



Residential Exchange Program

August 1, 2007, Sheraton Portland Airport Hotel
Portland, OR Public meeting notes

Note: These notes summarize the Bonneville Power Administration's (BPA) August 1, 2007 public meeting on the Residential Exchange Program. This is not a verbatim transcript. A copy of the official transcript is available by contacting **Teresa Rider of Rider & Associates, Inc.** by e-mail at Teresa@RiderandAssociates.com or by calling (800) 869-0864.

The meeting began at 6:30 p.m. BPA's vice president for requirements marketing, Mark Gendron, said the purpose of the meeting was to explain the Residential Exchange Program (REP) and provide a forum for utility representatives, stakeholders, and members of the public to express their views and concerns in light of the recent May 3 opinions by the U.S. Court of Appeals for the Ninth Circuit (Court). In two separate but related cases the Court held that BPA's REP settlement agreements with investor-owned utilities (IOUs) were contrary to law. Consequently, BPA suspended REP payments under the agreements that the IOUs pass through to their residential and small-farm consumers.

BPA Administrator, Steve Wright, spoke next. He observed that the large number of attendees demonstrated the importance of the REP issue. He urged participants to keep the larger picture in mind – the disposition of the value of the federal system over the next 20 years among the region's stakeholders, the citizens of the Pacific Northwest.

Mark Gendron presented a slide show providing a general overview of the REP. (Copies of the presentation were made available to attendees; the document is posted at www.bpa.gov/power/pl/regionaldialogue/implementation/.)

Mark Gendron noted that there has been a wide range of REP benefit levels since passage of the Northwest Power Act in 1980.

The first of four panel members began his presentation. Scott Corwin, the executive director of the Public Power Council, a consortium whose members represent a large majority of the region's publicly owned utilities noted the common link among his

membership was the not-for-profit basis on which the cooperatives, municipalities, and public utility districts provide electric service to their customers.

Corwin noted the debate raises key issues of long-term power supply and rates. A "Herculean effort" will be needed to meet BPA's schedule for implementation of new 20-year contracts by the end of 2008. This effort is critical to provide rate stability to customers.

Acknowledging the guidance from the congressional delegation and governors of the four Northwest states, Corwin noted the unfortunate situation in which BPA has suspended payments to the IOUs – something he said public power didn't expect and didn't ask for. He contrasted this with the concurrent inequity created by BPA's failure to provide immediate rate relief to his members owing to BPA's continuing collection of revenues from them.

There is a need to give rate relief and to restart payments to the IOUs in a way that comports with the Act and the Court's direc-

tive and it is in everyone's best interest to resolve this expeditiously, he added.

Corwin summarized the principles his group believes must be adhered to in formulating a solution - among them, reaching a quick resolution, keeping benefits of the system in the Northwest, ability to stand by itself legally and administratively, and a sharing of the system's benefits in a way that protects public power through the Act's section 7(b)(2) rate ceiling on preference power sales.

Corwin said the publics are paying much more than their share of the deal - that's the heart of the Ninth Circuit's rulings, he said, stating his hope that the parties will reach an amicable approach.

He said he felt obligated to correct some misconceptions about public power's position others have expressed. Some say public utility customers won't share the benefits of the federal system - that's false, he said, noting his constituency did not object to the original \$140 million annual level of benefits under the settlements.

Public power objected to the \$350 million, a level of payments he said impacts the consumers of public systems have lived with the rate increase for five years. Every dollar BPA pays to the IOUs, he said, means taking dollars from the publics - a situation that has resulted in the IOUs' rates being lower than those of some publics.

Corwin concluded that we need to resolve the current lose-lose situation to something that can stabilize in the future.

Jim Lobdell, Portland General Electric's vice president for power operations and resource strategy, said he spoke for the region's six IOUs and millions of customers impacted by the suspension of the REP payments. He observed the REP issue is critically important to the region.

He thanked the representatives of public power for being at the table and said the

IOUs are committed to work with all parties to reach a fair agreement.

Lobdell stated that the Northwest Power Act provides residential consumers of IOUs a statutory right to the benefits of the federal system. He said that as a consequence of BPA's suspension of REP payments, his company's residential customers have seen a 13-percent rate increase. A long-term solution is needed so residential and small farm customers can again receive benefits.

He observed that the REP has been a contentious issue since 1980, adding that sharing (of benefits) requires some to give so that others can receive. Lobdell noted IOUs have had disputes over the REP and explained that these were resolved by BPA through settlements. BPA identified an equitable value in the settlement agreements. Now, the region must re-examine how the program should work, he said. IOUs welcome the opportunity to address the statutory scheme and its implementation by BPA.

