

January 3rd, 2023
Bonneville Power Administration

The NLSL Group¹ appreciates the opportunity to submit the following comments regarding BPA's December 14th, 2022 Provider of Choice (PoC) workshop.

The NLSL Group thanks BPA staff for the presentation at the December 14th, 2022 PoC workshop that reviewed the origins of the NLSL policy, the mechanics of how the NLSL policy is implemented, and the associated products offered by BPA to customers with NLSLs.

Members of the NLSL group have encountered challenges associated with BPA's NLSL policy and implementation over the course of the past two decades and view the PoC dialogue as an opportunity to resolve these challenges. However, the NLSL Group is disappointed in BPA's initial conclusion that no changes are needed to the NLSL policy, implementation and existing BPA products developed in the previous Regional Dialogue process.

As a foundational matter, the NLSL Group wants to be exceedingly clear that we are not seeking PF rate treatment (neither Tier 1 or Tier 2) for the NLSL loads we serve. While we believe that this portion of the NW Power Act is discriminatory on its face, we accept that facilities that qualify for NLSL status must abide by the letter and intent of the statute.

The NLSL Group feels strongly that the NLSL policy needs to be revised so that it can address the issues BPA's customers are facing today and expect to face in the future. Given the changes affecting our industry discussed in the Provider of Choice workshops over the course of 2022, we need an NLSL policy that will act as a "touchstone" for related discussions that will occur in rate making and transmission tariff contexts for the next twenty years. As the largest, growing category of load in the Northwest region BPA will serve over the next twenty years, and in furtherance of BPA's economic development mission, we believe the NLSL-related issues will require the attention and engagement that will best be facilitated by an updated policy, as opposed to trying to shoe-horn current and future issues into the existing policy.

While we recognize the transactional work required to formally revise any policy, we believe it is now required. Procedurally, we believe it is a best practice for any agency to modernize policies that are outdated and/or do not address issues of the future that are known to be pending today. To that end, the existing policy suffers from a number of structural defects through conflating policy with implementation requirements that would better reside in business practices that could be reformed more readily as changing conditions require doing so.

¹ The NLSL Group is comprised of BPA preference customers who serve retail members and customers that the Northwest Power Act categorizes as "New Large Single Loads" (NLSLs). Member utilities include: Umatilla Electric Cooperative, Northern Wasco County PUD, Grant PUD, PNGC Power, Emerald PUD, and Eugene Water and Electric Board.

The NLSL Group offers the following comments for BPA to consider and welcomes continued dialogue on these topics.

NLSL Determination Should Be Simplified and Consistent With The Intent of the NW Power Act

BPA's 2001 NLSL policy devotes several pages outlining the steps required to determine whether a facility's load meets the criteria to be designated an NLSL. To date, members of the NLSL Group have lived with processes that are not only overly cumbersome and resource intensive, but have also led to unintended consequences when BPA's customer also serves above high water mark (AHWM) loads. The construction of facilities that may be NLSLs have significant amount of uncertainty in the timing of start-up and ramping to full production – especially facilities related to technology, such as data centers. As a result, there may be differences in when a facility actually meets the NLSL requirement and when it was planned to meet the requirement. Until this load formally passed the NLSL threshold established in the policy, this load may manifest itself as AHWM load and expose the customer to additional risks and costs. The NLSL group proposes that BPA allow a customer the option to proactively self-determine when a facility becomes an NLSL rather than go through the cumbersome and time-consuming process outlined in the NLSL policy and expose themselves to unintended AHWM consequences. Doing so will conserve precious time and resources for both BPA and its customers.

The NLSL Group recognizes there is at least one example of a BPA customer having an NLSL facility shut down and sold to another type of industry that uses far less electricity. It is also possible that an NLSL facility may acquire non-federal generation to meet a portion of their load which could result in the total Federal obligation to meet this facility's load to be less than the requirement established in the NW Power Act. It is the understanding of the NLSL Group that BPA's view is that once a facility is determined to be an NLSL, it is always an NLSL. Neither the NW Power Act nor BPA's NLSL policy address either of these two examples, and the NLSL Group encourages BPA to work with the NLSL group to find a simple and durable solution to ensure that facilities that are designated as NLSLs are truly NLSLs.

NLSL implementation should encourage accurate scheduling practices

An unintended consequence of the Energy Shaping Service (ESS) product created in Regional Dialogue has been that customers using ESS tend to overschedule energy in heavy load hours (HLH) in order to minimize the risk of being exposed to Unauthorized Increase (UAI) charges and Rate Treatment penalties. The NLSL Group believes that a fundamental principle to all BPA products and services should be to incent accurate scheduling rather than persistent overscheduling, which the current practice clearly does not. The NLSL Group would like to work with BPA and other stakeholders to develop implementation rules that incent accurate scheduling rather than applying penalties that results in inaccurate schedules. Furthermore, as the FCRTS becomes increasingly constrained, it will be important for the agency to coordinate across BPA power and transmission business lines to avoid creating perverse incentives that make the optimization of the transmission system more difficult.

Clarifying the intent of different ESS energy rates applying when a customer received energy from BPA or provided energy to BPA

ESS energy charges in the current Regional Dialogue contract apply when a customer received energy from BPA or provided energy to BPA on a net monthly basis. The rate at which these charges are made depends on whether the net energy was provided to BPA (daily MidC index) or taken from BPA (NR rate). The NLSL Group would like BPA to explain their objective on why these energy rates are different and provide an analysis on whether this design achieved this objective. There does not appear to be any physical reason why energy stored into or released from the Federal system should be valued differently.

The NLSL group also is not convinced that either the MidC index or the NR rate reflects the true cost of storing energy into or releasing energy from the Federal system (i.e. the value of an acre-foot of water behind Grand Coulee Dam). The NLSL Group would like BPA to consider offering alternatives for this rate that better reflect actual costs for storing/releasing energy. For example, as BPA Power is doing with the financial return of real power losses, the WEIM LAP offer an opportunity for more accurate, market-based pricing.

NLSLs should be incented to support grid reliability during times of stressed system conditions

Emerging NLSLs in the Pacific Northwest have different attributes than the NLSLs that were envisioned when BPA's NLSL Policy was developed in 2001. Significant amounts of back-up generation and greater demand response flexibility are features that will be important during times of stressed system conditions. The expanded engagement of organized markets in the Northwest will give the opportunity for flexible load, battery resources, and back-up generation to be dispatched while supplying appropriate compensation for capacity and energy. The NLSL Group would like BPA to consider developing policies and products that will allow NLSL loads to support grid reliability whether through participation in the WRAP, WEIM, demand response programs, and other markets as they develop.

Submitted by Steve Kerns (Sandpiper Solutions, LLC), on behalf of the following:

- Umatilla Electric Cooperative
- Northern Wasco County PUD
- Grant PUD
- PNGC Power
- Emerald PUD
- Eugene Water and Electric Board