



## Department of Energy

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

February 13, 2009

In reply refer to: PT-5

To regional customers, stakeholders and other interested parties:

The Bonneville Power Administration is proposing to amend its 2007 Block Power Sales Agreement (2007 Block Contract) with Montana-based Columbia Falls Aluminum Company and Flathead Electric Coop Inc., to use the industrial power rate as the basis for the monetized arrangement directly between Bonneville and CFAC.

On December 17, 2008, the United States Court of Appeals for the Ninth Circuit invalidated BPA's monetization of the sale under the 2007 Block Contracts, inasmuch as BPA failed to base the monetization on the IP rate (December Opinion). The immediate impact of the ruling was that BPA could not make additional payments under the 2007 Block Contract in its original form, and BPA concluded that payments must be suspended pending an amendment. As a result, CFAC has not received payments since payments made by BPA prior to the December Opinion for November 2008 operations.

BPA and CFAC have negotiated a proposed amendment to the 2007 Block Contract for the balance of FY 2009, and to recalculate payments for the months of December 2008, and January and February 2009, to be consistent with the December Opinion. The proposed amendment is substantially similar to the amendment entered into with Alcoa in January 2009, and provides for BPA to monetize a power sale to CFAC in a manner consistent with the December Opinion. However, CFAC has agreed to operate ½ of a pot line through June and employ a minimum of 85 workers, or the amendment may be terminated by BPA. In the event CFAC meets the foregoing operating and employment level requirements through June, it will be eligible to receive payments from Bonneville under the amendment for operations through September.

BPA will separately address the FY 2010-11 period under the 2007 Block Contract, and will engage with the public on the terms for any amendment or replacement agreement for the FY 2010-11 period. In addition, BPA understands it must address the look-back issue associated with payments made under the 2007 Block Contract during the FY 2007-08 period, and intends to engage the region once we have an opportunity to consider all these arrangements more thoroughly.

BPA moved quickly to implement the amendment with Alcoa and is moving quickly now to amend the 2007 Block Contract with CFAC to prevent, if possible, additional interruptions of smelter operations, especially given the difficult economic times and potential loss of additional jobs. CFAC's recent announcement of a likely plant closure reinforces the need to move quickly.

This proposed amendment will be available for public review and comment until Friday, February 20, 2009. The proposed contract amendment is available for review on BPA's Web site at [www.bpa.gov/power/pl/regionaldialogue/implementation/documents/](http://www.bpa.gov/power/pl/regionaldialogue/implementation/documents/).

We look forward to any comments you may have, which should be provided via BPA's electronic comment system at [www.bpa.gov/comment](http://www.bpa.gov/comment), by 5 p.m. February 20, 2009. If you have additional questions about this issue, please call Mark Miller at (503) 230-4003 or Heidi Helwig of the Public Affairs Office at (503) 230-3458.

Sincerely,

*//s// Paul Norman, 2/13/09*

Paul E. Norman  
Senior Vice President  
Power Services