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Washington Water Power

September 9, 1998

Ms. Judi Johansen  
Administrator, Bonneville Power Administration  
905 NE 11<sup>th</sup> Avenue  
Portland, Oregon 97232

Subject: Subscription Principles and WWP Residential Exchange Participation

Dear Ms. Johansen:

I am encouraged by the public statements made by representatives of the Bonneville Power Administration (Bonneville) that you are committed to ensuring that federal power benefits are spread to all eligible residential customers in the Pacific Northwest. I also understand that Bonneville is looking for new ways to equitably distribute these benefits and that you have received a set of principles to guide subscription from the four Northwest state utility commissions in Idaho, Montana, Oregon, and Washington (Commissions), dated August 27, 1998. The Washington Water Power Company (WWP) is very supportive of the subscription principles set forth by the Commissions, particularly the principles which provide the Commissions with the responsibility of further allocating power and financial benefits among the states and among the IOUs, and establish a role for an independent third party administrator of the financial benefits of the program. I encourage Bonneville to incorporate these principles in developing a subscription program for the period beginning October 2001, as a replacement for the residential exchange.

While in agreement with the principles outlined by the Commissions, I remain concerned that Bonneville may be taking a position that WWP's deemer balance may disqualify WWP's residential and small farm customers from participating in the subscription program replacing the residential exchange for the period beginning October 2001. Please find attached a prepared statement outlining WWP's position that the *perception* that WWP has not been an active exchanger, and therefore not dependent upon Bonneville power in the 1981-2001 period, should have no bearing whatsoever as to WWP's rights to exchange or purchase power during the period beginning October 2001. When WWP terminated its residential exchange agreement with Bonneville in 1993, WWP *expressly did not agree* with Bonneville's position that the deemer balance resulting from the *changed* average system cost methodology would be carried over to a new contract. The only balance which arguably might be carried over is the balance which would have resulted from the use of the original 1981 average system cost

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methodology applied over the entire twenty-year period. Had use of the original 1981 methodology continued, WWP roughly estimates that it would have received accumulated residential exchange benefits in excess of \$100 million for our Washington jurisdiction and would not have a substantial outstanding deemer balance for our Idaho jurisdiction.

Please review the attached position statement. I trust that you will concur that Bonneville should not adhere to a position which excludes WWP's residential and small farm customers from a subscription program designed to distribute power and financial benefits to such customers of the IOUs, based upon WWP's deemer balance resulting from the changed average system cost methodology. Additionally, I am hopeful that you will allow the Commissions the opportunity to dispense the power and financial allocation to the residential and small farm customers of the IOUs. I eagerly look forward to reviewing your subscription proposal to ensure that your goal of appropriately spreading the benefits of the federal power system is met.

Respectfully,



Gary G. Ely  
Senior Vice President and General Manager  
Energy Trading & Market Services

Attachment

JAS

cc: Alan Buckley, WUTC  
Stephanie Miller, IPUC

Prepared By: Gary A. Dahlke  
Attorney for The Washington Water Power Company

Question: Should the deemer balance of The Washington Water Power Company (WWP) disqualify WWP's residential and small farm customers from participation in a subscription program for replacement of the residential exchange for the period beginning October 2001?

Answer: No. The perception that WWP was not an active exchanger, and therefore not dependent upon Bonneville Power Administration (Bonneville) power in the 1981-2001 period should have no relationship to rights to exchange power or purchase power during the period beginning October 2001. WWP is not fairly deemed an inactive exchanger as WWP was essentially forced out of the first twenty-year exchange by the unilateral change in the average system cost methodology in 1984. This change in methodology was reported by BPA and confirmed by the Courts as necessary to prevent continued violation of the Regional Act and Oregon law by Portland General Electric Company (PGE) by concealing terminated plant costs through a financing scheme approved by its Commissioner. The Court confirmed the existence of the financing scheme which concealed terminated nuclear plant costs in the return on equity component of PGE's rates, and thus passed those costs on to Bonneville, when in fact the 1981 average system cost methodology did not permit terminated plant costs to be recovered. No misconduct by WWP was involved in these cases.

The effect of the change in methodology was to eliminate certain costs that originally were a part of the negotiation in 1981 as costs to be included in the exchange calculation. Following the change in methodology, PGE still received a substantial amount of monetary benefits through the exchange. WWP has, however, received nothing. Had the revised 1984 methodology been the basis of the 1981 negotiations, WWP might well have refrained from entering into the exchange at all at its inception, which would have been WWP's right. WWP could have later requested an exchange contract at any time during the following twenty years, or not at all. In the latter case WWP would have no deemer balance going into the period beginning October 2001.

The only balance which arguably might be carried over is the balance which would have resulted from the use of the original 1981 average system cost methodology applied over the entire twenty-

year period. Had use of the original 1981 methodology continued, WWP roughly estimates that it would have received accumulated residential exchange benefits in excess of \$100 million for its Washington jurisdiction and would not have a substantial outstanding deemer balance for its Idaho jurisdiction.

When WWP terminated the exchange in 1993, WWP expressly did not agree with Bonneville's position that the deemer balance resulting from the changed methodology would be carried over to a new contract. WWP's notice of termination contains no such language. While Bonneville sent a confirmation of the termination with its position stated, WWP has never agreed with this position. The 1986 decision which confirmed Bonneville's implementation of the change to the methodology (and the Court clearly noted that it did not sanction a permanent implementation of the changes) did not in any way deal with the issue of carrying deemer balances over to a new contract. While Bonneville relies on the language of the 1981 contract that deemer balances would be carried over to the new contracts, clearly this is intended to be deemer balances resulting from use of the original 1981 methodology. To suggest that WWP intended that Bonneville could decide for itself to change the methodology (because of the abuse of other utilities, not WWP) and to require WWP to carry over the resulting greater deemer balance renders the 1981 contract wholly unilateral. I do not think that this position would be upheld by the Ninth Circuit, notwithstanding its earlier confirmation of Bonneville's right to temporarily change the methodology.

Attachment: Excerpt from Ninth Circuit Court Opinion

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