IOU Comments in Response to BPA Staff July 31 Average System Cost Methodology Proposals

Submitted to REP2028@bpa.gov

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Avista Corporation, Idaho Power Company, NorthWestern Energy, PacifiCorp, Portland General Electric Company, and Puget Sound Energy, Inc. (together, the "IOUs") offer the following comments in response to the presentation and related materials provided by Bonneville Power Administration ("BPA") Staff on July 31, 2026, setting forth limited incremental proposals to BPA's Draft Average System Cost Methodology ("Draft ASCM").[1]

These comments are primarily limited to the incremental proposals outlined by BPA Staff during the July 31 workshop and the materials associated with the workshop. However, the IOUs expressly incorporate by reference their previously submitted comments.[2] Further, the IOUs note that BPA provided only a two-week window for review of BPA's July 31 proposals. Given the short amount of time to evaluate BPA's proposals, the IOUs reserve the right to change or supplement the positions set forth herein during this proceeding. The IOUs are also concerned that, as proposed, BPA's July 31 proposals would arbitrarily and inequitably reduce costs reflected in IOU average system costs ("ASCs"), and therefore reduce exchange benefits, thereby adversely affecting IOU customers without a reasoned statutory or policy basis. The IOUs reaffirm their availability and openness to further dialogue with stakeholders on these issues.

Comments

I. BPA's proposed modification to return on equity ("ROE") is fundamentally flawed and should not be included in BPA's draft Record of Decision ("Draft ROD").

BPA's proposed modification to ROE is flawed. It ignores how ROE is determined by state commissions, it makes incorrect assumptions about utility ratemaking, it is likely duplicative, and would inappropriately remove non-transmission costs from utility ASC.

[1] BPA, *Post-2028 Residential Exchange Program*, ACM Workshop (July 31, 2026); Post-2028 REP, 2026 ASCM Consultation Workshop – Redlines (July 31, 2026); Market Price Simplified Calculator.

[2] IOU Informal Comments in Response to BPA Preliminary Draft Average System Cost Methodology ("ASCM") (filed Jan. 21, 2026) ("Attachment A"); IOU Incremental Informal Comments in Response to BPA Incremental Preliminary Draft Average System Cost Methodology ("ASCM") (filed Feb. 10, 2026) ("Attachment B"); IOU Formal Comments in Response to BPA Draft Average System Cost Methodology (filed April 2, 2026) ("Attachment C").

A. BPA's ROE proposal is a continuation of its flawed exclusion of most transmission costs from ASC, in violation of the Northwest Power Act ("NWPA") and BPA's own position on transmission costs in ASC.

The IOUs reiterate their objection to BPA's proposal to exclude most transmission costs from utility ASCs, of which BPA's ROE proposal appears to be a continuation. BPA's proposal to exclude most transmission costs from utility ASCs is in direct contravention of the purposes of the NWPA. As explained in the IOUs' prior comments,[3] BPA's proposal—to exclude all functionalized transmission costs in the ASCM other than those in (1) FERC Account 565 (Transmission of Electricity by Others) to account for third-party wheeling transmission costs, and (2) FERC Account 447 (Sales for Resale)[4]—is inconsistent with Section 5(c)(7) of the NWPA, which, since its inception, has always included a participating utility's transmission costs in the ASCM calculation. The inclusion of transmission costs as a legitimate "system cost" is supported by a plain reading of Section 5(c)(7) of the NWPA, the NWPA's legislative history, and BPA's own statutory- and policy-based arguments, which have only become more compelling and applicable in the intervening years. In the 2008 ASCM, BPA strongly defended the inclusion of transmission costs in the ASCM and rejected many of the same positions it is now taking here.[5]

Despite requests from the IOUs for a reasoned explanation from BPA for its reversal of position from the 2008 ASCM, BPA has not offered one. Under the Administrative Procedure Act, an agency rule that implements a policy change by amending or repealing an existing rule is subject to arbitrary and capricious review.[6] The Supreme Court has held that an agency must provide a reasoned analysis for the departure from its own policy or the departure is arbitrary and capricious.[7] BPA has failed to provide a reasoned analysis for its decision to depart from nearly 50 years of precedent in how ASC has been calculated. Accordingly, the IOUs urge the Administrator to reject BPA's proposal to exclude most transmission costs from the ASCM—including BPA's new ROE

[3] ***See*** Attachment A at 4-5; Attachment B at 5-9; and Attachment C at 3-11.

[4] BPA, Draft 2026 ASCM Methodology § 301.4(x) (Feb. 20, 2026) ("Draft ASCM").

[5] 2008 ASCM, Final Record of Decision at 125-142 (June 2008) ("2008 ASCM ROD").

[6] 5 U.S.C. § 706(2)(A).

[7] ***See, e.g., Motor Vehicle Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co.***, 463 U.S. 29, 42 (1983) (holding that "[a]n agency changing its course by rescinding a rule is obligated to supply a reasoned analysis for this [policy] change beyond that which may be required when an agency does not act in the first instance."); ***Nat'l Cable & Telecomms. Ass'n v. Brand X Internet Servs.***, 545 U.S. 967, 981 (2005) (an "[u]nexplained inconsistency" in agency policy is "a reason for holding an interpretation to be an arbitrary and capricious change from agency practice"). The COUs argue that ***Loper Bright Enters. v. Raimondo***, 603 U.S. 369 (2024), obviates the need for BPA to provide a reasoned explanation for excluding transmission costs where the statutory text is plain. Comments of the Consumer Owned Utilities Regarding BPA's Draft 2026 Average System Cost Methodology at 3 (filed Apr. 2, 2026) ("COU April 2 Comments"). That argument is inapposite because ***Loper Bright*** applies to courts and not to agencies themselves. ***Loper Bright***, 603 U.S. at 412.

proposal—as the exclusion is inconsistent with the NWPA, is inconsistent with how ASC has been calculated for decades, and is arbitrary and capricious.

B. A utility's state ROE does not contain a separable "transmission ROE" and IOU retail customers do not pay FERC transmission ROE; thus, subtracting a FERC transmission ROE from a state ROE has no merit.

