

2009 WIND INTEGRATION RATE CASE FINAL PROPOSAL

FINAL RECORD OF DECISION

June 2008



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1.0 PROCEDURAL HISTORY

1.1 Introduction

This record of decision contains the decisions of the Administrator of the Bonneville Power Administration (BPA) establishing a Wind Integration – Within-Hour Balancing Service rate for the one-year rate period beginning October 1, 2008, and ending September 30, 2009 (fiscal year 2009). These decisions are based on the record compiled in this rate proceeding. The rate was proposed as a result of a comprehensive settlement agreement between BPA and a diverse group of transmission customers, including merchant generators, investor-owned utilities, BPA’s partial and full requirements wholesale power customers, and power marketers. The decision to adopt the rate proposed by the settlement agreement is not intended to create or imply any factual, legal, procedural or substantive precedent, or to create agreement to any underlying principle or methodology.

1.2 Procedural History of the Rate Proceeding

This rate case grew out of a provision in the 2008 transmission rate case settlement, and the formal proceeding was preceded by several rate case workshops. This history is described below.

1.2.1 2008 Transmission Rate Case Settlement

In 2007 BPA held a rate case to establish transmission rates for the two-year period October 1, 2007, to September 30, 2009 (fiscal years 2008 and 2009). BPA and the parties to the rate case entered into a settlement agreement regarding the proposed rates, and the Administrator adopted the settlement and established the rates included in the settlement agreement. Paragraph 4 of the settlement agreement provided that the signatories recognized that during the rate period BPA might conduct a rate case for the purpose of adopting a rate for generation regulation service and/or generation following service. BPA proposed this Wind Integration – Within-Hour Balancing Service rate pursuant to paragraph 4.

1.2.2 Rate Case Workshops

In preparation for the 2009 Wind Integration Rate Case, BPA held five public rate case workshops with BPA’s transmission customers and interested parties: on September 11, September 27, October 25, November 30, and December 7, 2007. In addition, BPA held conference calls with the parties on technical rates issues on September 27 and November 27, 2007. BPA published notices of all five workshops and the two conference calls, all of which were well attended. During the workshops, BPA presented and discussed detailed information about the proposed rate, the forecast of reserve needs, the calculation of costs, and the rate design. The conference calls covered the forecasted reserve needs in greater detail than the workshops. Customers and interested parties had adequate opportunity to participate, raise issues, ask questions, and comment on the information that BPA presented.

1.2.3 NEPA Compliance

BPA has assessed the potential environmental effects associated with the Wind Integration – Within-Hour Balancing Service rate proposal, consistent with the National Environmental Policy Act (NEPA), 42 U.S.C. § 4321 et seq. The NEPA analysis is conducted separately from the formal rate process. Comments raising environmental issues that are received as part of the formal rate process, if any, are evaluated by BPA’s environmental staff in the separate NEPA analysis for the rate proposal. No comments were received. Section 3 provides a discussion of BPA’s NEPA analysis for this rate proposal.

1.3 Settlement of the Rate Case

1.3.1 Settlement Discussions

At the rate case workshops, BPA and the parties agreed to explore the possibility of settling the rate case. The Federal Register notice of the WI-09 rate case, including the proposed rate, was published on February 7, 2008. On February 13, 2008, BPA met with the parties to identify issues for settlement discussions. During the rest of February and March, BPA published notices of the settlement discussions and related documents on the BPA Transmission Services Web site and met with the parties to negotiate a settlement of the rate case. Settlement discussions were held on February 13, February 14, February 20, February 22, February 25, and March 4, 2008. BPA provided the parties adequate opportunity to raise issues and to participate in and comment on the settlement process and the terms of the settlement agreement. BPA arranged a telephone bridge to provide those parties that could not attend in person the opportunity to monitor and participate in meetings by telephone.

Certain parties were regular attendees at the settlement negotiations and actively participated in negotiating the settlement agreement terms. Other parties attended the settlement discussions intermittently to comment on issues and areas of direct concern to their interests. Draft settlement agreements were periodically circulated and posted on the Transmission Services Web site for review and comment.

1.3.2 Settlement Agreement

BPA and most of the parties that attended the negotiation sessions reached agreement on the proposed rate level and other issues, and the terms were incorporated into the jointly developed settlement agreement, which is appended to this record of decision as Appendix A.

On March 3, 2008, BPA posted the proposed terms of settlement on the Transmission Services Web site and sent a notice to the rate case parties by electronic mail asking them to indicate by e-mail, no later than close of business March 6, whether or not they would expect to execute a settlement agreement on these terms. BPA stated that it would proceed with the settlement if it received sufficient indication of support.

On March 7, BPA sent an e-mail to the rate case parties informing them that it did not receive support from enough parties to enable BPA to proceed on the proposed terms. In hopes that BPA and the parties could still reach a settlement, BPA revised the settlement agreement and attached the revised agreement to its e-mail. BPA asked the parties to indicate by reply e-mail no later than close of business March 10 whether they would expect to execute a settlement agreement on the new terms.

On March 11, BPA sent an e-mail to the rate case parties informing them that it had still not received sufficient support for the settlement and that it was proceeding with the rate case on schedule. BPA added, however, that it remained willing to proceed with the settlement if sufficient additional parties agreed to execute the revised settlement agreement.

On March 12, one of the parties that had indicated it would not sign the revised settlement agreement notified BPA via e-mail that it had now decided to sign the agreement. BPA then determined that there was sufficient support for it to proceed with the settlement. Accordingly, on March 13 BPA filed a motion to stay the proceeding, in which BPA asked the hearing officer to set a second prehearing conference for Thursday, March 20, at which BPA would introduce into evidence a revised proposal incorporating the settlement agreement and would request an order under which the parties must indicate by close of business on Monday, March 24, whether they intended to contest the revised proposal. WI-09-M-BPA-3. BPA added that those parties that did not indicate an intent to contest the revised proposal should be deemed to have waived their rights to do so, including their rights to discovery, cross-examination, and the filing of testimony. On March 14 the Hearing Officer issued an order granting BPA's motion. WI-09-HOO-11.

At the prehearing conference BPA indicated that it would execute the settlement agreement and proceed with the revised proposal if, by close of business March 24, 2008, no party indicated an intent to contest the settlement and if enough parties had signed the settlement agreement for BPA to conclude that there was sufficient consensus supporting the revised proposal. By close of business March 24, 2008, twenty rate case parties had signed the settlement agreement. Six parties did not sign the settlement agreement. Of those six, one was a member of the Northwest Wind Group, which had signed the settlement agreement on behalf of the rest of its members. The settlement agreement signatories include a diverse group of BPA's transmission customers, including merchant generators, investor-owned utilities, BPA's partial and full requirements wholesale power customers, and power marketers. For a list of the settlement agreement signatories, see Appendix B. BPA executed the settlement agreement on March 25, 2008.