Lobdell said the region needs to enter the Regional Dialogue contracting process with a consensus on an equitable level of benefits as quickly as possible. People are facing winter heating bills, he said, and the hardship could be incredible for his residential consumers, noting also the negative impact on irrigators, some of whom have had a 50-percent increase in rates.

He called on BPA to speedily restore the benefits. The region's utilities, in concert with BPA, can be successful and arrive at a fair and durable outcome.

Bob Jenks, executive director of the Citizens Utility Board, commented that the hydro system produces tremendous benefits for the region. and we've all paid for the costs of the river system but are not all sharing in the benefits.

Jenks explained that the recent 14-percent rate hike to residential accounts did not represent the full magnitude of effect

experienced because it was on top of other rate increases. PGE's rates are among the highest in the region, he said, creating significant hardship.

Jenks said the Regional Dialogue ROD, leaves out a major piece of policy, and that's a fair resolution of the REP. He criticized BPA's proposed rate treatment of new and annexed load because of the new policy's set-aside of 250 average megawatts at the lowest rate.

Jenks believes Oregon's citizens can no longer get access to BPA benefits by forming a publicly owned utility under this scheme. This has to be resolved, he said, noting his preference for a settlement before the ROD goes forward. This should be done, he added, only if it meets the principles that a solution will be of fair value which the administrator can set, it is solvable by the administrator, it reflects a proper understanding of the 2002-2007 period, it retains and reflects the changes in value of the system over time, and it shares the benefits appropriately.

He objected to the closed door meetings that principals in the current negotiations have engaged in. We have no idea what's going on.

Michael Early, the executive director of the Industrial Customers of Northwest Utilities, said the current situation is not a dispute between industrial customers of publics and residential customers of IOUs. Rather it is one where the costs of the REP have been unlawfully shifted to BPA's public customers. He said it is our task is to determine the level of overpayment and harm to the public customers and how to ensure it is not repeated.

He said industrial users suffered harm from the overcharge, increasing the prospect of plant closures and deferral of investments by operators. He called on BPA to act

quickly to establish new rates and refund its over-collection.

Early said Congress intended for BPA to operate a residential exchange with the IOUs to provide benefits under certain conditions, but that there is no absolute right to a sharing of the benefits of the system.

BPA is able to provide benefits only if there is a funding source, he said, which in the past has been savings from BPA's refinancing of public debt and its service to the direct-service industries at higher rates than charged the publics.

He described the two rate test calculations required under the Act, stating that REP payments may be provided only if the financial benefits (provided under the Act) are available to sustain and fund the exchange. He said that is the context that defines the appropriate level of benefits, not some abstract of equity or fairness. BPA didn't follow the Act. He said the IOUs accepted the litigation risk of the settlement and the publics paid higher costs than if BPA had followed the law.

Early said BPA needs to immediately comply with the Court's order and remedy the \$28 million-a-month overcharge. He said his group appreciates the value of regional agreement but disagrees with the closed-door method. Go forward with the public workshops.

BPA should also oppose new legislation, he said, and insist on a regional resolution.

He suggested that BPA reopen the record to determine the amount of refunds and take appropriate steps to make the refund of the overcharge in the 2007-2009 period. BPA should offer new exchange contracts prospectively only, he said, and establish individual utility exchange payments that are consistent with the law for the post-2011 period.

If BPA revisits the ASC methodology, it can only be applied prospectively, not retroactively, Early said. If public benefits are set

rate case to rate case, he continued, so too should REP benefits be set rate case to rate case.

BPA's senior vice president for Power Services, Paul Norman, shared his observations about the presentations.

He encouraged participants to try hard to listen to people they disagree with. He said the Court made it clear to BPA to follow the process. This meeting is kicking off the processes.

He cautioned that each decision can swing the exchange benefits wildly. He said he hopes attendees come away from the meeting with a little more doubt about the right level of benefits. He said one choice for a solution is for the region to present a united view to BPA. Then benefits can be restored promptly. But if parties continue to argue, with no agreement on what the result should be, it creates wide uncertainty and leads to delays.

Norman acknowledged that it is tough to forge an agreement when feelings are strong and views are principled, but urged people to keep trying to reach agreement.

Lee Beyer, Oregon PUC Commissioner, introduced into the record a letter from Gov. Kulongoski and paraphrased its contents. The governor acknowledges the progress made, Beyer stated, but understands the parties are at an impasse and urges BPA to take a strong lead in bringing the parties to a fair settlement.

