

OCT 06 1981



Mr. John B. Fery  
Chief Executive Officer  
✓ Boise Cascade Corporation  
One Jefferson Square  
Boise, Idaho 83728

Dear John:

I am writing in response to my telephone conversation with Robert Shade on Monday, September 21, regarding the classification of your St. Helens' pulp and paper plant. I regret that your letter, asking Bonneville Power Administration (BPA) for a timely determination of such classification, was not responded to directly, but was instead addressed in the course of the negotiating process. I believe you are now aware that BPA made the determination that all industrial loads which were contracted for, or committed to and existed on September 1, 1979, and subsequently were served by a different utility, shall be classified as new large single loads.

It may be small consolation at this point, but it was your thoughtful June 26 letter that served as a catalyst to BPA to make its final determination on this difficult issue. BPA's position was arrived at only after the negotiating parties presented well-researched, carefully thought-out, oral and written arguments on opposing sides of the issue.

The following is a brief summary of the positions presented:

The preference customers argued that such loads were contracted for, or committed to, by September 1, 1979, and that that determination cuts off any future attempt at reclassification. The preference customers denied that the language of section 3(13) was utility/consumer specific. Finally, they strongly objected to the raising of this issue in the negotiations, particularly the inclusion of any language on this issue in the contracts, because they perceived the Intercompany Pool position as a restraint on the formation of new preference customers.

The Intercompany Pool's stated concern was that the cost of the exchange agreement would be impacted negatively if an existing industrial consumer was served at the Priority Firm Power rate by a new preference customer. It argued that if industries that previously did not have access to Federal base system power could acquire such power through their utility, BPA would have to include additional and more expensive resources in the Priority Firm Power Rate, thereby increasing the cost of the Priority Firm Power rate to their residential consumers.

Having carefully examined the countervailing arguments on this issue, I have determined that loads, such as your St. Helens' load, be classified as new large single loads. My decision incorporates both legal and operational considerations. EPA's interpretation of section 3(13) is that "such purchaser" refers to the contractual relationship that existed on September 1, 1979, between a specific utility and a specific customer. Therefore, once the consumer begins to receive service from a different utility, under a different contract, the contractual relationship with the new utility is no longer "grandfathered" and the load becomes a new large single load.

On an operational level, the reason for my decision was to prevent industrial loads, not previously served from the Federal base system, from having access to such power. Congress made it clear throughout the Regional Act and the legislative history that industrial loads not previously served by Federal base system resources, industrial load growth over 10 average megawatts in any consecutive 12-month period, and industrial loads served by investor-owned utilities were to be served at the New Resource Firm Power rate. Loads, such as your St. Helens plant, which were being served by investor-owned utilities on September 1, 1979, were being served at that utility's industrial rate. Such loads did not have access to Federal base system power at the Priority Firm Power rate, and would not have received power at that rate, even if they had continued to be served by an investor-owned utility, because the Regional Act only makes available power to serve investor-owned utilities' industrial loads at EPA's New Resource Firm Power rate.

At the end of the negotiating process I announced that language specifically addressing this issue would not be included in the power sales contract, but I made it clear that EPA's policy that an industrial load contracted for, or committed to, on September 1, 1979, and subsequently served by a different utility, be classified as a new large single load would remain unchanged.

I realize that this determination may affect some consumers. Such decisions are never easy to make. However, as BPA Administrator I find it is my duty in implementing the Regional Act to carry out both the intent of Congress and act in the best interests of the entire region. No one enjoys conveying bad news to good friends, but I feel I am serving the best interests of the region in making this difficult determination.

Sincerely,

(SGD) Peter T. Johnson

Administrator

Efficiency: 1a (EP-PCI-0694b)

cc:

Administrator - A  
Deputy Administrator - A  
Adm. Chron. File - A  
J. Jura - AD  
K. Eipuren - AL

R. E. Katcliffe - AP  
H. Katz - AR  
G. Tupper - O  
J. Jones/G. Gwinnett - OPG

E. Sienkiewicz - P  
D. G. Francisco - PC  
D. J. Anderson - PCI  
Official File - PCI