1.4 Formal Proceedings

1.4.1 Initiating and Conducting the Formal Proceeding

Section 7(i) of the Pacific Northwest Electric Power Planning and Conservation Act (Northwest Power Act) requires that BPA's wholesale power and transmission rates be established according to certain procedures. 16 U.S.C. § 839e(i). These procedures

include, among other things, issuance of a Federal Register notice announcing the proposed rates; one or more hearings; the opportunity for interested parties to participate and comment on BPA's rate proposal and to submit written views, supporting information, data, questions, and arguments; and a decision by the Administrator based on the record. The proceeding is governed by BPA's rules for general rate proceedings, §1010.9 of the *Procedures Governing Bonneville Power Administration Rate Hearings*, 51 Fed. Reg. 7611 (1986) (Procedures). These procedures implement the statutory section 7(i) requirements.

On February 7, 2008, BPA published notice of the 2009 Wind Integration Rate Case and the public hearing and comment process in the Federal Register. The notice described the proposed rates, stated the justification and reasons for the proposal, and included a schedule for the hearing. *See Proposed Wind Integration – Within-Hour Balancing Service Rate for Public Hearing, and Opportunity for Public Review and Comment (Federal Register Notice)*, 73 Fed. Reg. 7279 (2008), WI-09-FR-01. The prehearing conference and the filing of BPA's Initial Proposal Direct Case were set for February 14, 2008. The notice also included a proposed schedule for the rest of the hearing process.

The formal rate proceeding began with the prehearing conference, when BPA distributed its Initial Proposal to the parties. At the prehearing conference, the Hearing Officer established the procedural schedule, which included clarification of BPA's direct case on February 25 and 26, 2008, a public hearing on March 4, 2008, and filing of the parties' direct cases on March 14, 2008. Clarification and the public hearing were held as scheduled. Meanwhile, however, BPA and the parties had begun settlement discussions in an effort to resolve the case. On March 12, 2008, the Public Power Council filed a motion for extension of time, asking that the date for filing of the parties' direct cases be moved to March 17. On March 13, 2008, the Hearing Office granted the motion. WI-09-HOO-10.

Also on March 13 BPA filed a motion to stay the proceeding and schedule a second prehearing conference for March 20, 2008. On March 14 the Hearing Officer granted the motion. WI-09-HOO-11. At the prehearing conference BPA submitted and offered into evidence a revised proposal incorporating the settlement. The Hearing Officer established a date of March 24, 2008, for parties to object to the revised proposal or waive their rights to do so.

No party filed an objection to the revised proposal. Therefore, on April 4, 2008, the Hearing Officer issued an order finding that all parties had waived their rights to challenge BPA's revised proposal through testimony, cross-examination, or discovery. The Hearing Officer also permanently suspended the order establishing the schedule and closed the record of the proceeding. WI-09-HOO-12.

This record of decision establishing the proposed Wind Integration – Within-Hour Balancing Service rate will be filed with the Federal Energy Regulatory Commission. The Commission will review the proposed rate for conformance with the statutory standards, and if the rate is confirmed and approved by the Commission, it will go into effect on October 1, 2008, for a one-year period.

1.4.2 Opportunity to Participate in the Settlement Process and Comment on Settlement Agreement

Before the start of the 2009 Wind Integration – Within-Hour Balancing Service rate case, BPA held discussions with various entities regarding possible resolution of the case. *Ex Parte* rules went into effect on February 7, 2008, when the Federal Register notice was published. All subsequent meetings to discuss settlement were held pursuant to public notice so that all interested parties could participate. For more detail, see section 1.3.1, above.

BPA provided all rate case parties the opportunity to participate in the settlement discussions and to comment on or propose terms for settlement. The discussions described in section 1.3.1 resulted in the settlement agreement, which BPA offered to all parties to the rate case on March 7, 2008. Twenty-five parties, including several umbrella groups representing multiple members, intervened as parties to the rate case. Twenty parties executed the settlement agreement. No party filed an objection to BPA’s revised proposal incorporating the settlement. Only one party, Industrial Customers of Northwest Utilities (ICNU), filed a statement for the record regarding the proposed settlement. ICNU indicated that it would not sign or contest the settlement agreement and would not file testimony or engage in discovery or cross-examination regarding the settlement agreement.

Therefore, on March 25, 2008, BPA executed the settlement agreement. In this record of decision, I adopt the settlement agreement and the revised proposal as the basis for establishing the 2009 Wind Integration – Within-Hour Balancing Service rate.

1.4.3 Legal Guidelines Governing Establishment of Rates

1.4.3.1 Statutory Guidelines

The Northwest Power Act sets forth various rate directives that BPA must follow in establishing rates. Section 7 of the Act directs the Administrator to establish, and periodically review and revise, rates for the sale and disposition of electric energy and capacity and for the transmission of non-Federal power. 16 U.S.C. § 8393(a)(1). The Administrator must set rates to recover, in accordance with sound business principles, the costs associated with the acquisition, conservation, and transmission of electric power, including amortization of the Federal investment in the Federal Columbia River Power System (including irrigation costs required to be repaid by power revenues) over a reasonable period of years. *Id.*

Under section 7(a)(2), rates are effective upon confirmation and approval by the Commission upon a finding by the Commission that the rates

- are sufficient to assure repayment of the Federal investment in the Federal Columbia River Power System (FCRPS) over a reasonable number of years after first meeting the Administrator’s other costs;
- are based upon the Administrator’s total system costs; and

- insofar as transmission rates are concerned, equitably allocate the costs of the Federal transmission system between Federal and non-Federal power utilizing such system.

Section 7 also includes rate directives the Administrator is to use in establishing rates for particular customer classes. Finally, section 7 establishes the procedures that must be followed in establishing rates. These include publication of notice of the proposed rates in the Federal Register, a hearing before a hearing officer, and an opportunity to submit oral and written comments and to refute or rebut other material submitted for the record. 16 U.S.C. § 839 e(i). BPA has expanded on these statutory directives by promulgating rules of agency procedure to aid in the conduct of rate hearings. 51 Fed. Reg. 7611 (1986).

In addition to the Northwest Power Act, the Flood Control Act of 1944 (Flood Control Act) and the Federal Columbia River Transmission System Act (Transmission System Act) include various rate directives. 16 U.S.C. §§ 825s and 838. Section 9 of the Transmission System Act provides that rates shall be established (1) with a view to encouraging the widest possible diversified use of electric power at the lowest possible rates to consumers consistent with sound business principles; (2) having regard to the recovery of the cost of producing and transmitting electric power, including amortization of the capital investment allocated to power over a reasonable period of years; and (3) at levels that produce such additional revenues as may be required to pay when due the principal, premiums, discounts, expenses, and interest in connection with bonds issued under the Transmission System Act. 16 U.S.C. § 838g. Section 10 of the Transmission System Act allows for uniform rates and specifies that the costs of the Federal transmission system be equitably allocated between Federal and non-Federal power utilizing the system. 16 U.S.C. § 838h.

The Flood Control Act contains ratemaking requirements similar to those in the Transmission System Act. Section 5 of the Flood Control Act directs that rate schedules should encourage the most widespread use of power at the lowest possible rates to consumers consistent with sound business principles. 16 U.S.C. § 825s. Section 5 also provides that rate schedules should be drawn having regard to the recovery of the cost of producing and transmitting electric energy, including the amortization of the Federal investment over a reasonable number of years.

