Northwest Requirements Utilities

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Submitted via email to: post-2028@bpa.gov

Re: Northwest Requirements Utilities Comments in response to BPA's November 2 5(b)9(c) Policy Workshop and Draft 2027 Revised Policy

Northwest Requirements Utilities (NRU) appreciates the opportunity to comment on the draft 2027 Revised 5(b)9(c) Policy and the materials BPA presented at its recent workshop. NRU supports BPA's decision to clarify Issue 1. That said, as stated during the meeting NRU is disappointed in BPA's decision not to address Issues 2 and 3, and urges BPA to include a short principle to the revised Policy that addresses them during this policy development process, before they surface as disputes during the Provider of Choice (POC) contract term.

Issue 1: Transfer and Recall of Resource Rights

NRU supports the new language in section III.A.1(b), which confirms that 5(b)(1)(A) resource amounts recalled by the original owner must be applied to the owner's load and are treated as an Existing Resource. Together with Clarification 6(b), which already shifts 5(b)/9(c) obligations to a purchaser with a 5(b) contract, this resolves Issue 1.

NRU also supports extending the same treatment to dedicated 5(b)(1)(B) resources and making the owner's dedication effective when the former holder's rights end, which together should ensure that BPA's total obligation does not rise in between.

Issues 2 and 3: Increases in Capability or Rights

BPA's stated reason for not addressing Issues 2 and 3 is that the POC contract requires customers to list undedicated generating resources in section 6 of Exhibit A, which lets BPA track increases in a resource's output. However, tracking is not dedication. While an Exhibit A listing records that a resource exists, it fails to require the customer to use an increase to serve its own load, or say how a dedicated increase is classified. Leaving those questions open creates several unnecessary risks, including but not limited to:

- **A one-way ratchet.** The Policy already gives customers relief when capability or rights decline, including partial losses. Without a rule governing increases, decreases flow through to BPA while increases can be withheld from load, shifting costs to other customers through 2044. Section 9(c) reaches only exports, and so fails to provide a sufficient or appropriate backstop.

- **Inconsistency with Issue 1.** Rights returned through a recall must now be dedicated and remain an Existing Resource. The same increase arriving through a relicensing reallocation, departing project participants, or an upgrade would have no rule, though its impact on BPA and the federal system is almost certainly identical.
- **Case-by-case decisions.** These questions, including whether an increment to an Existing Resource becomes a New Resource, will otherwise be settled on an individual basis. At least one NRU member has already faced that uncertainty, which discourages upgrades and extensions.

NRU understands the workload concerns raised by other commenters, but submits that fixed Contract High Water Marks (CHWMs) through 2044 make a clear rule more important, not less. Absent that, every relicensing, upgrade, and ownership change over the term of the Provider of Choice contract becomes an ad hoc negotiation, raising the likelihood of inconsistent or discriminatory application.

Proposed Principle

To avoid the circumstances described above, while remaining cognizant of the workload concerns raised by BPA and others, as noted during the 11/2 workshop NRU recommends that BPA add the following principle, or one substantially similar, to section III of the revised Policy:

> "Any increase in a customer's rights to, or the firm capability of, a resource it has dedicated to load, whether through transfer, recall, improvement, upgrade, or the issuance or amendment of a license, shall be dedicated to serve the customer's Total Retail Load in the same proportion as its existing dedication, and shall have the same statutory status and contract classification as the resource to which it relates."

The above language is consistent with the 2003 Clarifications, preserves partial dedications pro rata, excludes temporary over-generation and secondary energy, and does not relieve a customer of costs BPA incurred in reliance on its Above-CHWM Load elections. As NRU explained previously, the language merely aligns increases with the rule the Policy already applies to decreases.

NRU appreciates BPA's continued efforts on the revised Policy and consideration of the above comments, and we look forward to discussing the matter further at the November 17 workshop.

Sincerely,

Matthew A. Schroettnig
Vice President, Policy & Legal Affairs
Northwest Requirements Utilities