



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

POWER BUSINESS LINE

October 21, 2003

In reply refer to: PT-5

Amendment No. 3
Contract No. 00PB-12160
SETTLEMENT AGREEMENT

NorthWestern Energy Division of NorthWestern Corporation
40 East Broadway
Butte, MT 59701

Attn: Mr. Patrick R. Corcoran
Vice President of Regulatory Affairs

Dear Mr. Corcoran:

This letter agreement ("Amendment No. 3") constitutes an amendment to Contract No. 00PB-12160 between the Bonneville Power Administration ("BPA") and NorthWestern Energy, a Division of NorthWestern Corporation ("NorthWestern"), (referred to hereinafter as "Settlement Agreement"). This Amendment No. 3 amends, among other things, provisions regarding the additional deferral of Monetary Benefit during Fiscal Years 2004, 2005, and 2006 and the payment of Monetary Benefit during the period that begins on October 1, 2006, and continues through September 30, 2011. Further, this Amendment No. 3 terminates Contract No. 03PB-11269 (Agreement Regarding Fiscal Year 2003 Deferral Amount) between BPA and NorthWestern. This Amendment No. 3 is entered into by NorthWestern contemporaneously with the Stipulation and Agreement for Settlement, Contract No. 04PB-11417 ("Stipulation").

The Parties agree:

1. **EFFECTIVE DATE.** Subject to the provisions of section 3 below ("Voiding of this Amendment No. 3"), this Amendment No. 3 shall, upon execution and delivery by BPA and NorthWestern, take effect and be binding in accordance with its terms as of the Effective Date, as defined in the Stipulation ("Effective Date").
2. **AMENDMENT OF SETTLEMENT AGREEMENT.** The Settlement Agreement is amended as follows:
 - (a) Section 2(e) of the Settlement Agreement is deleted and replaced by the following:

“(e) “Forward Flat-Block Price Forecast” shall have the following meanings:

(1) For the period from October 1, 2001, through September 30, 2006:

“Forward Flat-Block Price Forecast” or “FBPF” means, for the period from October 1, 2001, through September 30, 2006, BPA’s forecast, expressed in \$/MWh, of the wholesale market price for the purchase of additional amounts of power at 100 percent annual load factor established in the same BPA power rate case as that which established the PFXS Rate and for the period of the PFXS Rate established in a BPA power rate case Record of Decision (“ROD”) as finally approved by the Federal Energy Regulatory Commission and affirmed, if appealed, by the United States Court of Appeals for the Ninth Circuit.

(2) For the period from October 1, 2006, through September 30, 2011:

“Forward Flat-Block Price Forecast” or “FBPF” means, for each Contract Year during the period from October 1, 2006, through September 30, 2011, the FBPF, expressed in \$/MWh, as determined pursuant to Exhibit C, which is attached to this Agreement pursuant to Amendment No. 3.”

(b) Section 2(f) of the Settlement Agreement is deleted and replaced by the following:

“(f) “Lowest PF Rate” means the rates under the lowest cost-based power rate schedule for purchases by BPA’s preference customers of block product service to meet their general requirements at 100 percent load factor. Lowest PF Rate includes any applicable rate adjustment clauses.”

(c) Section 2(i) of the Settlement Agreement is deleted and replaced by the following:

“(i) “PF Exchange Subscription Rate” or “PFXS” means the then-current applicable PF Exchange Subscription rate under the PF rate schedule or its successor. PFXS Rate includes any applicable rate adjustment clauses.”

(d) New sections 2(n), 2(o), 2(p), 2(q), 2(r), 2(s), 2(t), 2(u), and 2(v) as follows are added to the Settlement Agreement:

- “(n) “Annual Deferral Amount” means the annual amounts specified in Exhibit D for Contract Years 2003, 2004, 2005, and 2006.
- (o) “Deferral Account” means the aggregate amount of reductions in payments pursuant to section 4(c)(3)(A), plus the SN CRAC Adjustment amounts added to the account pursuant to section 4(c)(3)(B), plus interest calculated in accordance with section 4(c)(4), less amounts of payments to NorthWestern pursuant to section 4(c)(5)(B) or 4(c)(5)(C).
- (p) “Effective Date” means the Effective Date as defined in the Stipulation and Agreement for Settlement, Contract No. 04PB-11417.
- (q) “Monetary Benefit Cap,” or “MBC,” means, for the purposes of the formula in section 4(c)(2)(B)(ii) below, the maximum amount, expressed in \$/MWh, by which the FBPF may exceed the PFXS (or Lowest PF, as applicable) in the numerator of such formula for each Contract Year during the period from October 1, 2006, through September 30, 2011. Such maximum amount shall be equal to \$15.59/MWh (\$15.55/MWh during a leap year).
- (r) “Monetary Benefit Floor,” or “MBF” means, for the purposes of the formula in section 4(c)(2)(B) below, the minimum amount, expressed in \$/MWh, by which the FBPF may exceed the PFXS (or Lowest PF, as applicable) in the numerator of such formula for each Contract Year during the period from October 1, 2006, through September 30, 2011. Such minimum amount shall be equal to \$5.20/MWh (\$5.18/MWh during a leap year).
- (s) “SN CRAC Adjustment Amount” means the dollar amount to be added to the Deferral Account in the amount and for the month specified in the table below:

Month	SN CRAC Adjustment Amount
February 2004	\$34,329
March 2004	\$45,965
April 2004	\$48,033
May 2004	\$42,140

The sum of the monthly SN CRAC Adjustment Amounts shall be equal to the SN CRAC Reduction for the period October 1, 2003, through January 31, 2004.