The majority of Oregon's ratepayers, according to the governor, should get value of the system with escalation. Beyer noted that eight of 10 families in Oregon are represented by the PUC.

The Columbia hydro system is a wonderful asset...owned by all the citizens of the Northwest. In reference to laws permitting citizens to form public utilities, Beyer said people have chosen how to purchase

electricity. Keep the focus on fellow citizens receiving their fair share of the benefits.

He asked why people in different parts of the state or region should pay different rates for power and why 60 percent of the region's citizens receive only 15 percent of the benefits. Beyer said the governor believes Oregonians should receive an REP benefit commensurate with their historical investments in the system. This amount should be adjusted for inflation and roughly in the range of benefits that ratepayers have received since passage of the Act.

The Court's decision was about process, Beyer concluded. BPA should follow the process in the Act. If BPA does, he said, we can get to a settlement and move forward.

Ted Wheeler, chairman of the Multnomah County (Ore.) board of commissioners, said he was speaking on behalf of thousands of citizens and 20 mayors within his jurisdiction.

Wheeler said the 700,000 residents who live in Multnomah County have a statutory right to share in the benefits of the FCRPS. Some are struggling to make ends meet, he said, and with winter approaching, there is even a more acute need to solve the problem.

He acknowledged that the wheels of justice turn slowly, but BPA and the other parties must work quickly to find an equitable decision. He said there's a danger of protracted dispute—the matter could go to Congress. He said this is a regional problem, a malignancy that threatens all our mutual interests.

Wheeler urged all to join together and find a long-term solution as quickly as possible.

Steve Johnson, executive director of Washington Public Utility District Association, said the meeting was part of a great process. Johnson said the majority of his 23

PUD members have no generation resources but rely exclusively on BPA for their power needs.

He pointed out that there are many privately owned dams in the region, but that there is no focus on these resources, which are very low cost. Johnson said people may access federal benefits in three ways: They can obtain federal licenses to operate dams, create a non-profit utility, or participate in the residential exchange.

Johnson alleged the REP settlement agreements that were at the center of the public utilities' challenge were the product of an inside deal by the then Administrator..

Jim Abrahamson of the Community Action Partnership of Oregon noted that BPA stopped the payments, and the IOUs stopped the credits.

The impact is profound. The longer the debate goes on, the more lives are negatively impacted.

He said the Act calls for an equitable sharing. He said the discussions have broken down. I pray for regional consensus, or we may see congressional action.

Mr. Abrahamson called on BPA to reestablish fair, equitable payments, particularly to those who are disadvantaged and struggling to afford (electrical) service.

John Prescott, CEO of the Pacific Northwest Generating Company (PNGC) said he wished to make three points.

One, this opportunity touches all citizens of the Northwest. It pits neighbor against neighbor, he said, adding that his member consumer-owned utilities also serve low-income customers.

Two, now is not the time for acrimony but honest, interest-based negotiations.

Three, keep it as a regional solution that respects the law.

Mr. Prescott directed a question to BPA officials. On page 14 of the presentation are

the principles to guide a solution. My question is: How do you define equitable?

Mr. Gendron indicated BPA's proxy definition might be political sustainability.

Roger Rees of Oregon HEAT, said his group helps low-income Oregonians through heating-season crises. The organization partners with 34 agencies and has helped 9,400 households.

With the loss of the residential exchange and a 13-percent increase, we're already seeing the effect of fear, especially from seniors.

He said money from donations to his cause is not going to be there this year.

He urged BPA and its partners to make an equitable restoration (to customers) regardless of who serves their needs. Restore the residential exchange credit.

Tom O'Connor heads the Oregon Municipal Electric Utilities Association.

He said his group recognizes that residential customers of IOUs are clearly entitled to residential exchange benefits, but it must be done in a way that doesn't harm our customers.

Mr. O'Connor said he supports reaching a negotiated settlement.

The region has a long history of solving problems. We urge the negotiators to continue the efforts for a fair settlement consistent with the law.

Greg Vaughn, an electrical engineer for Ponderay Newsprint Co., said the Ninth Circuit found the cost of the REP settlement unlawful. This had a cost to his company, he said.

BPA's error has harmed the mill by \$12 million over the last several years, adding that his county has experienced negative effects of this cost. It elevates the viability risk of my company and weakens the business

case for plant investment essential to long-term competitiveness.