BPA's proposal, which attempts to solve for non-transmission ROE, is fundamentally flawed because it oversimplifies and ignores how ROE is calculated by state commissions. BPA's proposal appears to assume that state-approved ROE is a weighted average of separate transmission and non-transmission ROE, such that you can isolate one or the other. This is false. A singular state-approved ROE for a company is determined in retail ratemaking proceedings using numerous factors, including risk, the financial health of a company, and policy considerations, that are weighed by state commissions in setting a rate of return for a utility "commensurate with returns on investments in other enterprises having corresponding risks" and "sufficient to assure confidence in the financial integrity of the enterprise, so as to maintain its credit and to attract capital."[8] State ROE is not simply a mathematical calculation comprised of discrete transmission and non-transmission components with separate ROEs.[9] Rather, a state ROE is determined for a company by its state commission based on its business as a whole. There is no such thing as separate ROEs for the various portions of a utility's business. Once a state commission sets an ROE, that ROE applies to the utility's entire business.[10]

Even if one could theoretically determine a non-transmission state-authorized ROE, BPA's formula is flawed because it uses a FERC-authorized ROE for transmission to calculate the non-transmission portion of a state-authorized ROE. This is inappropriate because FERC-authorized ROE for transmission is not a component of a state-approved ROE. IOUs that have bundled retail rates do not have ratepayers that pay FERC transmission rates; rather, only IOU third-party transmission customers (e.g., OATT customers) pay the FERC transmission rate. FERC transmission authorized ROEs reflect FERC-specific policies, transmission-specific risk evidence, incentive adders, settlement constructs, formula rate conventions, different capital structures, different test periods, and different federal regulatory objectives, all of which are determined in

[8] *Fed. Power Comm'n v. Hope Nat. Gas Co.*, 320 U.S. 591. 603 (1944); *see also Bluefield Water Works & Improv. Co. v. Pub. Serv. Comm'n*, 262 U.S. 679 (1923).

[9] For example, BPA does not and cannot demonstrate the risk reflected in state ROE is based on segregable risks allocated to transmission and non-transmission.

[10] The very result of BPA's proposal highlights the inherent flaw in its proposal, as its example suggests the ROE applied to "Non-Transmission ROE" is lower than the state-authorized ROE. However, the "State ROE" in the numerator is what is applied to all authorized rate base in a regulatory proceeding, inclusive of transmission and non-transmission investments. In other words, there is no need to solve for "Non-Transmission ROE"; the applicable state commission has already made that determination by setting a "State ROE."

FERC proceedings. As noted above, state-authorized ROEs reflect the risks and earnings requirements of a utility as determined in state retail rate proceedings. Thus, BPA's proposal to "remove the transmission-associated ROE from the state-commission approved ROE" by "utilizing the ROE in FERC-approved transmission rates" is not appropriate. BPA is proposing to remove that (a FERC ROE) which is not included in a state ROE in the first place.

To the extent BPA argues it is using the FERC transmission ROE as merely a "proxy" for a state transmission ROE, this is also inappropriate. In the example provided, BPA has provided no justification for using a FERC ROE when a state commission has already set a company's ROE. BPA has failed to explain why a different ROE—particularly a higher FERC ROE—would apply to different portions of a company's business.

In sum, the fundamental premise of BPA's ROE proposal is flawed. An authorized ROE for transmission assets is not embedded in state-authorized ROE such that it can be isolated using a mathematical formula. State-authorized ROE for a company as a whole is a result of policy decisions made by a state commission and may include or exclude costs incurred by the utility—transmission or otherwise. Moreover, even if one could theoretically isolate the impact of transmission assets on the authorized ROE to determine that impact, using FERC transmission ROE is unacceptable because it is not a component of state-authorized ROE, nor is it considered in establishing an authorized ROE used in setting retail rates.

C. BPA's ROE proposal—if proposed together with its proposal to exclude most transmission costs—would likely be duplicative and remove non-transmission-related costs from ASC.

BPA has not explained or demonstrated how its ROE proposal would interact with its current proposal to remove most transmission costs from ASC. If BPA is proposing that both proposals be implemented in the draft ASCM, BPA's ROE proposal is likely duplicative of its transmission proposal and would result in the removal of non-transmission-related costs from ASC, which is inappropriate and violates the NWPA.

In the IOU ASC Appendix 1 filings, the Transmission functionalized costs in rate base are multiplied by the Federal Income Tax Adjusted Weighted Cost of Capital to arrive at a transmission functionalized Federal Income Tax Adjusted Return on Rate Base (see "Sch 2 – Rate of Return," "Sch 1 – Rate Base," and "Sch 4 – Average System Cost" tabs).[11] Even if one could solve for a discrete non-transmission component of state ROE, this proposal would apply that reduced factor to a set of transmission costs from which the vast majority of costs have already been removed, as currently proposed by BPA. To the extent BPA's ROE proposal is considered in

[11] 2026 ASCM Draft Appendix 1 ("ASC Appendix 1").

tandem with its proposal to exclude most transmission costs, BPA must demonstrate that its ROE proposal is not duplicative to its proposal to exclude most transmission costs.

Moreover, also in the IOU ASC Appendix 1 filings, the Production and Transmission functionalized costs in rate base are both multiplied by the Federal Income Tax Adjusted Weighted Cost of Capital to arrive at a Federal Income Tax Adjusted Return on Rate Base (see "Sch 2 – Rate of Return," "Sch 1 – Rate Base," and "Sch 4 – Average System Cost" tabs).[12] Ignoring again that one cannot solve for a discrete transmission component of state ROE, this proposal would inappropriately apply a reduced factor to production and other functionalized costs which are a broader set of costs than just transmission costs. As explained above, given that state-approved ROE is not simply the sum of transmission and non-transmission ROE, BPA's proposal would remove more than transmission-related ROE, in violation of the NWPA and further eroding IOU ASCs.

D. There is no need to modify state-approved ROE and the COUs' ROE proposal should also not be considered.

The genesis of BPA's ROE proposal apparently stems from a proposal by the COUs in which they argue that if BPA does not exclude wildfire and disallowed costs from IOU ASCs, then BPA should "reconsider the treatment of return on equity."[13] The COUs assert that "[i]n recent years, exposure to extraordinary liability risks, including wildfire-related costs, has become an increasingly important factor in the financial risk profile of western utilities. These risks are reflected in the cost of capital approved in state regulatory proceedings."[14] The COUs propose to revert to the 1984 ASCM, "which limited the overall rate of return to be applied to a utility's rate base to an amount equal to the utility's weighted average cost of long-term debt".[15]

While it does not appear that BPA is considering the COUs' ROE proposal, the IOUs affirm it should not do so. The COUs' proposal to revert to the 1984 ASCM treatment of ROE is inapposite because the 1984 ASCM had absolutely nothing to do with transmission costs, wildfire liability, or disallowed costs. It was based on a singular instance over 40 years ago where a utility had included terminated plant costs in its retail rates and its ASC.[16] In what ultimately turned out to be an overreaction, in the 1984 ASCM, BPA limited utility return in ASCM to its long-term cost of debt.[17] BPA's proposal was met with strong skepticism by both FERC and the Ninth

[12] *Id.*

[13] *COU April 2 Comments* at *14*.

[14] *Id.* at 13-14.

[15] *Id.* at 14.

[16] *See* 2008 ASCM ROD at 103.

[17] *Id.*

Circuit,[18] and the approach was completely abandoned in the 2008 ASCM, which fully restored the inclusion of return on equity in ASC.[19] ROE in its current form has been included in ASC ever since.