- (t) “Monthly Deferral Amount” means the monthly amounts specified in Exhibit D (as such monthly amounts may be revised pursuant to Exhibit D) for Contract Years 2003, 2004, 2005, and 2006.
- (u) “SN CRAC Reduction” means for each month beginning October 1, 2003, and continuing through January 31, 2004, an amount equal to the reduction to Monetary Benefit paid in such month under section 4(c) of this Agreement as a result of the application of the SN CRAC.
- (v) “Lowest PF” for a Contract Year means the hourly weighted annual average Lowest PF Rate, expressed in \$/MWh, for purchases for such Contract Year by BPA’s preference customers of block product service at 100 percent annual load factor to meet their general requirements.”
- (e) Section 4(b)(2) of the Settlement Agreement is deleted and replaced by the following:
- “(2) **October 1, 2006, through September 30, 2011**
No Firm Power will be provided by BPA to NorthWestern under this Agreement during the period that begins on October 1, 2006, and continues through September 30, 2011.”
- (f) Section 4(c)(1)(B) of the Settlement Agreement is deleted and replaced by the following:
- “(B) **October 1, 2006, through September 30, 2011**
BPA shall provide the following Monetary Benefit amounts, expressed in annual aMW, to NorthWestern from October 1, 2006, through September 30, 2011:

Period of Time	Monetary Benefit (annual aMW)
10/1/06 through 9/30/11	28”

- (g) Section 4(c)(2)(B) of the Settlement Agreement is deleted and replaced by the following:

“(B) October 1, 2006, through September 30, 2011

- (i) **Monetary Benefit Monthly Payment Amounts**
The Monetary Benefit monthly payment amounts for each Contract Year shall be determined in accordance with the following formula:

$$MP = \frac{(FBPF - PFXS) \times MB \times 8,760 \text{ hours (8,784 hours during a leap year)}}{12 \text{ months}}$$

Where:

MP = Monthly Payment Amount, expressed in dollars, for each month of such Contract Year.

FBPF = Forward Flat-Block Price Forecast, expressed in \$/MWh, for such Contract Year.

PFXS = The hourly weighted annual average PF Exchange Subscription Rate calculated at 100 percent annual load factor, expressed in \$/MWh, for such Contract Year.

MB = Monetary Benefit amount, expressed in annual aMW.

- (ii) **Implementation of Monetary Benefit Cap and Monetary Benefit Floor**

For the purposes of the formula in section 4(c)(2)(B)(i) above for each Contract Year, PFXS shall be subtracted from FBPF for such Contract Year. If (FBPF – PFXS) is greater than \$15.59/MWh (\$15.55/MWh during a leap year), then (FBPF – PFXS) will be set equal to \$15.59/MWh (\$15.55/MWh during a leap year) for such Contract Year. If (FBPF – PFXS) is less than \$5.20/MWh (\$5.18/MWh during a leap year), then (FBPF – PFXS) will be set equal to \$5.20/MWh (\$5.18/MWh during a leap year) for such Contract Year.

(iii) **Calculation of Monthly Payment Amounts each time the PFXS Rate is Adjusted During a Contract Year**

The following procedure will apply to the calculation of Monetary Benefit payments each time the PFXS Rate is adjusted for a portion of a Contract Year.

- (aa) Calculate a weighted average annual PFXS (PFXS_{weighted}) for such Contract Year as follows:

$$\text{PFXS}_{\text{weighted}} = \frac{(\text{PFXSC} \times \text{MONTHS(C)}) + (\text{PFXSN} \times \text{MONTHS(N)})}{12}$$

Where:

PFXS_{weighted} = the weighted average PFXS, in \$/MWh, calculated at 100 percent annual load factor.

PFXSC = A rate, expressed in \$/MWh, equal to the hourly weighted average PFXS Rate(s) at 100 percent load factor used in the months of such Contract Year prior to such PFXS Rate adjustment.

MONTHS(C) = Number of months that the PFXS Rate(s) applied in calculating PFXSC were used.

PFXSN = A rate, expressed in \$/MWh, equal to the hourly weighted average PFXS Rate at 100 percent load factor that becomes effective (as a result of such PFXS Rate adjustment) for the remaining months of such Contract Year after such PFXS Rate adjustment.

MONTHS(N) = Number of months that the PFXS Rate applied in calculating PFXSN was used.

- (bb) Determine pursuant to section 4(c)(2)(B)(iii)(cc) below if (FBPF – PFXS_{weighted}) for such Contract Year is greater than MBC or less than MBF.

- (cc) Calculate a Revised Annual Monetary Benefit (hereinafter referred to as “Revised AMB”) for such Contract Year using the applicable formula in sections 4(c)(2)(B)(iii)(cc)(1), 4(c)(2)(B)(iii)(cc)(2), or 4(c)(2)(B)(iii)(cc)(3) below:
- (1) If $(FBPF - PFXS_{\text{weighted}})$ is less than MBC and greater than MBF, then:

$\text{Revised AMB} = (FBPF - PFXS_{\text{weighted}}) \times 28 \text{ MW} \times 8,760 \text{ hours}$ (8,784 hours during a leap year).
 - (2) If $(FBPF - PFXS_{\text{weighted}})$ is greater than MBC, then:

$\text{Revised AMB} = \text{MBC} \times 28 \text{ MW} \times 8,760 \text{ hours}$ (8,784 hours during a leap year).
 - (3) If $(FBPF - PFXS_{\text{weighted}})$ is less than MBF, then:

$\text{Revised AMB} = \text{MBF} \times 28 \text{ MW} \times 8,760 \text{ hours}$ (8,784 hours during a leap year).
- (dd) Subtract from the Revised AMB the sum of the amounts paid as Monthly Payment Amounts for the months during such Contract Year that the PFXS Rate(s) applied in calculating PFXSC were used. This amount may be positive or negative. Divide this amount by MONTHS(N), to determine the monthly payment amount.
- (ee) The monthly payment amount determined in section 4(c)(2)(B)(iii)(dd) above will, if positive, be paid by BPA to NorthWestern as Monetary Benefit for each month remaining in such Contract Year for which the PFXS Rate applied in calculating PFXSN is used or, if negative, an amount equal to the absolute value of such monthly payment amount will be paid by NorthWestern to BPA as a refund of Monetary Benefit for each month remaining in such

Contract Year for which the PFXS Rate applied in calculating PFXSN is used.