In addition, sections 211 and 212(i) of the Federal Power Act set forth ratemaking standards that apply to BPA with respect to transmission rates in connection with transmission service ordered by the Commission. 16 U.S.C. § 824k(i). Finally, section 211A of the Federal Power Act authorizes the Commission to require unregulated transmitting utilities, a category that includes BPA, to provide transmission service at rates that are comparable to those that the unregulated transmitting utility charges itself. 16 U.S.C. § 824j-A.

1.4.3.2 The Administrator's Broad Ratemaking Discretion

The Administrator has broad discretion to interpret and implement statutory standards applicable to ratemaking. These standards focus on cost recovery and do not restrict the Administrator to any particular rate design methodology or theory. *See Pacific Power & Light v. Duncan*, 499 F. Supp. 672 (D.C. Or. 1980); *accord City of Santa Clara v. Andrus*, 572 F.2d 660, 668 (9th Cir. 1978) (“widest possible use” standard is so broad as to permit

“the exercise of the widest administrative discretion”); *Electricities of North Carolina v. Southeastern Power Admin.*, 114 F.2d 1262, 1266 (4th Cir. 1985).

The United States Court of Appeals for the Ninth Circuit has recognized the Administrator’s ratemaking discretion. *Central Lincoln Peoples’ Util. Dist. v. Johnson*, 735 F.2d 1101, 1120-29 (9th Cir. 1984) (“Because BPA helped draft and must administer the Northwest Power Act, we give substantial deference to BPA’s statutory interpretation”); *PacifiCorp v. F.E.R.C.*, 795 F.2d 816, 821 (9th Cir.1986) (“BPA’s interpretation is entitled to great deference and must be upheld unless it is unreasonable”); *Atlantic Richfield Co. v. Bonneville Power Admin.*, 818 F.2d 701, 705 (9th Cir. 1987) (BPA’s rate determination upheld as a “reasonable decision in light of economic realities”); *cf. Aluminum Co. of America v. Cent. Lincoln Peoples’ Util. Dist.*, 476 U.S. 380, 389 (1984) (“The Administrator’s interpretation of the Regional Act is to be given great weight”); *Dep’t of Water and Power of the City of Los Angeles v. Bonneville Power Admin.*, 759 F.2d 684, 690 (9th Cir. 1985) (“Insofar as agency action is the result of its interpretation of its organic statutes, the agency’s interpretation is to be given great weight”).

1.4.3.3 Confirmation and Approval of Transmission Rates

BPA’s rates become effective upon confirmation and approval by the Commission. 16 U.S.C. §§ 839e(a)(2). The Commission’s review is appellate in nature, based upon the record developed by the Administrator. *United States Dep’t of Energy--Bonneville Power Admin.*, 23 F.E.R.C. ¶ 61,157, at 61,339 (1980). The Commission may not modify rates proposed by the Administrator, but may only confirm, reject, or remand them. *United States Dep’t of Energy--Bonneville Power Admin.*, 23 F.E.R.C. ¶ 61,378, at 61,801 (1983). The Federal Power Act ratemaking provisions that apply to BPA for Commission-ordered transmission service pursuant to the Energy Policy Act of 1992 did not alter this process. H.R. Conf. Rep. No. 102-1018, 102nd Cong., 2d Sess. 389 (1992), *reprinted in* 1992 U.S.C.C.A.N. 2480.

Under the Northwest Power Act, the Commission reviews BPA’s rates to determine whether they (1) are sufficient to assure repayment of the Federal investment in the FCRPS over a reasonable number of years after first meeting BPA’s other costs; (2) are based on BPA’s total system costs; and (3) as to transmission rates, equitably allocate the cost of the Federal transmission system between Federal and non-Federal power using the system. 16 U.S.C. § 839e(a)(2); *See also United States Dep’t of Energy—Bonneville Power Admin.*, 39 F.E.R.C. ¶61,078, at 61,206 (1987). This limited Commission review permits the Administrator substantial discretion in the design of rates. The Commission does not have jurisdiction over BPA’s rate design. *Cent. Lincoln Peoples’ Util. Dist. v. Johnson*, 735 F.2d 1101, 1115 (9th Cir. 1984).

Sections 211 and 212(i) of the Federal Power Act authorize the Commission to order transmission providers to provide transmission service upon application by an eligible entity. Section 212(i), added to the Federal Power Act by the Energy Policy Act of 1992 (EPA ’92), contains provisions specifically applicable to the Federal Columbia River Transmission System (FCRTS):

- (1) The Commission shall have authority pursuant to section 824i of this title, Section 824j of this title, this section, and section 8241 of this title to (A) order the Administrator of the Bonneville Power Administration to provide transmission service and (b) establish the terms and conditions of such service. In applying such sections to the Federal Columbia River Transmission System, the Commission shall assure that:
 - (i) the provisions of otherwise applicable Federal laws shall continue in full force and effect and shall continue to be applicable to the system; and
 - (ii) the rates for the transmission of electric power on the system shall be governed only by such otherwise applicable provisions of law and not by any provision of section 824i of this title, 824j of this title, this section, or section 8241 of this title, except that no rate for the transmission of power on the system shall be unjust, unreasonable, or unduly discriminatory or preferential, as determined by the Commission.

16 U.S.C. § 824(i)(1)(ii).

EPA '92 preserved all existing statutory ratemaking standards. In addition, the transmission rates for transmission service ordered by the Commission pursuant to the Federal Power Act must not be unjust and unreasonable or unduly discriminatory or preferential. 16 U.S.C. § 824k(i)(1)(B)(i) and (ii).

The Joint Explanatory Statement of the Committee of Conference, issued in conjunction with EPA '92, reinforces Congress's intent to leave prior law governing BPA intact. The Conference Report makes clear that, except for adding a new standard for Commission-ordered transmission, the amendments to the Federal Power Act did not change the Commission's authority to review BPA's transmission rates:

Rates for transmission services provided by BPA under an order issued under section 211 are to be established by BPA and reviewed by the FERC through the same process and using the same statutory requirements as are applicable to all other transmission rates established by BPA, with the additional requirement that such rates for transmission services must also be just and reasonable and not unduly discriminatory or preferential as determined by the FERC, taking into account BPA's other statutory authorities and responsibilities.

H.R. Conf. Rep. No. 102-1018, 102nd Cong., 2d Sess. 389 (1992) *reprinted in* 1992 U.S.C.C.A.N. 2480 (Conference Report). Thus, the Administrator's rate decisions remain entitled to substantial deference by the Commission.

In its final rule Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Service by Public Utilities; Recovery of Stranded Costs by Public Utilities and Transmitting Utilities (Order 888), the Commission included a reciprocity provision applicable to non-public utilities that own, control or operate

interstate transmission facilities and that take service under a public utility's open access tariff. FERC Stats. and Regs. ¶ 31,036, at 31,760-63 (1996). Under the reciprocity provision, non-public utilities may voluntarily submit to the Commission a transmission tariff and a request for a declaratory order that its tariff and rates meet the Commission's reciprocity standards. *Id.* at 31,761. In order to find that a non-public utility's rates are consistent with the Commission's comparability standards, the Commission must have sufficient information to conclude that the rates the non-public utility charges itself are comparable to the rates it charges others. *Id.* The Commission retained the reciprocity provisions in the final rule Preventing Undue Discrimination and Preference in Transmission Service (Order 890), 72 Fed. Reg. 12266, 12293-94 (2007).