The COUs have not produced evidence or support for their claim that wildfire-related risks have materially impacted ROE in state regulatory proceedings such that ROE in ASC should be categorically modified or changed, or changed in the manner BPA proposed by arbitrarily adjusting state commission-determined ROEs, nor do they provide a basis for why using the utility's weighted average cost of long-term debt is a superior alternative. No two utilities or jurisdictions are the same, and no two rate cases are the same, as numerous factors impact a utility's ROE. Thus, there is no need to modify ROE in this proceeding—irrespective of whose proposal (COUs' or BPA's) is on the table.

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For the above reasons, BPA's ROE proposal is flawed and it should not be included by BPA in the Draft ROD and Draft ASCM.

II. BPA should abandon its consideration of a FERC Account 925 threshold and should revert to its existing process.

In the draft ASCM published on February 20, 2026, BPA proposed to limit the inclusion of charges in FERC Account 925 (Injuries and Damages) to charges in Account 925 that are one percent or less of a utility's total system costs.[20] For any amount over the one percent threshold, BPA further proposed to require the utility to make a showing of where those charges were approved by a state public utility commission for retail rate recovery before the charges may be included in a utility's ASC.[21] During the July 31 Workshop, BPA Staff recognized that the stakeholders in this proceeding did not support a one percent threshold for Account 925 charges, and requested that stakeholders provide a supportable threshold that BPA Staff could consider incorporating into the ASCM.

BPA's proposal continues to raise significant concerns for the IOUs, and the IOUs' position on establishing a threshold for Account 925 costs remains unchanged.[22] As previously explained, BPA's proposed limitation of Account 925-related costs has no basis in the statutory

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[18] *PacifiCorp v. FERC*, 795 F.2d 816, 823 (9th Cir. 1986).

[19] *See* 2008 ASCM ROD at 103-112.

[20] Draft ASCM § 301.4(w).

[21] *Id*.

[22] Attachment A at 4; Attachment B at 9-11; Attachment C at 11-12.

text of the NWPA. Beyond BPA's clear lack of statutory authority under the plain text of the NWPA to limit or exclude a utility's injuries and damages costs, BPA's proposal is also arbitrary and capricious in several respects.[23] BPA has failed to respond to these IOU concerns, much less articulate a justifiable basis for proposing limitations on Account 925 at all, and BPA's plea to stakeholders on July 31 for help selecting a justifiable threshold further cements these deficiencies. Simply put: the fact that BPA continues to struggle with finding a justifiable threshold for Account 925 costs demonstrates that such a threshold is not only inconsistent with the NWPA, but unsupportable and should be removed from the Draft ASCM.

III. There is insufficient time for the IOUs to evaluate BPA's Market Price Escalation proposal and the IOUs continue to support the addition of a reasonable floor on forecasted purchased power prices, as previously requested.

In the January 21, February 10, and April 2 IOU Comments, the IOUs identified concerns with the ASCM Forecast Model and the methodology used to forecast electric market prices for power purchases required to serve load growth not met by major resource additions.[24] Under the existing ASCM Forecast Model, BPA forecasts the electric market price used to serve load growth not met by major resource additions by calculating average short-term purchased power prices and average sales for resale prices over recent historical periods. These values are used to calculate a market price applied to incremental load during the Exchange Period. As implemented, this methodology can produce purchased power prices that are materially below market prices that utilities can reasonably expect based on commercial experience. In some cases, the forecasted prices are significantly lower than a utility's average cost of serving load and do not reflect observable market conditions or procurement experience. The IOUs requested that BPA revise the existing methodology to establish a reasonable floor on forecasted purchased power prices to ensure that the cost of serving unmet load growth is not understated.[25]

On July 31, BPA Staff produced a new proposal whereby the ROD will offer two options for forecasting electric market prices: the first based on the status quo and the second, an entirely new model. Although the IOUs appreciate BPA's closer review of its forecasting approach, the IOUs are unclear as to whether the fundamental issue previously raised has been addressed with the introduction of the second option. As noted above, the IOUs have requested that BPA add a reasonable floor on purchased power prices to avoid understating the IOUs' true load-service costs. Such a floor would prevent the forecast model from producing what has been observed to be significantly understated prices associated with serving system load growth.[26] To the extent the

[23] Attachment C at 11-12.

[24] Attachment A at 5; Attachment B at 11; Attachment C at 14.

[25] *Id*.

[26] Attachment C at 14.

BPA proposal addresses the fundamental issue identified by the IOUs, the IOUs are open to considering that approach. However, because the proposal introduces a new alternative model for stakeholder review, the IOUs have not had sufficient time to evaluate whether the new option appropriately addresses the concern that the forecasted purchased power prices may understate the costs utilities can reasonably expect to incur when serving load growth. Appropriately evaluating any new forecasting model requires extensive analysis and consideration by stakeholders, and introducing the proposal approximately one month before BPA plans to publish the Draft ROD and Draft ASCM does not provide stakeholders adequate time to assess the option, understand its implications, and determine whether it resolves the concerns previously identified. Absent sufficient time for that evaluation, the IOUs continue to support the addition of a reasonable floor on forecasted purchased power prices, as previously requested.

IV. The IOUs support BPA's service territory, major resource additions, and materiality thresholds proposals.

The IOUs have reviewed the revisions proposed by BPA to the service territory section of the ASCM—Section 301.5(f) and new proposed Section 301.5(g)—and BPA's proposed revisions to Section 301.5(c) clarifying language around major resource additions and materiality thresholds. The IOUs appreciate BPA proposing these revisions and support the inclusion of these revisions in the draft ASCM.

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The IOUs appreciate BPA's consideration of these comments and request that BPA revise the Draft ROD and Draft ASCM to conform to the comments above.

<u>Attachment A</u>

IOU Informal Comments in Response to BPA Preliminary Draft Average System Cost Methodology ("ASCM")

Submitted to REP2028@bpa.gov

January 21, 2026

Avista Corporation, Idaho Power Company, NorthWestern Energy, PacifiCorp, Portland General Electric Company, and Puget Sound Energy, Inc. (together, the "investor-owned utilities" or "IOUs") offer the following preliminary informal comments in response to Bonneville Power Administration's ("BPA") Preliminary Draft Average System Cost Methodology ("Preliminary Draft ASCM").[1]

I. Introduction and Background

On December 10, 2025, BPA posted the Preliminary Draft ASCM for review and comment. The Preliminary Draft ASCM includes changes as identified and discussed in workshops held on October 23, December 3, and December 16, 2025.[2] In the Preliminary Draft ASCM BPA proposes structural changes to the existing 2008 ASCM. In general, these structural changes include:

- Changes to the structure to create two parts. Part 1 consists of FERC regulations and Part 2 consists of BPA's rules of procedures for determining Average System Cost ("ASC").
- Changes to the structure of the ASCM by moving substantive text from the endnotes into the body of the ASCM.
- Removal of references to Consumer Owned Utilities ("COUs") and related concepts not applicable to IOUs.
- Changes to the treatment of specific accounts including reduction of allowable expenses or changes to the functionalization method.