His is a rural county with modest income levels. Its citizens are teachers, retirees, and the like. There have been positive economic ripple effects from the newsprint company, he said – consequences affecting the railroad business, trucking, wood products, and community support.

If the company is forced out of business, there will be a significant impact on the economic well-being of our communities and county. The settlement, he said, is like taking \$12 million from a needy county and giving it to the wealthy county or large city.

BPA should refund the amounts over-collected, plus interest, he said.

Establish new rates. A quick resolution of exchange benefits will make a significant difference to employees and the competitiveness of the company and the well-being of the community.

Terry Mundorf, representing Washington Public Agencies Group, said we need to get clarity around what it is we're doing, our objective in this process, or we'll repeat the mistakes of 2000.

BPA, he said, quoting from various agency publications, was aiming to spread the benefits of the FCRPS broadly, with an emphasis to residential customers. He said the Regional Dialogue ROD speaks to BPA's objective of assuring residential and small farm customers of IOUs receive a fair and stable share of benefits from the system. He said Steve Wright's July 19 letter states that BPA remains committed that IOU residential customers receive a fair share of the system.

There are problems with using this as an objective, Mr. Mundorf said. The statute doesn't entitle the IOU customers to a fair share of system benefits. BPA is not authorized by law to provide such benefits.

On the contrary, he said, the law calls for BPA to equalize wholesale power costs, and a 1985 court case ensured that IOU customers have wholesale rate parity, subject to the cost protections of the statute for the publics.

The stated objective – to spread the benefits – is not consistent with the statute, he said. It's the same objective that the Court invalidated.

He said the Court ruled that Congress ordained one program, but BPA appears to prefer another. He said the Act speaks only to wholesale rate parity.

He said he fears the region will not achieve a sustainable solution. As to the issue of the 2002-2006 overpayments, he questioned why it should require a year to solve.

That length of time is not tolerable. Taking over a year to respond to a mandate of the Court is not the amount of time BPA has for the effort.

Get on with it. To expect the public community to wait another year on top of the five years we've already sustained is asking too much of public power.

Sister Mary Kay Lampert of Elders in Action noted the problems her clients are facing with electric bills.

She presented the story of an individual of her acquaintance whose power was turned off for nonpayment. If there was no electricity, he had no way to store or cook food.

Sister Lampert explained that Wayne's only recreation was sewing with a sewing machine and he would not be able to do that. Electricity is essential to him, to all of us, but most of us can pay for it; a lot can't.

Craig Anneberg of Weyerhaeuser's Norpac plant in Longview said his firm employs 2,000 people and is the second largest employer in the area. His company has been around for 75 years, with a \$120 million

payroll and \$150 million in payments to contractors.

He said the firm is under extreme competitive pressure. Our business future is at risk. BPA, he said, needs to ensure that costs are as low as possible.

The impacts of the over-charge have put our facility at risk.

He said Weyerhaeuser's electricity consumption amounts to five percent of BPA's total load; his estimate of his firm's over-payment is \$50 million – with interest, over \$70 million.

His company has seen a 650-percent increase in electricity costs since the plant was built in the late '70s, yet they have been able to raise the price of their goods only 50 percent. They depend on stable, low, competitive power rates.

Tom Casey of Grays Harbor PUD said he was delivering a message from the people of Grays Harbor County.

He reviewed the evolution of his utility and the advent of BPA, citing a bold move to create a new federal agency to bring federal power to every community that chose to join this federal partnership.

He summarized what he termed past abuses by private utilities and how Franklin D. Roosevelt, then governor of New York when the state power authority was created, told voters in Portland to judge him by the enemies he's made.

Mr. Casey said that the IOUs are claiming the court order has created confusion.

The consumers of IOUs were led to believe that the unauthorized cash payments that paid a portion of their bill was something they had a right to.

He said they were told that the Act said to share the benefits of the system to others than consumer-owned systems. There is no such language in the Act or the House or Senate reports.

The Court said 7(b)(2) assures benefits of the system are reserved for preference customers, and some relief for private utility customers with high power costs is available if preference customers are not charged more than they would absent the cash subsidy.

Mr. Casey added that the REP should not be allowed to affect the publics' rates. We should refrain from repeating this misleading mantra and stop raining confusion on those who trust us to tell them the truth.

He called on BPA to stop collecting dollars for which there is no beneficial purpose. If BPA must suspend payments to the IOUs, by the same logic it must suspend collections from the publics, he said.

If we and BPA do our job, we will make political enemies; it's simply the nature of the public power movement.