- (ff) If the PFXS Rate is adjusted more than one time during a Contract Year, then sections 4(c)(2)(B)(iii)(aa) through 4(c)(2)(B)(iii)(ee) of the above procedure shall be performed for each such PFXS Rate adjustment.

(iv) **True-up of Monetary Benefit Following Rate Adjustments**

During October following a Contract Year for which BPA has adjusted (whether pursuant to an adjustment clause or otherwise) the PFXS Rate or Lowest PF Rate for a portion of such Contract Year, BPA shall calculate a Monthly Payment Amount using the formula in section 4(c)(2)(B)(i), including application of the MBC and MBF in section 4(c)(2)(B)(ii), and setting PFXS equal to an amount based on the PFXS Rate(s) (or, if required by section 4(c)(2)(C), the Lowest PF Rate(s) for such Contract Year) actually charged during such Contract Year. If (aa) the amount equal to such Monthly Payment Amount multiplied by 12 minus (bb) the sum of amounts previously determined pursuant to 4(c)(2)(B)(i), 4(c)(2)(B)(ii), and 4(c)(2)(B)(iii) and paid for each month of such Contract Year by BPA (and subtracting from such sum any amounts paid by NorthWestern to BPA pursuant to section 4(c)(2)(B)(iii)(ee) for such Contract Year) is positive, such amount will be paid by BPA to NorthWestern as additional Monetary Benefit on the monthly bill for October. If such amount is negative, an amount equal to the absolute value of such amount will be paid by NorthWestern to BPA as a refund of Monetary Benefit on the monthly bill for October.”

- (h) Section 4(c)(2)(C) of the Settlement Agreement is deleted and replaced by the following:

“(C) **Exception to Use of PF Exchange Subscription Rate in Section 4(c)**

For the purposes of determining any Monetary Benefit amount (including without limitation any true-up of Monetary Benefit pursuant to section 4(c)(2)(B)(iv)) using the formulae shown in sections 4(c)(2)(A) and 4(c)(2)(B) above:

- (i) in the event there is no PFXS Rate in effect or PFXS exceeds Lowest PF for a Contract Year, Lowest PF shall replace PFXS in such formulae for calculating MP and (FBPF – PFXS), and
- (ii) in the event PFXSC or PFXSN as calculated using the PFXS Rate exceeds PFXSC or PFXSN if calculated using the Lowest PF Rate (in lieu of the PFXS Rate), Lowest PF Rate shall replace PFXS Rate in such formulae for calculating PFXSC and PFXSN.

Use of the Lowest PF Rate in such event shall apply to Monetary Benefits provided in accordance with section 4(c)(1).”

- (i) New sections 4(c)(3), 4(c)(4), 4(c)(5), and 4(c)(6) as follows are added to the Settlement Agreement:

“(3) Deferral of Monetary Benefit for Fiscal Years 2003 through 2006

- (A) The monthly amount of Monetary Benefit to be paid to NorthWestern pursuant to the preceding provisions of this section 4(c) during the period February 2003 through September 2006 shall be reduced by the Monthly Deferral Amount. The Monthly Deferral Amount shall be added to the Deferral Account as of the date such Monthly Deferral Amount is deducted from the Monetary Benefit. As of September 30, 2003, the cumulative amount of such reductions that have occurred and have been added to the Deferral Account is \$521,056.
- (B) The SN CRAC Reduction payments made to NorthWestern from October 1, 2003, through January 31, 2004, had the effect of reducing the Deferral Account. An amount equal to this reduction shall be restored to the Deferral Account as follows:
 - (g) For each of February, March, April, and May 2004, BPA shall add to the Deferral Account an amount equal to the SN CRAC Adjustment Amount for such month.
 - (ii) NorthWestern acknowledges its right to rebates for reductions of Monetary Benefits arising under section 4(c)(2) has been satisfied by the

addition of an amount equal to the SN CRAC Adjustment Amounts in the Deferral Account pursuant to section 4(c)(3)(B)(i) above.

- (4) **Calculation of Interest on the Deferral Account**
Interest on amounts in the Deferral Account shall accrue at an annual rate of 3.09 percent, compounded monthly.

(5) **Repayment of Deferral Account**

- (A) The amount in the Deferral Account shall be paid to NorthWestern by BPA as Monetary Benefit pursuant to sections 4(c)(5)(B) and 4(c)(5)(C) below.
- (B) For each month beginning October 1, 2003, and continuing through January 31, 2004, the following monthly amounts of SN CRAC Reduction shall be paid by BPA to NorthWestern as Monetary Benefit:

Month	SN CRAC Reduction
October 2003	\$34,329
November 2003	\$45,965
December 2003	\$48,033
January 2004	\$42,140

The monthly amounts of SN CRAC Reduction shall be subtracted from the Deferral Account as of the date such SN CRAC Reduction is paid to NorthWestern.

- (C) In addition to paying each month any amounts otherwise due during such month to be paid to NorthWestern pursuant to the provisions of this Agreement, as it may hereafter be amended, superseded, or replaced, BPA shall pay to NorthWestern as Monetary Benefit an amount equal to the amount in the Deferral Account on September 30, 2006, plus interest calculated from such date in accordance with section 4(c)(4) until paid. Such amount shall be paid by BPA to NorthWestern in 60 equal monthly installments during the period October 1, 2006, through September 30, 2011, except as otherwise provided by section 5 of this Amendment No. 3.
- (D) The Parties agree that any amounts NorthWestern is entitled to receive after September 30, 2006, pursuant to section 4(c)(5)(C) above (i) shall be in addition to

amounts NorthWestern is otherwise entitled to receive under other provisions of this Agreement, and (ii) shall only reduce the amounts NorthWestern is entitled to receive under section 4(c)(2)(B) after such date for the benefit of its residential and small farm customers under this Agreement, or otherwise, through its impact on the level of the Lowest PF Rate. The MBC and MBF applied under section 4(c)(2)(B)(ii) shall not affect amounts NorthWestern is entitled to receive under section 4(c)(5)(C).