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2.0 SETTLEMENT AGREEMENT

The proposed 2009 Wind Integration – Within-Hour Balancing Service rate reflects the terms of the Settlement Agreement BPA staff entered into with the parties. Mainzer and Connolly, WI-09-E-BPA-01, at 2. *See* Settlement Agreement, Appendix A. As noted above, no rate case party filed any objection to any aspect of the staff rate proposal. Therefore, staff recommended that the Administrator establish a rate consistent with the Settlement Agreement.

2.1 Wind Integration – Within-Hour Balancing Service Rate and Transmission Revenue Requirement

The proposed 2009 Wind Integration – Within-Hour Balancing Service rate is \$0.68 per kilowatt per month applied to installed wind capacity; or, if only part of a wind plant has been installed, to the maximum measured hourly output of the plant during the first 15 days of the month prior to the billing month. BPA projects revenues of \$19,124,320 from this rate during Fiscal Year 2009. Mainzer and Connolly, WI-09-E-BPA-01, at 2. However, the rate will be recovering costs BPA has already included in its power rates in the 2007 Wholesale Power Rate Case. The purpose of the Wind Integration rate case was to reallocate those costs to different parties, to place them on the parties that cause the costs. Therefore, in its Supplemental 2007 Power Rate Case, BPA will credit FY2009 power rates with the projected revenue.

There will be no net change in power revenues or power revenue requirement, or in transmission revenues. The Wind Integration – Within-Hour Balancing Service rate would have no impact on BPA's total revenues or on its Treasury Payment Probability regardless of the level of the rate. *Id.* The Wind Integration – Within-Hour Balancing Service rate schedule is attached as Appendix A, Attachment 1.

Therefore, adoption of the Wind Integration – Within-Hour Balancing Service rate will not affect BPA's cost recovery. At the same time, it will reallocate costs appropriately to those parties that cause the costs.

2.2 Other Settlement Agreement Provisions

The parties agreed to a number of provisions unrelated to the rate level for fiscal year 2009. As part of the Settlement Agreement, BPA agreed to conduct a series of public rate case workshops to develop a methodology for estimating within-hour regulation and following reserve needs to accommodate expected higher levels of wind integration and changing system operations within the BPA Balancing Authority. BPA further agreed to use the methodology for estimating within-hour regulation and following reserve needs in its initial rate case proposal for the 2010-2011 transmission rate case. *Id.* Appendix A, at 1.

BPA also agreed that, as part of the 2010-2011 power rate case, it would hold a series of rate case workshops, as appropriate, in which BPA would develop and take comment on its methodology for allocating costs to generation inputs for regulating reserves, following reserves, or other reserves identified by the methodology described above. In addition, BPA agreed that no later than the applicable FY 2012-2013 rate case BPA's initial proposal would

use a cost allocation methodology that was consistent for all such reserves, and that any differences in the cost allocations would be based on demonstrable criteria. *Id.* at 1-2.

BPA also agreed that, under the direction of the BPA Deputy Administrator, BPA would charter a cross-agency Wind Integration Team to develop processes and procedures for managing the BPA Balancing Authority's requirements for generation inputs for reserves; identifying new sources of such generation inputs; reducing the demand on the existing capacity of the FCRPS to provide such generation inputs; and acquiring cost-effective capacity resources to meet BPA's firm power obligations and its need for generation inputs to provide reserves. *Id.* at 2.

Under the Settlement Agreement, the Wind Integration Team proposed to address several general areas, including wind forecasting and reserves allocations; third-party supply of generation inputs to the BPA Balancing Authority for BPA's reserve needs; Dynamic Scheduling; and ACE Diversity. *Id.* at 2-3. BPA also agreed that, in its resource program, BPA would assess the capacity of the federal system available to meet all of BPA's present and future capacity obligations. *Id.* at 3.

Finally, the parties to the Settlement Agreement that own or operate wind generators in the BPA Balancing Authority Area agreed to make a good faith effort to supply certain data related to the output of such wind generators, while BPA agreed to certain confidentiality restrictions regarding the data. *Id.*

These are appropriate obligations for BPA to undertake in order to address the issues discussed in the rate case workshops and captured in the Settlement Agreement.

2.3 Equitable Allocation

2.3.1 The Equitable Allocation Standard

Section 7(a)(2)(C) of the Northwest Power Act provides that the Commission will confirm and approve BPA's rates upon a finding that "such rates equitably allocate the cost of the Federal transmission system to Federal and non-Federal power using the system." 16 U.S.C. § 839e(a)(2)(C). *See also* section 10 of the Transmission System Act, 16 U.S.C. § 838h, which includes an equitable allocation standard.

2.3.2 Comparability

In its final rule *Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Service by Public Utilities; Recovery of Stranded Costs by Public Utilities and Transmitting Utilities* (Order 888), the Commission included a reciprocity provision applicable to non-public utilities that own, control, or operate interstate transmission facilities and that take service under a public utility's open access tariff. FERC Stats. and Regs. ¶ 31,036, at 31,760-63 (1996). Under the reciprocity provision, non-public utilities may voluntarily submit to the Commission a transmission tariff and a request for a declaratory order that the tariff meets the Commission's comparability (non-discrimination) standards. *Id.* at 31,761. In order to find that a non-public utility's tariff is consistent with the Commission's comparability standards, the

Commission must also have sufficient information to conclude that the rates the non-public utility charges itself are comparable to the rates it charges others. *Id.* The Commission retained the reciprocity provisions in the final rule *Preventing Undue Discrimination and Preference in Transmission Service* (Order 890), 72 Fed. Reg. 12266, 12293-94 (2007).

BPA sets rates for transmission over the FCRTS to conform to the policies established in Order 888 and continued in Order 890. Equitable allocation and comparability are similar concepts in that, under each, Federal and non-Federal power have access to the FCRTS under the same or comparable rates, terms, and conditions.

2.3.3 Settlement Rates Satisfy Equitable Allocation Standard and Comparability

The proposed 2009 Wind Integration – Within-Hour Balancing Service rate, in conjunction with BPA’s existing rates, satisfies the equitable allocation standard. First, all of BPA’s other transmission rates, which have received final approval from the Commission, including a finding of equitable allocation, remain in place.

Second, equitable allocation between Federal and non-Federal power is achieved through adherence to the principle of comparability. Before 1996, when most transmission for Federal power was provided for in bundled power sales contracts, an allocation of costs in the rate case was needed to demonstrate equitable allocation of transmission costs between Federal and non-Federal power. Under BPA’s Open Access Transmission Tariff, purchasers of transmission for Federal power, including both BPA’s Power Services division and Power Services’ customers, receive the same service and pay the same rates as purchasers of transmission for non-Federal power. An equitable allocation of transmission costs between Federal and non-Federal power is achieved through application of the same rates for the two classes of service. Mainzer and Connolly, WI-09-E-BPA-01, at 3.