Steven Eldrige is Umatilla Electric Cooperative Association's CEO. He said UECA is the largest cooperative in Oregon, consuming about one percent of BPA's generation.

Regarding BPA's so-called over-collection to support the REP, he said they've sent \$14 million primarily to the people of Portland.

One way to restore the REP payments, Mr. Eldrige said, would be for the IOUs to take a cut in the rate of return the PUC grants them and instead use the money to reduce their consumers' residential rates.

I believe we need a new metric for figuring out this sharing of benefits, he said, because each dollar paid to the REP comes out of my pocket, a situation he found particularly troubling because the ASCs of some IOUs are the same or less than BPA's.

He said the message must be sounded that everybody can't just take from the federal system; the FBS is 25 percent less than it was when it was created.

He proposed that BPA augment the FBS by 14 percent and sell the energy to the

IOUs. If the FBS grows, they get more; if it shrinks, they get less.

He concluded his commentary by noting, Oregon shouldn't be demanding further degradation of the system, yet (at the same time) demanding more money that can only come from people less fortunate.

Referring to themes in Mr. Gendron's slide show, Jack Mayson of Seattle City Light stated, Seattle is committed to a solution [that is] determined by the law, legal and sustainable, and equitable.

Buz Ketcham, president of Cowlitz County (Wash.) PUD's board of commissioners, said, The question is not about the poor, the disabled, the elderly. It's about the law.

There are two sides to the equation and both have suffered quite a bit.

He observed that what has been left out of the discussion is the manner in which Washington PUDs are governed.

Washington PUDs are governed by elected officials of Cowlitz County who have to report to the state auditor. They'll say PUDs have overpaid BPA for five years. That's illegal and they need to get the money back from BPA.

Square is square, he concluded. If we have a customer who overpays his bill, we square it up; it's the moral thing to do. We need to square our accounts.

Consider the moral equation; get this balanced.

John Gerstenberger of Hood River Electric Cooperative spoke about the ratios of customers and rates of his utility versus those of PacifiCorp.

Twenty-five percent of our rate went to PacifiCorp customers. Because of the credit, PacifiCorp customers had lower retail rates. That's not fair to our consumers.

Mr. Gerstenberger described the nature of local industry that consists of fruit growers and cold storage facilities.

These are energy intensive; they must compete in the world market. They're put at risk if they pay excessively toward the credits.

A recent large rate increase, he said, puts a strain on our residential and farm customers and our farm industries.

Addressing BPA executives, he said to suspend the collection of the credit since you have nowhere to send it. Resolve this consistent with the law.

Harold Hartman, president of a small irrigation district in southern Oregon, said he was attending the meeting on behalf of his own farm at Malin.

He said he had received a letter from PacifiCorp saying the REP credit was to disappear and that rates could go up 13 percent. He opened his bill and discovered it had doubled in 30 days.

Mr. Hartman described the difficulties fellow Klamath Basin farmers are facing with recently proposed rate increases.

He referenced the decisions on page 11 of the BPA handout and that it scares him to hear there might be 18 months to resolve the issues. He voiced concern over hearing that it's a process, because he applies a factor of three. It will be three or four years until there's a resolution. There needs to be a sense of urgency on both the side of benefits and the relief side.

He suggested getting all these people together in a room with no food or water – there would be some agreement by the second day.

Dan Seligman of the City of Canby, Ore., said, Canby Utility supports comments of Terry Mundorf and Mike Early that BPA should get on with it to comply with the Ninth Circuit decisions.

Mr. Seligman said that BPA proposed a global settlement – meanwhile, BPA collects money from public power and pays no money to the IOUs.

He said the customers of both public power and the IOUs lose.

Focus on a viable, short-term solution, he concluded. That's the number one task at hand.

Frank McShane of Longview Fibre said, they face the same challenges as Craig (Anneberg). They represent 1,200 employees with families.

He said his firm is sympathetic that the IOU customers are paying more now, because we've been doing that the last five-to-six years.

He said the region needs to approach the solution without blaming. Now there needs to be a correction. Stop collecting the rates that are not due to the IOUs anymore. We need relief in business and at home.

Figure out how to proceed, Mr. McShane continued. If we've been overpaying, it must be corrected so I can put my employees back in a competitive position in the world market.

Mr. Gendron wrapped up the session by thanking attendees and panelists for their participation, and reiterating Mr. Norman's observations that the commentators were principled and passionate.

The meeting adjourned at 9:05 p.m.

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