(6) **Impact of Assignment of Benefits on Deferral of Monetary Benefits for Fiscal Years 2003 through 2006 and the Repayment of the Deferral Account**

If NorthWestern is required to assign benefits pursuant to section 8 after October 1, 2003, a share of the Monthly Deferral Amounts and of BPA's repayment obligation in section 4(c)(5)(C) shall be assigned to BPA pursuant to section 8(b)(2) or section 8(d) as applicable."

- (k) Section 6 of the Settlement Agreement is deleted and replaced by the following:

"6. PASSTHROUGH OF BENEFITS

- (a) Except as otherwise provided in this Agreement, Firm Power, and Monetary Benefit amounts received by NorthWestern from BPA under this Agreement shall be passed through, in full, to all residential and small farm consumers as either: (1) an adjustment in applicable retail rates; (2) monetary payments; or (3) as otherwise directed by the applicable State regulatory authority(s).
- (b) Monetary payments shall be distributed to the Residential Load in a timely manner, as set forth in this section 6(b). The amount of benefits held in the account described in section 6(c) below shall not at any time exceed an amount equal to the greater of: (1) the expected receipts of monetary payments from BPA under this Agreement over the next 36 months, or (2) the receipts of monetary payments from BPA under this Agreement over the immediately preceding 36 months; *provided, however*, that any amount of benefits held in such account shall be distributed to the Residential Load no later than April 1, 2012. References in this Agreement to monetary payments mean monetary

payments, whether with respect to Monetary Benefit or cash payment. If the annual monetary payment is less than \$600,000, then NorthWestern may distribute benefits on a less frequent basis provided that distributions are made at least once each Contract Year.

- (c) Benefits shall be passed through consistent with procedures developed by NorthWestern's State regulatory authority(s). Such procedures shall address the maximum amount of benefits held in the account described in this section 6(c). Monetary Benefits and cash payments under section 5 shall be identified on NorthWestern's books of account. Funds shall be held in an interest bearing account, and shall be maintained as restricted funds, unavailable for the operating or working capital needs of NorthWestern. Benefits shall not be pooled with other monies of NorthWestern for short-term investment purposes until NorthWestern has passed through such funds for its Residential Load as a credit or credits on its bills. Firm Power shall be delivered monthly, and only to Residential Load.
- (d) Nothing in this Agreement shall require that any power be delivered on an unbundled basis to residential and small farm customers of NorthWestern or that NorthWestern provide retail wheeling of such power."

- (k) Section 14(b) is deleted in its entirety.
- (l) A new Exhibit C (Determination of Forward Flat-Block Price Forecast for Contract Years 2007 through 2011) is attached hereto and made a part of the Settlement Agreement.
- (m) A new Exhibit D (Annual Deferral Amounts and Monthly Deferral Amounts) is attached hereto and made a part of the Settlement Agreement.

3. VOIDING OF THIS AMENDMENT NO. 3

This Amendment No. 3 shall be void *ab initio* (a) if the Stipulation becomes void *ab initio* pursuant to section 11 of the Stipulation, or (b) if NorthWestern withdraws from the Stipulation pursuant to section 11(b) of the Stipulation.

4. OTHER PROVISIONS

Subject to the provisions of section 3 above:

- (a) Contract No. 03PB-11269 (Agreement Regarding Fiscal Year 2003 Deferral Amount) is terminated as of the Effective Date.
- (b) For the purposes of determining the Conservation and Renewables Discount for NorthWestern's Monetary Benefit under section 10 of the Settlement Agreement (and the terms specified in BPA's applicable Wholesale Power Rate Schedules, including GRSPs), the forecasted amount of monthly Monetary Benefit to be paid to NorthWestern shall be determined without regard to the reductions pursuant to section 4(c)(3) of the Settlement Agreement or payments by BPA pursuant to section 4(c)(5) of the Settlement Agreement; and
- (c) The following sentence is included in this Amendment No. 3 if its omission could trigger a requirement for NorthWestern to report this Amendment No. 3 or the Settlement Agreement on Internal Revenue Service Form 8886 (Reportable Transaction Disclosure Statement): The taxpayer (and each employee, representative, or other agent of the taxpayer) may disclose to any and all persons, without limitation of any kind, the tax treatment and tax structure of the transaction and all materials of any kind (including opinions or other tax analyses) that are provided to the taxpayer relating to such tax treatment and tax structure.

5. SEVERABILITY

- (a) If a court of competent jurisdiction issues a final, nonappealable order after the 120th day after the Effective Date but prior to October 1, 2005, that holds any of the provisions of sections 2(a), 2(b), 2(c), 2(d), 2(g), 2(h), 2(i), 2(k), 2(l), or 2(m) of this Amendment No. 3 to be void, unenforceable, or unlawful, the provisions of the Settlement Agreement in effect on the day prior to the Effective Date shall, subject to section 5(d), apply except that the Parties intend the following provisions shall apply to the maximum extent permitted by law:
 - (1) BPA shall pay to NorthWestern as Monetary Benefit an amount equal to the amount in the Deferral Account on the date of such final nonappealable order plus interest calculated from such date in accordance with section 4(c)(4) of the Settlement Agreement until paid. Such amount shall be paid by BPA to NorthWestern either (A) at NorthWestern's written election provided within 15 days of such final nonappealable order, in 60 equal monthly installments during the period October 1, 2006, through September 30, 2011, or (B) if

NorthWestern sends no written election under section 5(a)(1)(A), in equal monthly installments during the period that starts in the month following such final nonappealable order and continues for a period equal to the number of months from October 1, 2003, through the month including the date of such final, nonappealable order; and