The IOUs support the need for BPA to periodically update the ASCM and appreciate BPA's efforts to do so here. However, the IOUs disagree with several of BPA's proposed changes and offer informal comments on the following.[3] The IOUs request that BPA address these comments

[1] Preliminary Draft Average System Cost Methodology (December 10, 2025), available at https://www.bpa.gov/-/media/Aep/power/residential-exchange-program/post-2028-rep/2026-ascm-preliminary-draft-clean.doc, included as Attachment 1.

[2] The presentation given by BPA at the October 23, 2025 workshop can be found on the BPA website here https://www.bpa.gov/-/media/Aep/power/residential-exchange-program/post-2028-rep/phase-2-post-2028-rep-ascm-workshop-20251023.pdf, included as Attachment 2; the presentation given by BPA at the December 3, 2025 workshop can be found on the BPA website here https://www.bpa.gov/-/media/Aep/power/residential-exchange-program/post-2028-rep/20251203-phase-2-post-2028-rep-ascm-workshop.pdf, included as Attachment 3; the presentation given by BPA at the December 16, 2025 workshop can be found on the BPA website here https://www.bpa.gov/-/media/Aep/power/residential-exchange-program/post-2028-rep/20251216-phase-2-post-2028-rep-ascm-workshop-3.pdf, included as Attachment 4.

[3] The IOUs are still evaluating the Preliminary Draft ASCM, and for several of BPA's proposed changes, as discussed below, the IOUs need additional information from BPA before they can comment fully. By not providing comments on any issue not identified below or addressed in these informal comments, the IOUs in no way waive the right to comment and reserve the right to address any such issue in the future.

directly in its next draft ASCM, and, in particular, address the below-noted substantive concerns, which are discussed in more detail in section II below.

1. Method to Calculate Distribution Losses
2. Change to New Large Single Loads ("NLSL")
3. Treatment of FERC Order 888
4. Treatment of Energy Storage Plant
5. Limitation on Injuries and Damages
6. Limitation Transmission Costs
7. Change to Determination of Average Short Term Purchased Power Prices and Sales for Resale Prices
8. Definitions

In addition to comments on BPA's proposed changes, the IOUs also identified two issues within the existing ASCM methodology that are not addressed in the Preliminary Draft ASCM, but have the potential to materially affect the calculation of ASC and Residential Exchange Program benefits. These issues have been present in prior iterations of the ASCM and are reflected in the current Forecast Model and ASC implementation practices. Specifically, the IOUs request that BPA consider reviewing and updating:

1. The methodology used to forecast electric market prices for power purchases required to serve load growth not met by major resource additions; and
2. The materiality threshold applied to the inclusion of new resources in a utility's ASC.

Although the above two items are not proposed changes in the Preliminary Draft ASCM, the IOUs believe they warrant discussion and modification as part of BPA's broader ASCM update to ensure that ASCs reasonably reflect utility costs and avoid outcomes that are inconsistent with operational and market realities.

The remainder of these informal comments focus on the substantive issues outlined above.

II. The IOUs' Informal Comment to Select Proposals in the Preliminary Draft ASCM

1. <u>Method to Calculate Distribution Losses</u>[4]

BPA proposes – without any explanation – to eliminate two of the three existing methods (Method 1 and Method 2) for determining a utility's distribution loss factor, leaving only Method 3. The IOUs do not support this change. Most of the IOUs currently use Method 1, although some use Method 3. The difference between Method 1 and Method 3 results in a change in the losses applied to eligible retail loads. This change could result in either a positive or negative change in

[4] BPA proposed at the October 23, 2025 workshop to move certain endnotes from the 2008 ASCM to the body of the ASCM, and reflected this change in redline in the Average System Costs Methodology Redlined – Part One document. *See* Attachment 2 at Slide 45 and Average System Costs Methodology Redlined – Part One document at page 65, available at https://www.bpa.gov/-/media/Aep/power/residential-exchange-program/post-2028-rep/20251023-tf-pt-1-redlined-rpsa-ascm.doc. BPA updated Preliminary Draft ASCM § 301.4(n) to include only Method 3.

ASC for other utilities. BPA has not provided sufficient support for this change, other than to reduce available options. BPA should keep the current options pending additional explanation and discussion between BPA and stakeholders regarding this proposed change.

2. Change to New Large Single Loads ("NLSL")[5]

In the Preliminary Draft ASCM, the IOUs understand that BPA proposes to change the treatment of NLSL costs in the ASCM by creating two NLSL periods representing "Base Period NLSL" and "Exchange Period NLSL," drafting a new treatment for determining a utility's resource costs to serve NLSL, removing the NLSL Exception, and removing the NLSL Formula rate.

The IOUs request that BPA delay implementing the above proposed changes pending further discussion. In particular, the IOUs are still evaluating BPA's escalation and NLSL Exception proposals. The IOUs do not believe BPA has adequately justified these proposed changes and request that BPA provide additional information and explanation regarding its proposals.

Regarding BPA's proposed Formula Rate change, the IOUs disagree with this change. BPA has failed to adequately explain its reasoning for this change, and mid-period adjustments should remain available to support the timely recognition of NLSLs that become operational during an Exchange Period.

3. Treatment of FERC Order 888

The Preliminary Draft ASCM proposes to remove the treatment of transmission and distribution lines using the Commission's seven factor test contained in FERC Order 888. As discussed below, the IOUs disagree with BPA's transmission cost proposal; therefore, BPA's proposal above is unnecessary.

4. Treatment of Energy Storage Plant[6]

BPA proposes to update the Energy Storage Plant accounts to comply with FERC Order 898. Previously, three accounts (FERC accounts 348, 353, and 361) were reported separately and had specific functionalization. Consistent with Order 898, BPA proposes moving these into one account and using the Production/Transmission/Distribution ("PTD") labor ratio functionalization method.

While the IOUs support consolidation of these accounts consistent with FERC Order 898, the use of the PTD functionalization method may not reflect the specific use of the batteries being installed. The IOUs recommend a direct functionalization method based on reasonable analysis of procurement conditions, interconnection status, or usage characteristics in the base year. This allows utilities to reflect how energy storage devices contribute to a utility's average system cost.

[5] Preliminary Draft ASCM §§ 301.4(p), 301.5(c)(10).
[6] Preliminary Draft ASCM § 301.4(v).

5. Limitation on Injuries and Damages[7]

BPA proposes limiting the charges in FERC account 925, Injuries and Damages, to only amounts approved for recovery by state public utility commissions ("PUCs"). The IOUs do not support this change and further discussion is needed regarding alternatives.

Limiting charges in FERC account 925 to only amounts specifically approved by PUCs is a step backwards. The current FERC Form 1 process adopted in the 2008 ASCM was specifically implemented to avoid the labor-intensive ASC methodologies of the past the relied heavily on PUC rate proceedings. The 2008 ASCM streamlined the ASC process by basing the inputs on FERC Form 1s. This was and remains appropriate because PUC rate proceedings do not always result in a clear determination of injuries and damages that can be reported under FERC account 925. For example, PUCs sometimes disallow costs for reasons not tied to the validity of the cost to generate and provide power to customers, or PUC proceedings are settled without a clear determination of injuries and damages. The FERC Form 1 approach was adopted, in part, to avoid these the inefficiencies and have been a straightforward and consistent approach to reporting FERC account 925 amounts. BPA's proposed treatment also unfairly impacts IOUs because IOUs are subject to costs associated with wildfires and other litigation that COUs and BPA are not subject to.