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3.0 ENVIRONMENTAL ANALYSIS

3.1 Introduction

BPA has assessed the potential for environmental effects from the Wind Integration – Within Hour Balancing Service rate proposal, consistent with the National Environmental Policy Act (NEPA), 42 U.S.C. § 4321 et seq. BPA previously evaluated the environmental impacts of a large range of business structure alternatives that included, among other things, various rate designs for BPA’s products and services. Business Plan Final Environmental Impact Statement, Volume 1 – Analyses, June 1995 (Business Plan EIS). In August 1995, BPA issued a record of decision that adopted the Market-Driven alternative from the Business Plan EIS. Business Plan Final Environmental Impact Statement Record of Decision, August 1995 (Business Plan ROD). As discussed in more detail below, the proposed Wind Integration – Within-Hour Balancing Service rate falls within the scope of the Market-Driven alternative and is not expected to result in significantly different environmental impacts from those examined in the Business Plan EIS. The decision to implement this rate proposal thus is tiered to the Business Plan EIS and ROD.

3.2 Business Plan EIS and ROD

The Business Plan EIS was prepared in response to a need for an adaptive business policy that would allow BPA to be more responsive to the evolving and increasingly competitive wholesale electricity market, while still meeting both its business and public service missions. BPA thus designed the Business Plan EIS to support a wide array of business decisions, including decisions to establish rates for products and services in rate cases in 1995 and thereafter. See Business Plan EIS, at section 1.4. BPA identified several purposes for consideration, including: achieving strategic business objectives; competitively marketing BPA’s products and services; providing for equitable treatment of Columbia River fish and wildlife; achieving BPA’s share of the Northwest Power Planning Council conservation goal; establishing rates that are easy to understand and administer, stable, and fair; recovering costs through rates; meeting legal mandates and contractual obligations; avoiding adverse environmental impacts; and establishing productive government-to-government relationships with Indian Tribes. *Id.* at section 1.2; and Business Plan ROD, at sections 5 and 6.

BPA’s Business Plan EIS evaluates six alternative business directions: Status Quo (No Action); BPA Influence; Market-Driven; Maximize Financial Returns; Minimal BPA; and Short-Term Marketing. Each of the six alternatives provides policy direction for deciding 19 major policy issues that fall into five broad categories: Products and Services, Rates, Energy Resources, Transmission, and Fish and Wildlife Administration. Business Plan EIS, at section 2.4. Four policy options, or modules, were also developed in the EIS to allow variations of the alternatives in key areas, including rate design. The alternatives and modules are designed to cover the range of options for the important issues affecting BPA’s business activities, as well as the impacts of those options, and variations can be assembled by matching issues and substituting modules among the six

alternatives. Business Plan EIS, at section 2.1.2. All of the alternatives and modules are examined under two widely different hydro operations strategies that serve as “bookends” for reasonably possible hydro operations. These alternatives thus represent a range of reasonable alternatives for BPA’s business activities and BPA’s ability to balance costs and revenues.

The Business Plan EIS focuses on BPA’s relationships to the market. BPA’s business decisions, such as setting or revising rates, do not have a direct effect on the environment. Previous environmental studies for key BPA actions have shown that actual environmental impacts are determined by the market responses to BPA’s marketing and business decisions, rather than by the actions themselves. Id. at sections 2.1.5 and 4.1.2. Four types of market responses are identified: resource development; resource operations; transmission development and operation; and consumer behavior. These market responses determine the environmental impacts, which include air, land, and water impacts, as well as socioeconomic impacts. Id. at Figure 2.1-1 and figure S-2. For ratemaking, the Business Plan EIS describes how BPA rates can affect the environment through market responses. Id. at section 2.4.2 and figure 2.4-1.

Thus, the Business Plan EIS is based on a “relationship analysis” – BPA has quantitatively and qualitatively evaluated relationships between variables in the short run, and assumed that these relationships will hold true in the long term. Some of the Market Responses that were predicted as a result of transmission and wheeling pricing include potential changes in the location and type of new generation resources, or shifts in the market for new or upgraded transmission facilities. Id. at section 4.2.2.2. While the Business Plan EIS does provide a numerical example based on assumptions about rates, loads, resources, and other factors, this discussion was provided as an illustrative example only, and was not intended to be relied on for quantitative comparisons in the future. Id. at sections 4.4.1.1 and 4.4.3.

To determine the potential environmental consequences of the various alternatives, the EIS identifies general market responses to key policy issues. Id. at Table 4.2-1. The market responses for products and services are discussed for each of the alternative business directions, and the market responses for rates are also discussed. Id. at sections 4.2.1 and 4.2.2. The market responses and the environmental consequences are discussed both in general terms and in terms specific to each alternative. Id. at section 4.3. Table 4.3-1 details the typical environmental impacts from power generation and transmission. Section 4.4 presents the market responses and environmental impacts by alternative, under the two hydro operation “bookend” scenarios. Table 4.4-19 summarizes the key environmental impacts by alternative. Id. at section 4.4.3.8. In addition, Appendix B to the Business Plan EIS includes an extensive evaluation of rate design, including market response and environmental impacts. Business Plan EIS Appendices, at Appendix B.

Each of the alternative business directions examined in the Business Plan EIS was also evaluated against the purposes for the action to determine how well each of the alternatives meets the need. Business Plan EIS, at section 2.6.5. Based on the evaluation of potential environmental impacts and the comparison of each alternative to the

identified purposes, the Administrator adopted the Market-Driven alternative as the Agency's overall business policy in the August 1995 Business Plan ROD. Business Plan ROD, at section 6. The Market-Driven alternative strikes a balance between marketing and environmental concerns. It also assists BPA in maintaining the financial strength necessary to continue a relatively high level of support for public service benefits, such as energy conservation and fish and wildlife mitigation activities, while keeping BPA rates and the costs of other BPA products and services as low as possible.

Recognizing that the Administrator could select a variety of actions, BPA included many mitigation response strategies in the Business Plan EIS and ROD to address changed conditions and allow the agency to balance costs and revenues. These response strategies include measures that BPA could implement to increase revenues (including rates), decrease spending, and/or transfer costs if its costs and revenues do not balance. Business Plan EIS, at section 2.5; Business Plan ROD, at section 7. These strategies enable BPA to best meet its financial, public service, and environmental obligations, while remaining competitive. In the Business Plan ROD, the Administrator decided to implement as many response strategies, or equivalents, as necessary to balance costs and revenues. Business Plan ROD, at section 7.

The Business Plan EIS and ROD also document a decision strategy for tiering subsequent business decisions to the Business Plan EIS and ROD. Business Plan EIS, at section 1.4; Business Plan ROD, at section 8. For each such decision, as appropriate, the BPA Administrator reviews the Business Plan EIS and ROD to determine whether the proposed subsequent decision falls within the scope of the Market-Driven Alternative evaluated in the EIS and adopted in the ROD. If the proposed decision is found to be within the scope of this alternative, the Administrator may tier his decision under NEPA to the Business Plan EIS and ROD. Business Plan ROD, at section 8. Tiering a ROD to the Business Plan EIS and ROD helps BPA delineate its business decisions clearly and provides a logical framework for connecting broad policy decisions to more specific actions. Business Plan EIS, at section 1.4

3.3 Environmental Analysis for Proposed Wind Integration – Within-Hour Balancing Service Rate

The Business Plan EIS and ROD were reviewed to determine whether the proposed Wind Integration – Within-Hour Balancing Service rate falls within the scope of the EIS and the Market-Driven alternative adopted in the Business Plan ROD. The key policy issues analyzed in the Business Plan EIS included several rate-related decisions, such as transmission pricing and unbundling or rebundling of BPA's transmission products and services.