- (2) The provisions of sections 2(a), 2(b), 2(c), 2(d), 2(g), 2(h), 2(i), 2(k), 2(l), and 2(m) shall have no force and effect.
- (b) If a court of competent jurisdiction issues a final, nonappealable order after the 120th day after the Effective Date but after September 30, 2005, that holds any of the provisions of section 2(i) or 2(m) (but none of the provisions of sections 2(a), 2(b), 2(c), 2(d), 2(g), 2(h), 2(k), and 2(l)) of this Amendment No. 3 to be void, unenforceable, or unlawful, the provisions of the Settlement Agreement in effect on the day prior to the Effective Date shall, subject to section 5(d), apply except that the Parties intend the following provisions shall apply to the maximum extent permitted by law:
- (1) BPA shall pay to NorthWestern as Monetary Benefit an amount equal to the amount in the Deferral Account on the date of such final nonappealable order plus interest calculated from such date in accordance with section 4(c)(4) of the Settlement Agreement until paid. Such amount shall be paid by BPA to NorthWestern in 60 equal monthly installments during the period October 1, 2006, through September 30, 2011; and
 - (2) The provisions of sections 2(a), 2(b), 2(c), 2(d), 2(g), 2(h), 2(k), and 2(l) shall remain in effect.
- (c) If a court of competent jurisdiction issues a final, nonappealable order after the 120th day after the Effective Date but after September 30, 2005, that holds any of the provisions of sections 2(a), 2(b), 2(c), 2(d), 2(g), 2(h), 2(k), or 2(l) of this Amendment No. 3 to be void, unenforceable, or unlawful, the provisions of the Settlement Agreement in effect on the day prior to the Effective Date shall, subject to section 5(d), apply except that the Parties intend the following provisions shall apply to the maximum extent permitted by law:
- (1) The provisions of sections 2(a), 2(b), 2(c), 2(d), 2(g), 2(h), 2(i), 2(k), 2(l), and 2(m) shall after the effective date of such final nonappealable order have no further force and effect; and

- (2) BPA shall pay to NorthWestern as Monetary Benefit an amount equal to the amount in the Deferral Account on the date of such final nonappealable order plus interest calculated from such date in accordance with section 4(c)(4) of the Settlement Agreement until paid. Such amount shall be paid by BPA to NorthWestern in 60 equal monthly installments during the period October 1, 2006, through September 30, 2011.
- (d) If a court of competent jurisdiction issues a final, nonappealable order after the 120th day after the Effective Date that holds any of the provisions of this Amendment No. 3 to be void, unenforceable, or unlawful, the Parties (i) intend the provisions of sections 2(e), 2(f), 2(j), 4, and 5 shall remain in effect and apply to the maximum extent permitted by law; and (ii) agree to negotiate in good faith new provisions that will replace those held to be unlawful, void, or unenforceable with the objective of placing the Parties in the same financial situation as applied prior to such final, nonappealable order.
- (e) This Amendment No. 3 is severable from any other Settlement Documents (as such term is defined in the Stipulation) and shall remain in effect even if any or all such other Settlement Documents are held to be void, unenforceable, or unlawful after the 120th day after the Effective Date.

If the foregoing terms are acceptable, please sign both originals and return one original of this Amendment No. 3 to BPA. The remaining original is for your files.

ACCEPTED:

Sincerely,

NORTHWESTERN ENERGY, A DIVISION
OF NORTHWESTERN CORPORATION

/s/

By _____

Account Executive

Title _____

Name Larry Kitchen

Name _____

Date _____

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Exhibit C
DETERMINATION OF FORWARD FLAT-BLOCK PRICE FORECAST FOR
CONTRACT YEARS 2007 THROUGH 2011

1. OVERVIEW

The Forward Flat-Block Price Forecast (hereinafter referred to as "FBPF"), as defined in section 2(e)(2) of the body of this Agreement, as amended, is an integral part of the formula used to calculate monthly Monetary Benefit payments during each Contract Year 2007 through 2011. This Exhibit C establishes a procedure to determine the FBPF during each Contract Year 2007 through 2011.

2. DEFINITIONS

- (a) "Committee" means a committee composed of one BPA representative, one PNW Investor-Owned Utility representative, and one PNW Public representative.
- (b) "Eligible Data Provider," or "EDP," means an entity that (1) routinely buys and sells bulk power for resale in the Pacific Northwest; (2) routinely produces Forward Price Data for use in risk accounting in the normal course of business; (3) is regularly audited by an outside accounting firm; and (4) has been selected by an affirmative vote by each representative on the Committee for inclusion on the list of EDPs and submitted to the QTP in accordance with section 5 of this Exhibit C.
- (c) "Firm Power" means the power product containing the following attributes: Power (i) that is pre-scheduled as firm energy consistent with the then current rules of the Western Electricity Coordinating Council or its successor, and (ii) for which the seller or the buyer is liable for liquidated damages for failure to deliver or receive, as applicable, unless such failure is due to an uncontrollable force or force majeure event. At this time, a power product that meets the above criteria is Western Systems Power Pool Agreement Service Schedule C firm energy.
- (d) "Forward Price Data" means the forward price routinely used by the EDP for risk accounting in the normal course of business for a flat block of Firm Power for delivery at the Mid-C trading hub for a Contract Year. Such forward price shall be the midpoint between the bid price and the offer price, if the EDP's forward price curve shows both prices. If an EDP does not develop a single forward price for a flat block of Firm Power, but rather only develops a forward price for heavy load hour ("HLH") and light load hour ("LLH") Firm Power, then the QTP shall request such HLH and LLH forward prices and shall calculate the hourly weighted average of the two forward prices to determine the FBPF.
- (e) "Marketer" means an entity that sells bulk power for resale and has a market-based rate schedule on file with FERC, and is not a PNW Investor-Owned Utility, a PNW Public, or BPA.