While the IOUs acknowledge BPA's concern over the increase in wildfire and other litigation costs, the IOUs believe further discussion is warranted to discuss alternatives to BPA's proposal.

6. Limitation on Transmission Costs[8]

BPA proposes to exclude all functionalized transmission costs other than those in FERC account 565, third-party wheeling transmission costs and account 447, transmission associated for sales for resale. The IOUs do not support this change, which is inconsistent with Section 5(c)(7) of the Northwest Power Act ("NWPA"), and with how the ASC has been calculated for decades.

Under the NWPA, a utility's ASC "shall be determined by the Administrator on the basis of a methodology developed for this purpose in consultation with the Council, the Administrator's customers, and appropriate State regulatory bodies in the region" and "subject to review and approval by the Federal Energy Regulatory Commission." NWPA § 5(c)(7). The only statutory exclusions on what the ASC "shall not include" do not mention transmission. The exclusions are the costs to serve any new large single load of the utility (Section 5(c)(7)(A)), the cost of additional resources in an amount sufficient to meet any additional load outside the region (Section 5(c)(7)(B)), and any costs of any generating facility which is terminated prior to initial commercial operation (Section 5(c)(7)(C)).

Accordingly, since the inception of the NWPA, transmission costs have always been included as part of the utility's ASC. Most recently, in the 2008 ASCM, *BPA staff* expressly advocated for the inclusion of transmission costs in a utility's ASC:

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[7] Preliminary Draft ASCM § 301.4(w).
[8] Preliminary Draft ASCM § 301.4(x).

> Transmission costs are a cost to a Utility of delivering power to load and should be included in the calculation of a Utility's ASC. Increasingly, utilities rely on transmission to find the least cost resource available to serve load. This includes bringing power to load from distant, lower cost generation, particularly renewable resources such as wind where moving fuel to local generation is not an option. In addition, dramatic changes in the electricity industry have taken place since BPA originally developed the 1984 ASCM, such as increased reliance on independent power producers to develop generation to sell at market ("merchant plant") or under long-term power purchase agreements; strengthening of wholesale power markets; increased reliance on planning and operating the region's transmission system under a "one Utility" vision through ColumbiaGrid (an independent regional transmission entity); the creation of an Independent System Operator in California; and a more constrained transmission system. These changes support including transmission as a cost of ASC. BPA should, therefore, include transmission as a component of ASC.[9]

The 2008 ASCM Record of Decision contains a detailed and well-reasoned decision approving the inclusion of all transmission costs in calculating a utility's ASC.[10] The conditions that existed in 2008 that BPA determined justified the inclusion of all transmission costs in calculating ASC are still in effect today. BPA has failed to explain how its proposed changes are warranted, particularly given the circumstances and reasoning in the 2008 ASCM Record of Decision.

Accordingly, the IOUs strongly oppose BPA's transmission cost proposal. Excluding transmission costs harms IOU customers. If IOUs and their customers had access to BPA federal power, then IOU transmission costs would be lower, as the IOUs would not need to procure resources farther away. The lack of access to BPA's resources, which are centrally located, results in the IOUs having to incur "additional" transmission beyond that incurred by COUs, who have more direct access to BPA federal power. Furthermore, this proposal creates a disincentive for utility investment in transmission, while creating an incentive for investment in BPA's transmission, as BPA is proposing to allow wheeling costs over its system. Therefore, the IOUs believe that the cost of transmission should remain in the ASCM.

7. Change to Determination of Average Short Term Purchased Power Prices and Sales for Resale Prices[11]

The Preliminary Draft ASCM proposes to change the determination of average short term purchased power prices and sales for resale prices from three years to five years.

The IOUs request that BPA retain the three-year weighted average calculation. The IOUs believe that current prices are a better predictor of future prices. Extending the period considered in calculating the weighted average price reduces the volatility of prices. In periods of increasing

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[9] 2008 ASCM Record of Decision at 126.

[10] *Id.* at 125–42.

[11] Preliminary Draft ASCM § 301.5(b)(2)(ii)(A).

or decreasing prices a longer period reduces or increases the calculated price. The calculated price in either case will still be different than the most current period's price. To the extent that this price factors into the calculated or forecasted ASC then the result is potentially less accurate, impacting the calculated Residential Exchange Program benefit pool.

8. <u>Definitions</u>[12]

The IOUs oppose the proposed deletion of the definition of "Priority Firm Power". BPA's current definition of "Priority Firm Power" accurately recognizes that, under the NWPA, BPA is obligated to make "electric power (capacity and energy) … continuously available for direct consumption or resale to… Utilities participating in the Residential Exchange Program," and that "[u]tilities participating in the Residential Exchange Program under section 5(c) of the Northwest Power Act may purchase Priority Firm Power under their Residential Purchase and Sales Agreements with Bonneville." Moreover, the definition observes that "deliveries" of such power may be reduced or interrupted only as permitted under the IOU's RPSAs with BPA. Accordingly, BPA's proposed deletion of this definition is inconsistent with the NWPA's requirement that BPA implement the Residential Exchange Program as a physical exchange.[13]

III. IOU Proposed Changes to the Existing ASC Methodology

1. <u>Forecasting the Electric Market Price for Power Purchases Needed to Meet Load Growth Not Met by Major Resource Additions</u>

Under the existing ASCM Forecast Model, BPA forecasts the electric market price used to serve load growth not met by major resource additions by calculating average short-term purchased power prices and average sales for resale prices over recent historical periods. These values are used to calculate a market price applied to incremental load during the Exchange Period.

As implemented, this methodology can produce purchased power prices that are materially below reasonable expectations of the prices utilities can obtain in the market. In some cases, the forecasted prices are significantly lower than a utility's average cost of serving load and do not reflect observable market conditions or procurement experience.

The IOUs are concerned that the existing methodology systematically understates the cost of serving load growth not met by new resources. The assumption that incremental load can be served at extremely low market prices does not reflect how utilities actually procure power and results in ASCs that are not representative of underlying costs. For example, assuming incremental load can be served at market prices ignores the increasingly stringent environmental requirements imposed on utilities that typically cannot be met through market purchases.[14]

When applied across the Exchange Period, these low market price forecasts effectively price all unmet load growth at levels that are inconsistent with market realities and environmental

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[12] Preliminary Draft ASCM § 301.2.
[13] *See* IOU Comments in Response to BPA Draft Post-2028 Residential Purchase and Sale Agreement, being submitted concurrently with these comments.
[14] *Id*.

requirements. This outcome understates purchased power costs and materially affects the calculation of the ASC and Residential Exchange Program benefits.

