Port Townsend Paper Corporation's Request to include its Load in Jefferson County PUD's Contract High Water Mark

Background

During BPA's Contract High Water Mark (CHWM) process, Port Townsend Paper Corporation (PTPC) and Jefferson County PUD (Jefferson PUD) submitted comments that requested BPA include the entire load for the PTPC Unbleached Kraft Pulp and Paper mill in Jefferson PUD's CHWM. The PTPC Unbleached Kraft Pulp and Paper mill load is located in Jefferson County, Washington, and is in Jefferson PUD's retail service area. PTPC and Jefferson PUD's comments are attached as appendixes A and B.

PTPC is currently a Direct Service Industry (DSI) taking service from BPA at the Industrial Firm Power (IP) rate under a contract that runs through August 31, 2013. The PTPC mill consists of two distinct plant loads, the Old Corrugated Container (OCC) load (3.275 aMW) and the Unbleached Kraft Pulp and Paper (main mill) load (approximately 17 aMW). For purposes of this policy proposal, only service to the main mill load is under consideration. The OCC load, which BPA determined in 2006 was a new and separate facility from the rest of the plant load, has already been included in Jefferson PUD's CHWM as part of its FY 2013 Total Retail Load. This decision is further explained in the *Close-Out Summary: Contract High Water Mark Calculations* paper issued by BPA on April 14, 2011.

Jefferson PUD is a new public customer. It executed a Regional Dialogue power sales agreement with BPA in August 2010, and power deliveries under that contract are expected to begin in July 2013. Jefferson PUD and PTPC executed service agreements for both the PTPC OCC load and main mill load on March 25, 2011.

Policy Considerations

1) New Large Single Load (NLSL) Policy Issue

PTPC asks for reconsideration of BPA's NLSL policy on transferred load. As defined in section 3(13) of the Northwest Power Act, loads that increase by 10 aMW or more in any 12 consecutive months are treated as NLSLs and get service with power purchased at the higher New Resources (7f) rate instead of the lower-cost PF rates. BPA's current NLSL policy was adopted in 2006 and states that large loads transferring to a public utility from service by either BPA as a DSI, an IOU, or another public utility are NLSLs and thus eligible for service at the New Resource (NR) rate. The policy treats DSI load as an aggregated load and does not allow for the incremental transfer of existing large loads.

In PTPC's March 18, 2011 letter, it was requested that in order to accommodate including its entire mill load in Jefferson PUD's CHWM, BPA should adopt an alternative interpretation of BPA's current NLSL policy on transferred load. PTPC suggested that BPA's current NLSL policy limits DSI service to the IP rate because BPA assumed the IP rate would continue to afford a viable avenue for providing service to the

DSIs. PTPC argues that because of changes in circumstances, including the court's recent opinion in *Pac. Nw.Generating Coop., et al., v. Bonneville Power Admin.*, 580 F.3d 828 (9th Cir. 2009), *amended on denial of reh'g*, 596 F.3d 1065 (9th Cir. 2010) (*PNGC II*) on BPA's ability to provide power at an IP rate, there is now a basis to modify the NLSL policy to allow the incremental transfer of existing large loads to a public utility at a PF rate. PTPC's proposed change would allow the transfer of the PTPC main mill load to Jefferson PUD in 9.9 aMW annual increments.

2) Tiered Rate Methodology and CHWM Issue

Although PTPC does not request that the Tiered Rates Methodology (TRM) be revised, a revision to section 4.1.6.2 of the TRM would also be required in order to accommodate PTPC's request to include the entire main mill load in Jefferson PUD's CHWM. Under section 4.1.6.2 of the TRM, a new public's CHWM is based on forecasted Total Retail Load (less applicable non-federal resources and NLSLs) for the first fiscal year power deliveries begin under the new public's Regional Dialogue contract. Therefore, assuming the proposed change to the NLSL policy discussed above was made and absent a revision to the TRM, Jefferson PUD's CHWM amount associated with the PTPC main mill load would still be limited to 9.9 aMW because only 9.9 aMW could be transferred to Jefferson PUD in FY 2013, which is the first year the utility expects to begin service from BPA under the contract. When the remaining load is transferred to Jefferson PUD in FY 2014, it would be Above-Rate Period High Water Mark (RHWM) load for Jefferson PUD and would be eligible to be served by BPA at a Tier 2 rate or could be served by Jefferson PUD with a non-federal resource.

The TRM contains provisions for the process of revising the TRM. This process is described in section 13 of the TRM, *Process for TRM Revisions*.

Given the NLSL and TRM constraints associated with PTPC's request, BPA has identified two potential alternatives for future service by Jefferson PUD to PTPC's main mill load in addition to the existing options. These options are discussed below. BPA is taking comments from interested parties on these options and other potential alternatives as well. Comments must be submitted to BPA by July 1, 2011, and may be emailed to comment@bpa.gov or submitted on the BPA website at www.bpa.gov/comment.