- (f) “Mid-C” means the trading hub located in eastern Washington that is commonly recognized by EDPs and other industry participants as the Mid-C trading hub.
- (g) “PNW Investor-Owned Utility” means each of the following investor-owned utilities (and its investor-owned utility successors and assigns) that serves residential and small farm customers in the Pacific Northwest: Puget Sound Energy, Inc., PacifiCorp, Portland General Electric, Avista Corporation, Idaho Power Company, and NorthWestern Energy, a Division of NorthWestern Corporation.
- (h) “PNW Public” means a Pacific Northwest public or people’s utility district, municipality, or cooperative that is entitled to preference and priority under the provisions of the Bonneville Project Act.
- (i) “Qualified Third Party,” or “QTP,” means a third party that has extensive expertise in the electric power industry, including experience in auditing FAS 133 (or its successor) compliance and risk accounting for publicly reporting entities in the electric power industry, and is selected by BPA in accordance with section 4 of this Exhibit C.
- (j) “Replacement Information Event” means (1) sufficient Forward Price Data as described in this Exhibit D is unobtainable for any reason, or (2) fewer than six entities (i) are on the list of EDPs, (ii) are willing and able to provide Forward Price Data, and (iii) have not been excluded pursuant to section 5.
- (k) “Stipulation” means the Stipulation and Agreement for Settlement, Contract No. 04PB-11417.

3. COMMITTEE

- (a) The BPA representative will be selected by the Vice President, Bulk Marketing & Transmission Services or that person’s successor. The PNW Public representative will be selected by the Public Power Council Executive Committee or that Committee’s successor. The PNW Investor-Owned Utility representative will be selected by agreement of the PNW Investor-Owned Utilities that have executed the Stipulation. If a representative on the Committee is replaced, then the new representative shall notify the other two representatives in writing of such replacement(s).
- (b) If a representative to the Committee has not been selected, the other representatives or representative shall provide written notice to the selecting entity that has not provided a representative of the need to select a representative for the Committee. If such entity does not appoint a representative within 30 days, the existing representatives of the Committee shall be authorized to act on all matters of the Committee requiring an affirmative vote by each representative on the Committee.

- (c) All actions and determinations by the Committee shall be by affirmative vote of each representative on the Committee.

4. QTP

- (a) Before each Contract Year, BPA shall select a QTP from a list of qualified parties submitted to it by the Committee. Such list compiled by the Committee shall, at a minimum, include the four largest internationally recognized accounting firms, which currently include KPMG, Deloitte and Touche, Pricewaterhouse Coopers, and Ernst & Young (“**Big 4 Accounting Firms**”). Each additional qualified party to be included on such list will require an affirmative vote by each representative on the Committee.
- (b) BPA will consult with the PNW IOU and the PNW Public representatives on the Committee prior to selecting the QTP. The initial QTP selected shall be retained for the first Contract Year only, with an option to extend for subsequent Contract Years. BPA shall pay the costs for services provided by the QTP.
- (c) If, after consulting with the Committee, BPA determines that the contract for the then-current QTP will not be extended, BPA will, upon advice of the Committee, replace the existing QTP. The Committee will consult and decide whether to add additional qualified parties to the list.
- (d) Each contract with the QTP shall include a requirement that: (1) the QTP maintain the confidentiality of the data collected from the EDPs except for making the data available to a reviewer selected under section 8, (2) the QTP shall maintain the Forward Price Data it has collected under its contract until September 30, 2011, (3) the QTP shall submit, in writing, for resolution by the Committee, consistent with the purpose and requirements of this Exhibit C, any question it may have regarding the determination of the FBPF under section 6, and (4) the QTP shall, not later than 60 days prior to its first survey under section 6(a), provide the Committee and each PNW Investor-Owned Utility a sample calculation of FBPF using hypothetical data.
- (e) All contracts and communications between BPA and the QTP with respect to the determination of the FBPF shall be shared promptly with the Committee and PNW Investor-Owned Utilities.

5. EDPs

- (a) Following the selection of the QTP by BPA, the Committee shall develop a list of EDPs and submit such list to the QTP. Each EDP included on such list will require an affirmative vote by each representative on the Committee. If possible, such list will contain at least 10 EDPs, and, if possible, each survey by the QTP will include at least two PNW Publics, two PNW Investor-Owned Utilities, and two Marketers. Such list may be modified from time to time to

(a) add EDPs that meet the criteria in section 2(b) above, or (b) remove EDPs that no longer satisfy the criteria specified in section 2(b) above, as determined by an affirmative vote by each representative on the Committee.

- (b) In addition, if any EDP submits Forward Price Data two or more times during any period of four consecutive quarters and more than 50 percent of such submittals by such EDP are (pursuant to Section 6(b) of this Exhibit) excluded as being the highest or lowest Forward Price Data and such excluded Forward Price Data for any such Quarter differs from the Quarterly FBPF for such quarter by more than 5 percent, the QTP shall, for the next four quarters following such period, not include such EDP in the selection for its surveys.

6. DETERMINATION OF FBPF FOR EACH CONTRACT YEAR

- (a) For each Contract Year, the QTP will randomly select six to eight EDPs separately for each of four consecutive quarters, the first of which commences 21 months prior to the beginning of such Contract Year and the last of which ends 9 months prior to such Contract Year, from the list of EDPs provided to it by the Committee. The QTP will then survey the EDPs that have been selected. If there are fewer than six EDPs on the list willing and able (and not excluded under section 5(b)) to provide Forward Price Data, then the QTP will ask the Committee to add EDPs to such list. If the Committee is unable to do so, and there are still fewer than six EDPs on the list willing and able to provide Forward Price Data, then the QTP will survey all of the EDPs on such list (excluding any EDP that has been excluded pursuant to section 5(b) above) until such time as there are at least six EDPs on such list. The QTP will notify the Committee and each PNW Investor-Owned Utility in writing if an EDP chooses not to participate in future surveys. The QTP will ask each selected EDP to provide Forward Price Data for such Contract Year as of a date randomly selected separately for each EDP by the QTP during each such quarter; *provided, however*, that such date shall have occurred prior to date of request by the QTP.
- (b) Following the completion of each quarterly survey conducted pursuant to section 6(a) above, the QTP shall exclude the highest and lowest Forward Price Data from the EDPs surveyed during each such quarter. The QTP shall then calculate the arithmetic mean of the remaining Forward Price Data amounts to determine that quarter's FBPF (the "**Quarterly FBPF**") for such Contract Year.
- (c) Following the completion of the four quarterly surveys identified in section 6(a) above, the QTP shall calculate the arithmetic mean of the four Quarterly FBPFs. The result of this calculation will be the FBPF that will be used for such Contract Year, and the QTP shall promptly report such FBPF to the Committee and each PNW Investor-Owned Utility.