The IOUs recognize the inherent uncertainty in forecasting future market prices. However, the existing approach produces outcomes that are not reasonable and do not align with utility experience. The IOUs recommend that BPA revise the existing methodology and, at a minimum, establish a reasonable floor on forecasted purchased power prices to ensure that the cost of serving unmet load growth is not understated.

2. Materiality Threshold for Inclusion of New Resources in the ASC

Under the existing ASCM, new resources that are not reflected in the FERC Form 1 used for a utility's ASC filing are subject to a materiality threshold. Each individual resource must result in a change of at least 0.5 percent of the utility's Base Period ASC to be eligible for inclusion in a group, and the grouped resources must collectively result in a change of at least 2.5 percent of the Base Period ASC to be included. The Exchange Period ASC is intended to reflect a utility's system costs, including resources that come online after the Base Period but prior to the Exchange Period.

The IOUs are concerned that the existing materiality threshold and grouping requirements can prevent in-service resources from being reflected in the ASC, even when those resources are used and useful and contribute meaningfully to a utility's cost structure.

While grouping is permitted, the current approach creates unintended outcomes. If multiple resources are grouped to meet the 2.5 percent threshold and a single resource in the group does not come online prior to the Exchange Period, none of the remaining resources in the group are included in the ASC, even if they are operational and represent a substantial portion of total costs.

For example, if a utility brings five small battery resources online, each exceeding the 0.5 percent individual threshold and collectively exceeding the 2.5 percent threshold, and one resource is delayed, the remaining resources—even if fully operational—would be excluded from the ASC. This outcome understates actual system costs and is inconsistent with the purpose of the Exchange Period ASC.

The IOUs believe that resources that come online prior to the Exchange Period should be reflected in the ASC to ensure an accurate representation of system costs. Excluding operational resources due to grouping rules undermines the intent of the methodology and creates distortions in cost recovery. The IOUs urge BPA to explore methodologies that would allow for inclusion of all used and useful resources without increasing administrative burden to BPA. As utilities increasingly integrate smaller, distributed, and emerging technologies, this issue will become more pronounced, making a more flexible and transparent approach essential for fairness and accuracy.

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The IOUs appreciate BPA's consideration of these informal comments to the Preliminary Draft ASCM and request that BPA address these comments directly in its Draft ASCM.

Attachment B

IOU Incremental Informal Comments in Response to BPA Incremental Preliminary Draft Average System Cost Methodology ("ASCM")

Submitted to REP2028@bpa.gov

February 10, 2026

Avista Corporation, Idaho Power Company, NorthWestern Energy, PacifiCorp, Portland General Electric Company, and Puget Sound Energy, Inc. (together, the "investor-owned utilities" or "IOUs") offer the following incremental comments in response to the Bonneville Power Administration's ("BPA") Incremental Preliminary Draft Average System Cost Methodology ("Incremental Preliminary Draft ASCM").[1]

I. Introduction and Background

On January 21, 2026, in the Post-2028 Residential Exchange Program ("REP") Average System Cost Methodology ("ASCM") proceeding, the IOUs filed comments on the Preliminary Draft ASCM that BPA posted on December 10, 2025 for informal comment ("IOU January 21 Comments").[2] On January 22, 2026, BPA announced that it would hold a workshop on January 27, 2026 to discuss the informal comments filed by stakeholders.[3] During the workshop, BPA addressed certain topics raised in comments and previewed certain changes to its proposed ASCM that formed part of an updated draft ASCM proposal published on February 3, 2026. BPA invited further stakeholder comment by February 10, 2026 ahead of BPA's intended release of the Full Draft ASCM on February 20, 2026.

The IOUs appreciate BPA incorporating certain ASCM changes requested by the IOUs in the IOU January 21 Comments. The IOUs also appreciate the opportunity to provide further comments here. Specifically, these incremental comments address the topics that the IOUs raised in the IOU January 21 Comments, including revisions proposed by BPA in the Incremental Preliminary Draft ASCM. The IOUs request that BPA address these comments directly in its Full Draft ASCM and reserve the right to provide additional comments following additional workshops and drafts of the ASCM.

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[1] Incremental Preliminary Draft Average System Cost Methodology (February 3, 2026), available at https://www.bpa.gov/-/media/Aep/power/residential-exchange-program/post-2028-rep/incremental-draft-average-system-cost-methodology.doc, included as Attachment 1.

[2] The IOUs expressly incorporate the IOU January 21 Comments herein.

[3] The presentation that BPA gave at the January 27, 2026 workshop is available at https://www.bpa.gov/-/media/Aep/power/residential-exchange-program/post-2028-rep/20260127-post-2028-rep-ascm-informal-comments-workshop.pdf, included as Attachment 2.

II. Purpose and Intent Behind the ASCM

The federally-owned hydropower system was created for the benefit of all Pacific Northwest citizens and to broadly support healthy and safe communities. In the Pacific Northwest Electric Power Planning and Conservation Act ("NWPA"),[4] Congress recognized that there was a growing imbalance in the allocation of the benefits of the federal hydropower system: customers of publicly-owned utilities were receiving substantial benefits from low-cost federal hydropower, while IOUs and our customers were paying significantly more for electricity.[5] Congress stepped in to balance these benefits through the creation of a new mechanism—the Residential Exchange Program ("REP")—that gave IOUs the right to sell their power to BPA at their average system cost and purchase an equivalent amount of power back from BPA through a physical exchange, resulting in cost and non-cost benefits to be passed through directly to our residential and small farm customers. The REP has delivered more than $10 billion in savings for IOU Pacific Northwest customers since 1980, with $4 billion of those savings coming since 2012. The fundamental purpose of the REP is to reduce the disparity resulting from the IOUs' lack of access to federal hydropower by spreading the benefits of the federal system to IOU residential and small farm customers. The REP thus allows all Northwest residential and small farm electricity customers, whether served by an IOU or by a consumer-owner utility ("COU"), to receive access to benefits from reliable, clean, low-cost, federally-owned hydropower.

Central to the operation of the REP is the determination of each exchanging utility's Average System Cost ("ASC"). The NWPA grants BPA the authority to determine the ASC based on a methodology developed through what BPA describes as "consultation proceedings." As BPA has acknowledged, "[t]he amount paid by BPA to the participating Utility is not a conventional wholesale power rate."[6] In particular, Section 5(c)(7) states:[7]

> The 'average system cost' for electric power sold to the Administrator under this subsection shall be determined by the Administrator on the basis of a methodology developed for this purpose in consultation with the Council, the Administrator's customers, and appropriate State regulatory bodies in the region. Such methodology shall be subject to review and approval by the Federal Energy Regulatory Commission. Such average system cost shall not include –

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[4] 16 U.S.C. §§ 839-839h.
[5] *Id*. at §839(1).
[6] 2008 ASCM Record of Decision at 2.
[7] 16 U.S.C. § 839c(c)(7).