The Business Plan EIS identified general market responses to BPA actions, including establishing rates, and these market responses in turn are the source of environmental impacts. The environmental impacts addressed in the EIS include those related to the natural environment, such as impacts to air, land, and water, as well as impacts to the socioeconomic environment. Based on the environmental analysis in the Business Plan EIS, the potential environmental impacts of all business direction alternatives fall within

a fairly narrow band, and several of the key impacts are virtually identical across alternatives. In addition, the costs of environmental externalities differ only slightly among alternatives. *Id.* at Table 4.4-20. Thus, the differences among alternatives in total environmental impacts are relatively small. The market responses and environmental impacts are discussed throughout Chapter 4 of the Business Plan EIS, and are summarized in Table 4.2-1.

The primary environmental impacts of transmission prices and rate attributes are through the choices customers make in their preferred transmission provider and also in generation resources and conservation. *Id.* at Section 4.2.2.2. For example, increasing rates may cause more customers to seek alternative transmission providers, or construct new transmission facilities. Transmission and wheeling pricing could also influence customer decisions on resource siting, or the marketability of resource output based on the influence of wheeling costs on the total cost to the purchaser of power services offered by different suppliers.

Based on the review of the Business Plan EIS and ROD, the proposed Wind Integration – Within-Hour Balancing Service rate is a direct application of the Market-Driven alternative. This rate proposal thus is consistent with the competitive and unbundled yet cost-based characteristics of the Market-Driven alternative. The issues related to this proposal are consistent with the analysis of key policy issues related to transmission services identified for the Market-Driven alternative. *Id.* at sections 2.2.3 and 2.6. In addition, this rate proposal does not differ substantially from the types of rate designs considered and evaluated in the Business Plan EIS. *Id.* at sections 2.4.1.6, 2.4.2.2, 2.44; and Business Plan EIS Appendices, at Appendix B. Implementation of this rate proposal will not result in significantly different environmental impacts from those examined for the Market-Driven alternative in the Business Plan EIS.

Furthermore, the proposal will assist BPA in accomplishing the goals of the Market-Driven alternative identified in the Business Plan ROD. This alternative was selected as BPA’s business direction because, among other reasons, it allows BPA to: (1) recover costs through rates; (2) competitively market BPA’s products and services; (3) develop rates that meet customer needs for clarity and simplicity; and (4) continue to meet BPA’s legal mandates.

The proposed Wind Integration – Within-Hour Balancing Service rate allows BPA to recover its wind integration costs through its rates while remaining competitive, and is consistent with the general approach to setting rates and managing and responding to risk that was developed in the Market-Driven alternative and continued through subsequent rate cases. In addition, the rate design for the rate in the proposal is clear and easy to administer. Finally, BPA believes that the rate proposal allows BPA to meet all of its applicable legal mandates.

In April 2007, BPA completed a review of the Business Plan EIS and ROD through a Supplement Analysis to the Business Plan EIS. The Supplement Analysis was prepared to assess whether the Business Plan EIS still provides an adequate evaluation, at a policy

level, of environmental impacts that may result from BPA's current business practices, and whether these practices are still consistent with the Market-Driven Alternative adopted in the Business Plan ROD. Changes that have occurred in the electric utility market and the existing environment were evaluated, and developments that have occurred in BPA's business practices and policies were considered. The Supplement Analysis found that the Business Plan EIS's relationship-based and policy-level analysis of potential environmental impacts from BPA's business practices remains valid, and that BPA's current business practices are still consistent with BPA's Market-Driven approach. The Business Plan EIS and ROD continue to provide a sound basis for making determinations under NEPA concerning BPA's policy-level decisions. Supplement Analysis to the Business Plan EIS, April 2007 (Supplement Analysis).

Thus, the proposed Wind Integration – Within-Hour Balancing Service rate falls within the scope of the Market-Driven alternative identified and evaluated in the Business Plan EIS and adopted by the Administrator in the Business Plan ROD. The decision to implement this rate proposal therefore is tiered to the Business Plan EIS and ROD.

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4.0 ADMINISTRATOR'S DECISION

As required by law, the rate established and adopted by this record of decision, in conjunction with BPA's existing transmission and ancillary services rates, has been set to recover the costs associated with the transmission of electric power, including the amortization of the Federal investment in the FCRTS over a reasonable period of years and all other costs and expenses incurred in carrying out the requirements of the Northwest Power Act and other provisions of law. The rates have been established with a view to encouraging the widest possible diversified use of electric power at the lowest possible rates to consumers consistent with sound business principles. In addition, the transmission and ancillary services rates are designed to equitably allocate the cost of the Federal transmission system between Federal and non-Federal power using the system. Finally the rates satisfy the Commission's comparability standards, as the transmission of Federal power will be charged the same rates as the transmission of non-Federal power under BPA's OATT.

BPA must establish its transmission and ancillary services rates based on the record developed in a proceeding pursuant to section 7(i) Northwest Power Act. BPA began a formal 7(i) proceeding with publication of a Federal Register Notice on February 7, 2008. The Hearing Officer certified that the record is full and complete and interested parties were afforded adequate opportunity to present their views and comment on the proposed rate, as required by law. Hearing Officer's Certification of the Official Record, WI-09-A-HE-1.

BPA has evaluated the potential environmental impacts of BPA's 2009 Wind Integration – Within-Hour Balancing Service rate proposal, consistent with NEPA. I have considered the environmental analysis contained in the Business Plan EIS and supplemental documents in making the decisions adopted in this record of decision, and I have determined that this rate proposal is adequately covered within the scope of the environmental analysis provided by the Business Plan EIS. Since the rate proposal also is consistent with the Market-Driven alternative adopted in the Business Plan ROD, the decision to implement this rate proposal is tiered to the Business Plan ROD.

Based upon the record compiled in this proceeding, the decisions expressed herein, and the requirements of law, I hereby adopt the attached Wind Integration – Within-Hour Balancing Service Rate Schedule as the Bonneville Power Administration’s proposed 2009 Wind Integration – Within-Hour Balancing Service rate. In accordance with the Commission’s filing requirements applicable to Federal power marketing administrations, 18 CFR § 300.10(g), I hereby certify that the Transmission and Ancillary Services rate proposal adopted herein is consistent with applicable laws and that BPA’s rates are the lowest possible rates consistent with sound business principles.

Issued in Portland, Oregon this 30th day of June, 2008

/s/Stephen J. Wright

Stephen J. Wright
Administrator and Chief Executive Office
Bonneville Power Administration.