7. EDP AGREEMENT

BPA, NorthWestern, each of the other PNW Investor-Owned Utilities that has signed the Stipulation, and each EDP shall be required to sign an agreement (hereinafter referred to as “**EDP Agreement**”) which shall include without limitation the following provisions:

- (a) An affirmation by an executive officer of the EDP that the EDP is an active market participant in wholesale power markets of the Pacific Northwest, that the EDP routinely produces Forward Price Data in the normal course of business, that the process for producing such Forward Price Data is routinely audited by an outside certified public accounting firm, that the Forward Price Data is used in the normal course of business, and that such Forward Price Data has been validated by (1) the mid-office, e.g., Chief Risk Officer, or equivalent, or (2) the back-office, e.g., Chief Financial Officer, or equivalent;
- (b) A specification of the information to be provided as described in this Exhibit C which shall include without limitation power product definition, delivery point, contract period, and use of mid-point;
- (c) Each EDP shall be required to keep confidential the dates on which it was surveyed and the Forward Price Data that it provided;
- (d) A release of liability for each EDP from the consequences of any use of surveyed Forward Price Data;
- (e) Each EDP will consent to an agreed upon procedure described in section 8 below to verify that the Forward Price Data provided to the QTP was the same Forward Price Data routinely used by the EDP for risk accounting in the normal course of business;
- (f) The term of the EDP Agreement; and
- (g) Forward Price Data will be made available to an independent reviewer and verifier on a confidential basis, for review and verification purposes only.

8. REVIEW PROVISIONS

(a) Verification of Use of Forward Price Data Provided by EDPs

- (1) Not later than 90 days after each Contract Year, the PNW Public representative on the Committee or a PNW Investor-Owned Utility or BPA may request a review of the Forward Price Data provided by each surveyed EDP to the QTP for that Contract Year for the purpose of verifying that the Forward Price Data provided by the EDP to the QTP was the same Forward Price Data routinely used by such EDP for risk accounting in the normal course of business. Collectively, only one review may be requested by the PNW Public Representative on

the Committee, BPA, and the PNW Investor-Owned Utilities for any Contract Year;

- (2) The review shall be conducted by one of the Big 4 Accounting Firms (“**Reviewer**”), unless otherwise agreed to by BPA and the PNW Investor-Owned Utilities; *provided, however* that any such review shall not be conducted by the QTP;
- (3) For purposes of this section, a review is defined as “Agreed Upon Procedures” described in section 8(a)(4) below and performed in accordance with the standards established by the American Institute of Certified Public Accountants;
- (4) The Agreed Upon Procedures shall be limited to the Reviewer verifying through review of internal documents for each EDP that the Forward Price Data provided by the EDP to the QTP was the same Forward Price Data routinely used by such EDP for risk accounting in the normal course of business. The Agreed Upon Procedures shall not include any form of general audit of the EDP’s books, records, or documents. EDP methods for determining Forward Price Data, accounting policies or procedures, management decisions, activities or authorities, or any decisions related to Forward Price Data shall not be included in any such Agreed Upon Procedures and shall not be subject to dispute;
- (5) The representative or entity requesting a review will be responsible for the costs associated with the review in accordance with the Agreed Upon Procedures and for the execution of a confidentiality agreement with the Reviewer consistent with the provisions of this section 8(a);
- (6) The agreement with the Reviewer will require the Reviewer to maintain the confidentiality of all entity-specific information provided by the EDPs in the review. The Reviewer will report to the entity requesting the review only the number of EDPs that were surveyed each quarter for the Contract Year covered by the review and the identity of any EDP where the Forward Price Data provided to the QTP for a quarter was not the same Forward Price Data routinely used by the EDP for risk accounting in the normal course of business. The representative or entity requesting the review shall promptly share such report with the Committee and the PNW Investor-Owned Utilities.

(b) Verification of QTP Calculations

- (1) Not later than 90 days after each Contract Year, the PNW Public representative on the Committee, a PNW Investor-Owned Utility, or BPA may request a review to verify the procedures and calculations

used by the QTP under this Exhibit D to determine the FBPF for each such Contract Year.

- (2) The review shall be conducted by one of the Big 4 Accounting Firms (“**Verifier**”), unless otherwise agreed to by BPA and the PNW Investor-Owned Utilities; *provided, however* that any such review shall not be conducted by the QTP;
- (3) For purposes of this section, a review is defined as “Agreed Upon Procedures” described in section 8(b)(4) below and performed in accordance with the standards established by the American Institute of Certified Public Accountants;
- (4) The Agreed Upon Procedures shall be limited to verification of that the procedures required in section 6(a) were followed and the calculations required by sections 6(b) and 6(c) were performed correctly.
- (5) The representative or entity requesting a review will be responsible for the costs associated with the review in accordance with the Agreed Upon Procedures and for the execution of a confidentiality agreement with the Verifier consistent with the provisions of this section 8(a);
- (6) The agreement with the Verifier will require the Verifier to maintain the confidentiality of all entity-specific information provided by the EDPs in the review. The Verifier will report to the entity requesting the review its analysis whether the procedures for section 6(a) were followed and its analysis of the correct calculations for section 6(b) and section 6(c). The representative or entity requesting the review shall promptly share such report with the Committee and the PNW Investor-Owned Utilities.