(A) the cost of additional resources in an amount sufficient to serve any new large single load of the Utility;

(B) the cost of additional resources in an amount sufficient to meet any additional load outside the region occurring after the effective date of this Act; and

(C) any costs of any generating facility which is terminated prior to initial commercial operation.

The ASC framework is thus the statutory and methodological foundation for calculating the benefits that flow through the REP to IOU residential and small farm customers. Although a utility's ASC "shall be determined by the Administrator on the basis of a methodology developed for this purpose," such development must be "in consultation with the Council, the Administrator's customers, and appropriate State regulatory bodies in the region," and also be "subject to review and approval by the Federal Energy Regulatory Commission."[8] Notwithstanding BPA's obligation to develop and periodically update the ASCM, ultimately the methodology can only be upheld by FERC and the Courts if it is consistent with the NWPA.[9] To that end, as discussed below, the IOUs provide additional informal comments on BPA's proposed ASCM revisions—some of which the IOUs support and some of which the IOUs oppose as being inconsistent with the NWPA.

III. IOU Incremental Informal Comments on Select Proposals in the Incremental Preliminary Draft ASCM

A. The IOUs Support Certain Proposed Revisions in the Incremental Preliminary Draft ASCM

The Incremental Preliminary Draft ASCM contains several revisions to the ASCM that align with the IOU January 21 Comments. The IOUs appreciate BPA's consideration of these changes.

1. Energy Storage Plant

In the Preliminary Draft ASCM, BPA proposed to move the Energy Storage Plant accounts (FERC accounts 348, 353, and 361) into a single account and apply the Production/Transmission/Distribution ("PTD") labor ratio functionalization method.[10] The IOUs

[8] 16 U.S.C. § 839c(c)(7).
[9] Order No. 337, FERC Stats. & Regs. ¶ 30,506 at 30,738 (stating that the Commission can disapprove proposed ASC methodology only if it is inconsistent with the Northwest Power Act).
[10] Preliminary Draft ASCM § 301.4(v).

supported the consolidation of the accounts as being consistent with FERC Order No. 898, but argued that the use of the PTD functionalization method may not reflect the specific use of the installed batteries.[11] Accordingly, the IOUs recommended a direct functionalization method based on reasonable analysis of procurement conditions, interconnection status, or usage characteristics in the base year to allow utilities to reflect how energy storage devices contribute to a utility's ASC.[12] Based on the language in the Incremental Draft Preliminary ASCM, the IOUs understand that BPA will allow direct functionalization of the Energy Storage Plant account.[13] The IOUs support this change.

2. Distribution Losses

In the Preliminary Draft ASCM, BPA proposed to eliminate two of the three existing methods (Method 1 and Method 2) for determining a utility's distribution loss factor, leaving only Method 3.[14] The IOUs did not support this change and argued that the IOUs use both Method 1 and Method 3 to calculate distribution losses, and that BPA did not provide sufficient support for the proposed change.[15] In the Incremental Preliminary Draft ASCM, BPA proposes to allow the IOUs to use Method 1 or Method 3 to determine the utility's distribution loss factor.[16] The IOUs support this change.

3. Determination of Average Short Term Purchased Power Prices and Sales for Resale Prices

In the Preliminary Draft ASCM, BPA proposed to change the determination of average short term purchased power prices and sales for resale prices from three years to five years.[17] The IOUs requested that BPA retain the three-year weighted average calculation.[18] In the Incremental Preliminary Draft ASCM, BPA retained the three-year weighted average calculation.[19] The IOUs support this change.

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[11] IOU January 21 Comments at 3.
[12] *Id.*
[13] Incremental Preliminary Draft ASCM § 301.4(v).
[14] Preliminary Draft ASCM § 301.4(n).
[15] IOU January 21 Comments at 2-3.
[16] Incremental Preliminary Draft ASCM § 301.4(n)(1)-(2).
[17] Preliminary Draft ASCM § 301.5(b)(2)(ii)(A).
[18] IOU January 21 Comments at 5-6.
[19] Preliminary Draft ASCM § 301.5(b)(2)(ii)(A).

4. Materiality Threshold for Inclusion of New Resources in the ASC

In the IOU January 21 Comments, the IOUs raised concerns with the existing materiality threshold and in-service requirements for new resources in the ASCM.[20] Specifically, the IOUs expressed concern that the existing materiality threshold and grouping requirements could prevent in-service resources from being reflected in the ASC, even when those resources are used and useful and contribute meaningfully to a utility's cost structure.[21] The IOUs urged BPA to explore methodologies that would allow for inclusion of all used and useful resources.[22] In the Incremental Preliminary Draft ASCM, BPA updated the materiality threshold and grouping requirements in the following way: for a resource that becomes operational after the Base Period, but prior to publication of the final ASC Report, that resource will need to show a change of 0.5% or greater in the utility's Base Period ASC to be considered material; for a resource addition or reduction during the Exchange Period, the resource addition or reduction must result in a 2.5% or greater change in the utility's Base Period ASC to be considered material.[23] The IOUs appreciate BPA's consideration of their comments and support this change.

5. Revisions to the New Large Single Load ("NLSL") Methodology

In the Preliminary Draft ASCM, BPA proposed to change the treatment of NLSL costs in the ASCM by creating two NLSL periods representing "Base Period NLSL" and "Exchange Period NLSL," drafting a new treatment for determining a utility's resource cost to serve NLSL, removing the NLSL Exception, and removing the NLSL Formula rate.[24] In the IOU January 21 Comments, the IOUs requested that BPA delay implementing the NLSL proposal pending further discussion.[25] At the January 27 workshop, BPA Staff verbally provided additional clarification that its proposed changes to the NLSL methodology were to improve the calculation of the resource costs used to serve NLSLs, so those costs can be appropriately removed from the ASC as required by statute. The IOUs have reviewed the NLSL proposal in light of the clarification provided by BPA Staff and support the proposed revisions to the NLSL methodology.

B. ASCM Provisions That the IOUs Do Not Support

1. Limitation on Transmission Costs

BPA proposes to exclude all functionalized transmission costs other than those in (1) FERC Account 565 (Transmission of Electricity by Others) to account for third-party wheeling

[20] IOU January 21 Comments at 7.
[21] *Id.*
[22] *Id.*
[23] Incremental Preliminary Draft ASCM § 301.5(c)(4).
[24] Preliminary Draft ASCM §§ 301.4(p), 301.5(c)(10).
[25] IOU January 21 Comments at 3.

transmission costs, and (2) FERC Account 447 (Sales for Resale).[26] The NWPA requires the inclusion of all transmission usage for load-serving purposes as a "cost" in a participating utility's ASC. This interpretation is supported by a plain reading of Section 5(c)(7) of the statute, the NWPA's legislative history, and BPA's own statutory- and policy-based arguments from 2008, which have only become more compelling in the intervening years. Accordingly, the IOUs do not support BPA's proposal to exclude most transmission costs from the ASCM, as such a change is inconsistent with the text and intent of the NWPA and with how the ASC has been calculated for decades.[27]

a. BPA's Proposal to Limit Transmission Costs in the ASC is Inconsistent with the NWPA

BPA's ASCM proposal is inconsistent with NWPA Section 5(c)(7), which is clear what BPA must consider, and must exclude, in calculating a utility's ASC through the ASCM.

