Department of Energy

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

October 27, 2026

INTRODUCTION

On January 23, 2026, the President signed the "Commerce, Justice, Science; Energy and Water Development; and Interior and Environment Appropriations Act, 2026," Public Law No. 119-74, (Appropriations Act of 2026). Section 312 of the Appropriations Act of 2026 amended Section 4(c)(10)(B) of the Northwest Power Act, 16 U.S.C. § 839b(c)(10)(B). Section 4(c)(10)(B) establishes the Bonneville Power Administration's funding limit for the activities of the Northwest Power and Conservation Council (Council). This document sets forth the Bonneville Power Administration's (BPA) final interpretation of the newly amended language of Section 4(c)(10)(B).

I. BACKGROUND

The Council is an interstate compact agency created by Congress through the Northwest Power Act. *See* 16 U.S.C. § 839b(a)(2)(A). The principal functions of the Council are the development of (1) a regional power plan to assure the Northwest an adequate, efficient, economical and reliable power supply; and (2) a fish and wildlife program to protect, mitigate and enhance fish and wildlife affected by hydroelectric development in the Columbia River Basin. *See generally* 16 U.S.C. §§ 839b(d) – 839b(k).

Section 4(c)(10) of the Northwest Power Act directs BPA to financially support and pay the expenses of the Council for its statutory purposes within certain limits. Specifically, Section 4(c)(10)(A) provides that, upon request of the Council, the Administrator shall make funds available to the Council for the purposes stated above, but not in excess of 0.02 mill multiplied by BPA's firm kilowatt-hours forecasted to be sold in the year to be funded. 16 U.S.C. § 839b(c)(10)(A). This limit may be increased by the Administrator up to 0.10 mill upon an annual showing by the Council that the 0.02 mill limitation "will not permit the Council to carry out its functions and responsibilities." 16 U.S.C. § 839b(c)(10)(B). Neither of these values has been adjusted for inflation since their enactment in December 1980.

In the Appropriations Act of 2026, Congress amended the final sentence in Section 4(c)(10)(B) by adding the words "adjusted for inflation." Section 4(c)(10)(B) now reads:

> Notwithstanding the limitation contained in the fourth sentence of subparagraph (A) of this paragraph, upon an annual showing by the Council that such limitation will not permit the Council to carry out its functions and responsibilities under this chapter the Administrator may raise such limit up to any amount not in excess of 0.10 mill multiplied by the kilowatt hours of firm power forecast to be sold by the Administrator during the year to be funded, **adjusted for inflation**.

There is no legislative history or other direction on how the term "adjusted for inflation" should be viewed or otherwise interpreted. As the entity tasked with administering section 4(c)(10)(A) and (B) to fund the Council's activities, BPA provides its interpretation of the new language in its context.

II. INTERPRETATION

BPA addresses three interpretive issues with the new statutory language. First, BPA interprets the term "adjusted for inflation" as applying to the 0.10 mill. Given the placement of "adjusted for inflation" at the end of the sentence, BPA views this as the most logical reading.

Second, BPA will use the Gross Domestic Product Deflator (GDP Deflator) as the measure of "inflation." The GDP Deflator is a common measure of inflation used not only by BPA but also by the utility industry.

Third, BPA interprets the inflation measure to commence with the passage of the Appropriations Act of 2026, specifically January 23, 2026. BPA considers this a technical amendment to existing language and sees no indication that Congress intended this term to apply to an earlier date.

BPA intends to recalculate inflation annually, coinciding with the Council's required showing under Section 4(c)(10)(B), which typically occurs around May. While Council funding is determined on a fiscal year basis (aligned with BPA's fiscal year), the actual funding limit is calculated once the Council makes its proper showing. At that point, BPA will update the 0.10 mill rate by adjusting it for both actual inflation (using the latest available data) and forecasted inflation leading up to the midpoint of the applicable fiscal year.

III. RESPONSE TO PUBLIC COMMENTS

BPA received four comments on this proposed interpretation.[1] Three commenters—Northwest Energy Coalition, Northwest Power and Conservation Council, and Public Power Council—fully support BPA's interpretation. A fourth commenter, Northwest Requirements Utilities (NRU), supports using the GDP Deflator as the inflation measure and applying it from the date of the Appropriations Act of 2026's enactment. NRU Comment at 1–2. However, NRU expresses concern with BPA applying the phrase "adjusted for inflation" directly to the 0.10 mill figure. NRU Comment at 1.

NRU contends that an alternative reading leaves the statutory cap at 0.10 mills and applies "adjusted for inflation" to the term "any amount[.]" NRU Comment at 1. Under this interpretation, the inflation adjustment would not alter the 0.10 mill rate calculation, but would instead apply after the statutory maximum amount is calculated. While both approaches are mathematically identical, NRU suggests their proposed order of operations aligns better with the amendment's technical nature by not transforming a "fixed statutory ceiling into an indexed one[.]" Formulaically, the two approaches are as follows:

[1] Comments on the Draft Interpretation are available here.

BPA's Interpretation:

Firm Power Forecast x (0.10 mill x GDP Deflator) = Statutory Cap

NRU's Alternative:

(Firm Power Forecast x 0.10 mill) x GDP Deflator = Statutory Cap

While BPA recognizes NRU's perspective, BPA believes its interpretation better aligns with the statutory text. Applying "adjusted for inflation" to the final calculation creates tension in the text by establishing a fixed cap and then exceeding it via an inflation adjustment. Although both formulas yield identical monetary results, Congress did not specify which term to adjust. Given that the 0.10 mill rate remained unchanged in the statute for nearly fifty years, it is more reasonable to assume Congress intended to adjust that fixed rate for inflation rather than a floating variable driven by BPA's annual firm power sales.

NRU acknowledges that its reading is not mandatory, noting that the text is "ambiguous" and that either approach fits the amended statute. NRU Comment at 1. NRU requests that, if BPA maintains its proposed interpretation, it explicitly acknowledge that "the adjusted 0.10 mill is a ceiling" and that this adjustment "creates no entitlement, no expectation of funding at or near that level, and no presumption that the annual showing under Section 4(c)(10)(B) will be granted." NRU Comment at 2.

The amended statute preserves Congress's original framework: the 0.10 mill figure remains an "up to" ceiling, and the Council must make the requisite showing to request funding exceeding 0.02 mill multiplied by BPA's firm power forecast. *See* 16 U.S.C. § 839b(c)(10)(B). BPA will continue to implement these statutory safeguards whenever the Council requests funding above that baseline.

IV. CONCLUSION

For these reasons, BPA adopts this final interpretation of Section 4(c)(10)(B) of the Northwest Power Act.

Sincerely,

Digitally signed by
SUZANNE COOPER
Date: 2026.10.27
16:42:21 -07'00'

Suzanne B. Cooper
Deputy Administrator and
Chief Operating Officer