**APPENDIX A
SETTLEMENT AGREEMENT**

**Bonneville Power Administration 2009 Wind Integration – Within-Hour
Balancing Service Rate Case**

The undersigned signatories to this Settlement Agreement hereby agree to the following:

1. Except as provided in section 8(d), this agreement shall be in effect from the date it is executed by the Bonneville Power Administration (BPA) until September 30, 2011.
2. As part of the FY2010-2011 transmission rate case, BPA will adequately staff and conduct a series of public rate case workshops, which shall include a robust stakeholder process, to develop a methodology for estimating within-hour regulation and following reserve needs to accommodate expected higher levels of wind integration and changing system operations within the BPA Balancing Authority. BPA will hold the first workshop during the week of May 5, 2008. In these workshops, BPA will:
 - (a) develop and take comment on a methodology for estimating the monthly within-hour quantities of incremental regulating reserves, decremental regulating reserves, incremental following reserves, and decremental following reserves, or other reserves identified by the methodology, as needed by the BPA Balancing Authority.
 - (b) assess and document potential terms and conditions for acquisition of reserves from non-Federal parties based on the existing markets used within the BPA Balancing Authority and the Northwest Power Pool.
 - (c) make a good faith effort to make the data presented at workshops accessible and available to workshop participants at least three business days in advance of the meeting at which the data will be discussed.
3. BPA shall use the methodology for estimating within-hour regulation and following reserve needs (described in Paragraph 2 above) as the basis for estimating the quantity of within-hour reserve needs in its initial rate case proposal for BPA's FY 2010-2011 transmission rate case.
4. As part of the FY 2010-2011 power rate case, BPA shall hold a series of public rate case workshops, as appropriate, in which BPA will develop and take comment on its methodology for allocating costs to generation inputs for regulating reserves, following reserves, or other reserves identified by the BPA methodology described in Paragraph 2 above, provided by BPA Power Services to BPA Transmission Services.

5. No later than the applicable FY 2012-2013 rate case (in the power rate case unless BPA determines that another forum is appropriate) for allocating costs of regulating reserves used to provide load regulation (currently collected through the Regulation Frequency Response rate) and load following (currently collected through the Priority Firm Power rate) and generation regulation and generation following (collected through the Wind Integration - Within-Hour Balancing rate), BPA's initial proposal shall use a cost allocation methodology that is consistent for all such reserves. Any differences in the cost allocation for any such reserves shall be based on demonstrable criteria.

6. (a) Under the direction of the BPA Deputy Administrator, BPA will charter a cross-agency Wind Integration Team (WIT). The goal of the WIT will be to work with other BPA groups to develop a set of coordinated processes and procedures for (1) managing the requirements for generation inputs used by the BPA Balancing Authority to provide reserves, (2) identifying new sources of supply of such generation inputs, (3) reducing the demand on the existing capacity of the Federal Columbia River Power System (FCRPS) to provide such generation inputs, and (4) acquiring cost-effective capacity resources that meet BPA's firm power obligations and the generation input needs of the BPA Balancing Authority. BPA will seek ways to meet its power and transmission obligations, including reserves, at the least practical cost.

(b) BPA's Vice President of Generation Asset Management and Manager of Transmission System Operations will develop a formal work plan for the WIT, including staffing requirements, budget, and public involvement. BPA will make available a total of \$2 million during FY 2008 and FY 2009 from the renewable facilitation funds in BPA's existing rates to fund activities of the WIT, which sum shall include the costs of four full-time-equivalent employees from across the agency. The WIT will periodically provide general summaries of expenditures for its activities. Following consultation with customers and other stakeholders, the WIT will determine the activities and sequence of activities to accomplish the above goal. In doing so, the WIT will address the following general areas:

- i) Wind Forecasting and Reserves Allocations.** Examine forecasting capabilities, business practices and scheduling practices to:
- a. Potentially mitigate capacity requirements for managing generation imbalance;
 - b. Potentially improve identification of the type of each reserve needed at any given time; and
 - c. Identify appropriate accountability and responsibility for forecasting and scheduling.

- ii) **Third Party Supply of Generation Inputs to the BPA Balancing Area.** Define the technical, commercial, and cost-recovery criteria for procuring generation inputs from non-federal entities. Subject to successful completion of this initial work, conduct a pilot project to source reserves from third parties.
 - iii) **Dynamic Scheduling.** Conduct a technical assessment and cost estimate for increasing the dynamic transfer capabilities of the Northern and Southern Interties and evaluate the operational impacts and system requirements for increasing dynamic scheduling across the BPA network in general.
 - iv) **ACE Diversity.** Subject to resolving legal issues, participate in the ACE Diversity Interchange in 2008 on a pilot basis.
7. In its Resource Program, which is commencing in FY 2008, BPA will assess the capacity of the federal system available to meet all of BPA's present and future capacity obligations. BPA will publicly explain the methodologies used to make the assessments of firm power obligations and generation input needs of the BPA Balancing Authority.
8. (a) Subject to the limitations in any licenses and to any other contractual restrictions, those signatories that own or operate wind generators in the BPA Balancing Authority Area will make a good faith effort to provide in a timely fashion data related to the output of such wind generators that is maintained in the normal course of business (other than data regarding pricing or other commercial terms and conditions) and that is reasonably requested by the WIT to perform wind integration analyses, provided that the cost to the party that must provide the data is limited to routine administrative costs to gather and provide the data; and provided further that, if a party objects to providing any data because of the cost, BPA has the right (also subject to any licenses and contractual restrictions) to obtain the data upon payment of such cost.
- (b) The signatories will identify in writing any commercially sensitive data, which will be subject to a non-disclosure agreement. BPA will use commercially sensitive data only for purposes of performing wind integration analyses and will make such data public only on an aggregated basis.
- (c) BPA will ensure that no real-time, day-ahead, or term power trader has access to any disaggregated data provided by any signatory under this paragraph 8.

(d) Sections 6 and 8 of this agreement will continue in effect if, on or before September 30, 2011, BPA and all signatories subject to section 8(a) execute an agreement to continue such sections in effect.

9. BPA staff will submit a new rate proposal (Revised Proposal) to establish a rate for Wind Integration - Within-Hour Balancing Service as set forth in Attachment A. The billing factor in such revised proposal shall be the billing factor included in BPA's initial proposal in this case. The Revised Proposal will only consist of the following:
 - (a) the Attachment 1 rate schedule;
 - (b) an explanation that BPA acknowledges that, had it proceeded with its initial proposal, various parties would have filed testimony contesting different aspects of BPA's proposed methodology, including among other things BPA's calculation of the amount of reserves needed to provide wind integration within-hour balancing service and the costs of such reserves, and that the rate is based upon compromise and settlement among the parties;
 - (c) this Settlement Agreement;
 - (d) an explanation that the additional revenues being collected in this case will be credited to power through the supplemental Wholesale Power Rate Case, WP-07S and a forecast of the amount of such revenues;
 - (e) an explanation that therefore the impact of WI-09 is revenue neutral to BPA and will have no effect on BPA's collection of its total system costs or the probability of timely repayment to the Treasury of the Federal investment in the FCRPS; and
 - (f) an explanation that BPA has determined that, through adherence to comparability principles, its transmission rates equitably allocate the costs of the Federal transmission system between Federal and non-Federal power utilizing such system, and an acknowledgment that, had BPA proceeded with its initial proposal, various parties would have contested this determination.
10. Because of the settlement, the parties accept the rate design for the Wind Integration - Within-Hour Balancing rate for FY 2009, and, for FY 2009, will not contest BPA's determination, as noted in paragraph 9(f), that its transmission rates satisfy the equitable allocation test.
11. If BPA staff submits a Revised Proposal as set forth in and limited by paragraph 9 of this agreement, the signatories (i) agree not to contest in the WI-09 rate case any aspect of the Revised Proposal, including but not limited to the level of the Wind Integration - Within-Hour Balancing rate and agree to waive their rights to cross-examination and discovery with respect thereto, and (ii) agree not to contest, and to waive cross-examination and discovery regarding the forecast revenues from WI-09 rate

included in the supplemental WP-07 rate case as a credit to power rates, if such forecast revenues are the same as the forecast revenues stated in the Revised Proposal in the WI-09 rate case.