Existing Options for Service to PTPC

Under BPA's currently existing policies, Jefferson PUD and PTPC have the options of PTPC remaining a DSI or being served by Jefferson PUD as an NLSL under the Renewables and On-Site Cogeneration Option.

PTPC could remain a DSI and continue being served by BPA under a direct service contract at the IP rate, as available. PTPC could also be served by Jefferson PUD and, as an NLSL, and could be served at the NR rate, served with a designated non-federal resource, or, if PTPC took advantage of the NLSL "green exception" discussed below, the PF rate. Either way, no change to the existing NLSL policy and no revision of the TRM would be required.

If PTPC opted to be served by Jefferson PUD, PTPC could utilize the NLSL policy's Renewables and On-Site Cogeneration Option (the "green exception"). The "green exception" allows consumers with large loads that would otherwise be designated as NLSLs to get service at the PF rate for up to 9.9 aMW if the consumer serves the remaining load through the continuous application of on-site cogeneration or a renewable resource. The application of an off-site renewable resource is no longer available under the NLSL policy.

PTPC is currently planning to participate in the construction of an on-site renewable cogeneration project that could potentially be used to serve its load above 9.9 aMW and therefore qualify for the "green exception." Accordingly, Jefferson PUD could receive power at the PF Tier 1 rate to serve up to 9.9 aMW of the PTPC main mill load if PTPC applied this planned on-site cogeneration sufficient to reduce its load to less than 10 aMW. However, PTPC has indicated that the economics of the cogeneration project may not make this a viable option.

Potential Options for Service to PTPC

I. <u>Alternative #1:</u> The existing NLSL policy is revised to enable a consumer to disaggregate large loads and incrementally transfer such loads to a public utility without being treated as an NLSL.

Under this alternative, the current NLSL policy would be revised to allow a public utility and a consumer to incrementally transfer up to 9.9 aMW of load a year to a public utility and receive service at a PF rate. This policy change would result in PTPC being able to transfer to Jefferson PUD 9.9 aMW of its main mill load in FY 2013 and the remainder of the load in FY 2014 without the load becoming an NLSL. The 9.9 aMW of load transferred to Jefferson PUD in FY 2013 would be included in Jefferson PUD's CHWM as part of its FY 2013 forecasted Total Retail Load and therefore would be eligible for service at BPA's Tier 1 rate. The remaining load transferred in FY 2014 would be Above-RHWM load and as such could be served by BPA at a Tier 2 rate or by Jefferson PUD with a non-federal resource.

II. __Alternative #2:__ **The existing NLSL policy is revised to enable a consumer to disaggregate large loads and incrementally transfer such loads to a public utility without being treated as an NLSL, and the TRM is revised to allow a new public's CHWM to include load additions from large loads that are planned to occur in years other than the first year of service under the Regional Dialogue power sales agreement.**

Under this alternative, in addition to revising the current NLSL policy as discussed in Alternative #1 above, a revision to section 4.6.1.2 of the TRM would be needed that would allow a new public's CHWM to include planned load additions from large loads even if those load additions do not immediately occur in the first year of service under the new public's Regional Dialogue power sales agreement. Any such revision to the TRM would be proposed and conducted in accordance with section 13 of the TRM. If the TRM was revised accordingly, the revision would result in Jefferson PUD being able to include the entire PTPC main mill load in its CHWM and, therefore, the entire PTPC main mill load would be eligible for service at BPA's Tier 1 rate.

COMMENTS OF EVELEEN MUEHLETHALER
VICE PRESIDENT
PORT TOWNSEND PAPER CORPORATION

MARCH 18, 2011

PORT TOWNSEND PAPER CORPORATION'S LOADS

My company, Port Townsend Paper Corporation ("PTPC"), owns and operates the Unbleached Kraft Pulp and Paper mill in Jefferson County Washington. We are the largest private employer in Jefferson County. We provide 300 family-wage jobs at our mill. In addition, we send an additional $125,000,000 into the neighboring area for the purchase of raw materials and other supplies, supporting hundreds of additional local jobs.

PTPC needs a reliable and economic 20.5 MW power supply to operate. Since 1947 it has purchased this power from Bonneville Power Administration ("BPA") as a direct service industrial ("DSI") customer. The BPA has found that it is serving two distinct PTPC loads, the 3.275 MW load for the newer Old Corrugated Cardboard, or OCC, recycle plant and the mill load (about 17 MW).