9. REPLACEMENT INFORMATION EVENT

If BPA, NorthWestern, or any of the other PNW Investor-Owned Utilities gives written notice to each of the others that it has concluded that a Replacement Information Event has occurred and describes the circumstances that give rise to such conclusion, then BPA, NorthWestern, and the other PNW Investor-Owned Utilities shall endeavor to agree upon whether such Replacement Information Event has occurred. If such parties agree, then such parties shall endeavor to agree upon a reasonable and reliable substitute source of information that can be expected to reasonably closely replicate the same Forward Price Data as would have been developed under this Exhibit C in the absence of any Replacement Information Event. If and to the extent such parties are unable to agree (i) that a Replacement Information Event has occurred, or (ii) on a substitute source of information, then the disputed matter shall be settled by arbitration under the procedures set forth in section 11 of the body of this Agreement with BPA acting as one party in the arbitration and the PNW Investor-Owned Utilities acting as the other party in the arbitration (including the selection of arbitrators). BPA, NorthWestern, and the

other PNW Investor-Owned Utilities agree to be bound by the result of such arbitration as described in section 11 of the body of this Agreement. Prior to reaching agreement that a Replacement Information Event has occurred, and again prior to reaching agreement on a substitute source of information to remedy a Replacement Information Event, BPA shall consult with the PNW Public representative on the Committee. Such consultation shall include a discussion regarding whether a Replacement Information Event has occurred, and if so, a discussion regarding the alternatives being considered, and the alternative BPA believes most closely replicates the same Forward Price Data as would have been developed under this Exhibit C in the absence of any Replacement Information Event. Subsequent to the selection of the arbitrators for an arbitration pursuant to this section 9, PNW Publics may intervene in such arbitration and participate as a single intervenor party in the conduct of such arbitration, with the same rights and obligations of any other party in such arbitration (including being subject to an apportionment of the costs of such arbitration). In resolving any dispute regarding a Replacement Information Event, the arbitrators shall select, from among the alternative solutions presented, the alternative that most closely replicates the same Forward Price Data as would have been developed under this Exhibit C prior to any Replacement Information Event. Any substitute source of information developed pursuant to this section 9 shall only apply prospectively.

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Exhibit D
ANNUAL DEFERRAL AMOUNTS AND
MONTHLY DEFERRAL AMOUNTS

1. ANNUAL DEFERRAL AMOUNTS

<u>Contract Year</u>	<u>Annual Deferral Amount</u>
2003	\$521,056
2004	«dollar amount»
2005	«dollar amount»
2006	<u>«dollar amount»</u>
Total:	«dollar amount»

2. MONTHLY DEFERRAL AMOUNTS

<u>Contract Year 2003</u>	<u>Monthly Deferral Amount</u>
February 2003	\$65,132
March 2003	\$65,132
April 2003	\$65,132
May 2003	\$65,132
June 2003	\$65,132
July 2003	\$65,132
August 2003	\$65,132
September 2003	\$65,132

<u>Contract Year 2004</u>	<u>Monthly Deferral Amount</u>
February 2004	«dollar amount»
March 2004	«dollar amount»
April 2004	«dollar amount»
May 2004	«dollar amount»
June 2004	«dollar amount»
July 2004	«dollar amount»
August 2004	«dollar amount»
September 2004	«dollar amount»

<u>Contract Year 2005</u>	<u>Monthly Deferral Amount</u>
October 2004	«dollar amount»
November 2004	«dollar amount»
December 2004	«dollar amount»
January 2005	«dollar amount»
February 2005	«dollar amount»
March 2005	«dollar amount»
April 2005	«dollar amount»
May 2005	«dollar amount»
June 2005	«dollar amount»
July 2005	«dollar amount»

<u>Contract Year 2005</u>	<u>Monthly Deferral Amount</u>
August 2005	«dollar amount»
September 2005	«dollar amount»
<u>Contract Year 2006</u>	<u>Monthly Deferral Amount</u>
October 2005	«dollar amount»
November 2005	«dollar amount»
December 2005	«dollar amount»
January 2006	«dollar amount»
February 2006	«dollar amount»
March 2006	«dollar amount»
April 2006	«dollar amount»
May 2006	«dollar amount»
June 2006	«dollar amount»
July 2006	«dollar amount»
August 2006	«dollar amount»
September 2006	«dollar amount»

3. REVISION OF THIS EXHIBIT D

- (a) NorthWestern may, at its sole discretion, revise this Exhibit D by written notice to BPA received prior to the 120th day after the Effective Date to increase the Annual Deferral Amounts and Monthly Deferral Amounts for Contract Years 2004, 2005, and 2006. If such Annual Deferral Amounts and Monthly Deferral Amounts for Contract Years 2004, 2005, and 2006 contain no dollar amounts when this Amendment No. 3 is executed by NorthWestern, such amounts shall be considered zero. The sum of the Monthly Deferral Amounts for any Contract Year must equal the Annual Deferral Amount for such Contract Year as a result of such increase.

- (b) If the revisions of this Exhibit D submitted by NorthWestern and other PNW Investor-Owned Utilities under the contract amendments identified in section 3 of the Stipulation result in an aggregate amount of Annual Deferral Amounts greater than \$75 million per year in Contract Year 2004, 2005, or 2006, BPA may revise this Exhibit D by written notice to NorthWestern received prior to the 135th day after the Effective Date to reduce the aggregate amount of such Annual Deferral Amounts to \$75 million per year. BPA's revision shall reduce the Annual Deferral Amount and Monthly Deferral Amount for such Contract Year in Exhibit D and the similar exhibit in such other PNW Investor-Owned Utility contracts on a pro rata basis in proportion to the respective Annual Deferral Amounts.