12. If no party in the rate case contests any aspect of the Revised Proposal, BPA staff will propose to the Administrator that he adopt the Revised Proposal and establish rates consistent therewith. If any party in the rate case contests the Revised Proposal or any aspect of it, BPA may in its discretion withdraw the Revised Proposal and proceed with its initial proposal. If under such circumstances BPA elects to withdraw its Revised Proposal, this settlement agreement shall be null and void and no longer binding on the signatories. If under such circumstances BPA elects to proceed with its Revised Proposal, the signatories to this settlement agreement will continue to support the Revised Proposal, and in addition may elect to respond to the position(s) of the party or parties contesting the Revised Proposal, and to any revision to the Revised Proposal that may be proposed by BPA staff in testimony, or by the Administrator in the draft Record of Decision.
13. BPA's commitments in paragraphs 2 through 7 of this settlement agreement are contingent on the Administrator establishing a rate consistent with the Revised Proposal included in paragraph 9. If the Administrator establishes a Wind Integration - Within-Hour Balancing rate consistent with the Revised Proposal and submits such rate to the Federal Energy Regulatory Commission (FERC) for confirmation and approval only for FY 2009 and only under the applicable standards of the Northwest Power Act, the signatories agree not to challenge such confirmation and approval of such rate or to support or join any such challenge, and agree not to challenge such rate in any judicial forum or to support or join any such challenge, and agree not to assert before FERC or in any judicial forum that BPA fails to meet FERC's reciprocity standard under Order 888 because of the FY 09 Wind Integration - Within-Hour Balancing rate. The signatories' commitments and waivers set forth in this paragraph and in paragraphs 8, 10, 11, 12, and 14 are contingent on the Administrator issuing a Final Record of Decision establishing a Wind Integration - Within-Hour Balancing rate consistent with the Revised Proposal.
14. The signatories agree that they will not assert in any forum that anything in this settlement agreement or any action with regard to this settlement agreement taken or not taken by any signatory, the Hearing Officer, the Administrator, FERC, or a court, creates or implies any procedural or substantive precedent or creates or implies agreement to any underlying principle or methodology, or creates any precedent under any contract between BPA and any signatory. No signatory waives its right to assert, in any BPA rate case or related FERC or court proceeding, any position it may have regarding the adoption of a BPA rate or service, including its

establishment, sufficiency or basis, to be effective after the end of FY 2009 rate period, including without limitation that (i) BPA may or may not assess a charge for any new service such as a Wind Integration - Within-Hour Balancing service under such signatory's existing generation interconnection agreement, and (ii) BPA's adoption of a rate or service such as wind integration - within-hour balancing service does or does not meet FERC's reciprocity standard under Order 888. Signatories waive their right to assert that BPA may not assess such charge under such signatory's existing generator interconnection agreement during the 2009 rate period.

15. Other than the waivers expressly set forth in paragraphs 10, 11, 12, 13, and 14, no signatory waives and each signatory expressly reserves its rights, including without limitation its right to assert or contest that BPA's public body and cooperative customers have preference and priority to the capacity of the FCRPS, including capacity used to provide regulating and following reserves.

This Settlement Agreement may be executed in counterparts.

APPROVED:

UNITED STATES OF AMERICA
Department of Energy
Bonneville Power Administration

By 

By 

for Name Paul Norman / mark Gendron
(Print/Type)

Name Vickie VanZandt
(Print/Type)

Title Senior VP, Power Services

Title Senior VP,
Transmission Services

Date 3/25/08

Date 3/25/08

ATTACHMENT 1 to
Settlement Agreement

ACS-09

ANCILLARY SERVICES AND CONTROL AREA SERVICES RATE

SECTION I. AVAILABILITY

* * *

Control Area Service rates available under this rate schedule are:

* * *

5. Wind Integration – Within-Hour Balancing Service

* * *

SECTION III. CONTROL AREA SERVICE RATES

E. WIND INTEGRATION – WITHIN-HOUR BALANCING SERVICE

The rate below applies to all wind plants in the BPA Control Area except as described in Section E. 3. Within-Hour Balancing Service provides the generation capability to follow within-hour variations of wind resources in the BPA Control Area and to maintain the power system frequency at 60 Hz in conformance with NERC and WECC reliability standards.

1. RATE

The rate shall not exceed \$0.68 per kilowatt per month.

2. BILLING FACTOR

The Billing Factor is as follows:

- i. For each wind plant, or phase of a wind plant, that has completed installation of all units no later than the 15th of the month prior to the billing month the billing factor will be the nameplate of the plant in kW. A unit has completed installation when it has generated and delivered power to the BPA system.

ii. For each wind plant, or phase of a wind plant, for which some but not all units have been installed by the 15th day of the month prior to the billing month, the billing factor will be the maximum measured hourly output of the plant through the 15th day of the prior month in kW.

3. EXCEPTIONS

i. This rate will not apply to a wind plant, or phase of a wind plant, that, in BPA's determination, has put in place, tested, and successfully implemented no later than the 15th day of the month prior to the billing month, the dynamic transfer of plant output out of BPA's Balancing Authority Area to another Balancing Authority Area.

ii. This rate will not apply to a wind plant, or phase of a wind plant, that, in BPA's determination, has put in place, tested, and successfully implemented no later than the 15th day of the month prior to the billing month, self-supply of within-hour balancing, including any contractual arrangements for third-party supply.

APPENDIX B

2009 Wind Integration Rate Case Settlement Signatories

These parties signed the settlement agreement:

Benton County PUD
Constellation Energy Group
Cowlitz County PUD
Eugene Water & Electric Board
Franklin County PUD
Grant County PUD
Northwest Requirements Utilities and Members
Northwest Wind Group (enXco, Inc., Horizon Wind Energy, PPM Energy, Inc.,
Renewable Northwest Project, UPC Wind Partners, LLC)
Oregon Department of Energy
PacifiCorp
Pacific Northwest Generating Cooperative and Members
Portland General Electric Company
Powerex Corp.
Public Generating Pool
Public Power Council
Puget Sound Energy
Renewable Northwest Project
Seattle City Light
Snohomish County PUD
Tacoma Power

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