Today there exists a unique opportunity for the PTPC mill to become a customer of a newly formed BPA preference customer, Public Utility District No. 1 of Jefferson County Oregon ("JPUD"). JPUD expects to commence operations in 2013. PTPC is eligible for service from JPUD to supply power for its OCC facility, and BPA has preliminarily included the OCC load in JPUD's contract high water mark ("CHWM"). PTPC also needs to secure a long term and affordable source of power for its mill load. We ask that our mill load also be included in JPUD's CHWM, so that we could be assured a long-term affordable power supply. JPUD could then use BPA's tier 1 power to serve the mill. JPUD has expressed its desire to provide this service.

PTPC understands that no more than 9.9 MW of the mill load could be shifted per year and that the total Tier 1 entitlement for new public utilities also is limited to a maximum of 50 MW per rate period. We seek no changes to these limitations.

I understand that BPA has the statutory authority to allow PTPC to shift its mill load per year to JPUD in up to 9.9 MW annual amounts without becoming a new large single load ("NLSL"). Under this statutory authority, Port Townsend could move its load entirely to the PUD by the second year of the PUD's operation. However, I also understand that in the past, BPA has been unwilling to allow PTPC to make such shifts because such allowance would constitute a change in BPA's NLSL policy.

NLSLs, as defined in the Northwest Power Planning and Conservation Act, are not eligible for service at favorable BPA rates. The BPA NLSL policy has been more restrictive on Port Townsend than the requirements of applicable law, based on policy considerations that are no longer applicable.

The Northwest Power Planning and Conservation Act makes clear that a load is a NLSL only if it results in an increase in power requirements of a utility customer of ten average megawatts or more in any consecutive twelve-month period:

> "'New Large Single Load' means any load associated with a new facility, an existing facility, or an expansion of an existing facility:
>
> (1) which is not contracted for, or committed to, as determined by Bonneville, by a public body, cooperative, investor-owned utility, or Federal agency Customer prior to September 1, 1979, and
>
> (2) which will result in an increase in power requirements of such Customer of ten average megawatts or more in any consecutive twelve month period."

Even though the applicable statutory prohibition only applies if the utility customer takes on new facility loads greater than 10 average megawatts in a 12-month period, BPA policy historically has barred its DSI customers from shifting their loads to BPA's Customers in annual amounts of less than 10 average megawatts. This prohibition served to ensure that the DSIs like PTPC continued to purchase power from BPA at its industrial power ("IP") rates. However, BPA now believes that court decisions restrict its ability to offer power at the IP rate. Thus, this reason for preventing Port Townsend's relatively modest load from migrating to JPUD no longer exists.

In a January 15, 2003 policy discussion paper, BPA put out for discussion various policy options available to BPA for treatment of DSI 1981 Contract Demand that shifted to a BPA utility customer. The options were (a) continue to treat all such shifted load as an NLSL load, even if the shifted load were less than 10 average megawatts, (b) allow a shift of less than 10 average megawatts, without triggering NLSL status, if BPA reduced its IP contract demand to such DSI below the 1981 Contract Demand, or (c) allow annual shifts of 9.9 average megawatts without a triggering of NLSL status.

In its Summary of January 2005 Regional Dialogue Policy Decisions, BPA stated that it had decided to retain option (a), which would not allow additional phase-in of DSI 1981 Contract Demands. That decision relied on BPA's belief that it had other tools available to address continuing service to DSIs, such as provision of service at a negotiated Section 7(f) rate. The paper stated "[t]his policy does not preclude BPA from selling surplus firm power consistent with Section 5(f) of the Northwest Power Act to utility customers at a Section 7(f) rate to serve former DSI load." In subsequent decisions, however, the Ninth Circuit denied BPA the power marketing flexibility it thought it had and that justified retention of its restrictive policy.

Port Townsend requests BPA now employ option (c) and allow JPUD include in its CHWM both the OCC load and the load for balance of the mill. The creation of JPUD's CHWM represents a one-time opportunity for BPA to save hundreds of good jobs that families in Jefferson County rely on, and I urge BPA to act with these families in mind.

Public Utility District #1

Of Jefferson County

March 25, 2011

Bonneville Power Agency
P.O. Box 14428
Portland, OR 97293-4428

SUBJECT: CHWM

Jefferson County PUD appreciates this opportunity to comment on the determination of its CHWM. The process that resulted in that determination was thorough and appears to have resulted in a fair estimation of our customer's demand once we start providing electric service to the citizens of Jefferson County. JPUD's CDQ was determined during the same time pursuant to Section 5.3.5.3, Calculating New Public's CDQs, of the TRM. We feel that that process also resulted in a fair estimation of JPUD's CDQ.

We appreciate the inclusion of the load for Port Townsend Paper's Old Corrugated Container facility in JPUD's CHWM. Port Townsend Paper is an important member of the Jefferson County community and we are pleased to be able to serve them. It is our hope that some way can be found for JPUD to be able to serve Port Townsend Paper's entire load in a similar manner.

James G. Parker, PE
Manager

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