First, in determining a utility's ASC, the statute unambiguously requires BPA to calculate the system "costs" of a participating utility to bring power to its residential and small farm loads—a notable portion of which indisputably includes transmission costs. BPA acknowledged this in its 2008 ROD, explaining that "[t]ransmission costs are a cost to a Utility of delivering power to load and should be included in the calculation of a Utility's ASC."[28] By excluding nearly all transmission costs from its proposed ASCM, BPA is not only ignoring the statute's unambiguous directive to calculate a participating utility's "costs" to deliver power to load, but the agency is also unfairly disadvantaging IOUs in the process. In particular, through its proposed ASCM changes, BPA appears to be recreating a fictionalized set of transmission costs that IOUs *do not* incur—namely, the imbedded transmission costs of non-IOUs paying the PF rate.[29] BPA's proposal clearly violates the requirements of Section 5(c)(7) by attempting to swap-in an unrelated set of "costs" as a proxy for IOU costs. This is particularly concerning given that, contrary to the relative proximity of COU systems to BPA resources and transmission, IOUs must, as BPA has observed, "[i]ncreasingly…rely on transmission to find the least cost resource available to serve load."[30] In other words, by attempting to mimic the transmission costs borne by COU customers, BPA is ignoring the NWPA's directive to base ASCM on actual *IOU* system costs and, in the

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[26] Preliminary Draft ASCM § 301.4(x); Incremental Preliminary Draft ASCM § 301.4(x).

[27] The Incremental Preliminary Draft ASCM proposes to remove the treatment of transmission and distribution lines using the Commission's seven factor test contained in FERC Order 888. Because the IOUs disagree with BPA's transmission cost proposal, by extension, this change is also unnecessary, given that all appropriate transmission costs related to delivering power to load should remain in the ASC.

[28] 2008 ASCM Record of Decision at 126.

[29] *See* Public Power Council January 21, 2026 Comments at 3 ("We are supportive of BPA's proposal to remove all transmission costs from the ASC except for those which are in principle as near to the transmission costs included in the PF rate as possible").

[30] 2008 ASCM Record of Decision at 126.

process, BPA is understating the costs paid by IOU customers and impermissibly reducing the associated share of REP benefits.

Second, BPA is impermissibly creating additional categories of excluded costs not permitted in the statute. The statute expressly excludes only three categories of costs from inclusion in a utility's ASC: (a) the costs to serve any new large single load of the utility,[31] (b) the costs of additional resources in an amount sufficient to meet any additional load outside the region,[32] and (c) any costs of any generating facility which is terminated prior to initial commercial operation.[33] BPA's proposal to categorically exclude most transmission costs is a direct violation of the NWPA. As explained above, the costs for transmission to deliver IOU resources to load are a legitimate system cost that should be accounted for as part of each IOU's respective ASC.

Third, legislative history confirms that the statutory language requires the ASCM to capture all of a utility's costs with limited exceptions. Contemporaneous statements and committee reports make clear that the ASCM authorized by Section 5(c)(7) was intended to capture *all* utility costs, save for the select exceptions noted in the statute. In the November 19, 1980 Senate Congressional Record, Senator McClure explained that the ASCM developed by BPA should pay the *full* cost of power that a utility exchanges with BPA, subject to the limited exclusions in Section 5(c)(7), so that IOU customers "will not be forced to shoulder an extra financial burden."[34] By excluding most transmission costs from the ASCM, BPA is setting up a disparate system whereby IOU customers can recoup only a portion of the total system costs to which they are subject—leading to an "extra financial burden" that Congress expressly prohibited.

b. BPA's Proposal to Limit Transmission Costs in the ASC is Inconsistent with BPA's Own Policy

Beyond the plain language of the NWPA and its legislative history, BPA has already articulated strong policy reasons for including all relevant transmission costs in ASC. In the 2008 ASCM Record of Decision ("ROD"), BPA Staff explained that transmission costs have always been treated as a component of ASCs under prior BPA-developed methodologies, and that this treatment remained appropriate in light of significant changes in the wholesale power and transmission markets between the 1984 ROD and 2008.[35] Utilities had gained the ability to purchase power from a broader pool of suppliers at market-clearing prices (e.g., through indices such as Mid-C) and had come to rely more heavily on independent power producers selling into

[31] 16 U.S.C. § 839c(c)(7)(A).
[32] 16 U.S.C. § 839c(c)(7)(B).
[33] 16 U.S.C. § 839c(c)(7)(C).
[34] Cong. Rec. S 14698 (daily ed. Nov. 19, 1980) (statement of Sen. James McClure).
[35] 2008 ASCM Record of Decision at 128.

the market or under long-term PPAs.[36] BPA acknowledged that, to serve load at least cost, utilities have become increasingly reliant on transmission to import generation into their service territories, even as regional underinvestment in transmission created a more constrained grid than existed in 1984.[37] As BPA aptly summarized:

> Electric utilities have a variety of robust ways to acquire generation to serve retail load, most of which entail incurring transmission costs. For example, utilities can: (1) rely on wholesale power markets; (2) build centralized generation units close to the fuel source; (3) build generation close to the load center and transport the fuel source (e.g. coal by rail); (4) import power from outside the region; and (5) purchase power under long-term power purchase agreements with independent power producers. In addition, many large power plants are owned by more than one Utility.[38]

Given this diversity of resource acquisition strategies, BPA stated that "excluding transmission costs from the ASC calculation would have adverse effects on Utilities."[39] BPA explained further that "exclusion of the transmission component of electricity production and delivery would ***introduce an inequity*** between Utilities that develop resources close to their service territory and those that develop geographically distant resources."[40]

BPA's compelling rationale remains equally valid and applicable today as it did in 2008—and the agency has failed to articulate a reasoned analysis for moving away from this change in policy. The factual and policy foundations BPA Staff relied upon in 2008 remain fully applicable in 2026, and subsequent developments only reinforce the conclusion that all transmission costs should continue to be included in the ASC. Nothing has changed since the 2008 ROD to suggest that a substantial portion of transmission costs should now be excluded; to the contrary, the same evolution in wholesale power and transmission markets has continued, and, moreover, the region is now subject to stringent decarbonization mandates that further increase utilities' reliance on transmission. For example, since 2008, Washington and Oregon have adopted robust carbon compliance regimes that obligate the IOUs to decarbonize their retail electricity sales.[41] Whereas BPA's 2008 analysis focused primarily on economic tradeoffs between siting generation near fuel sources or near load (often coal-based), utilities now have state-mandated reasons to procure

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[36] *Id.*
[37] *Id.*
[38] *Id.*
[39] *Id.* at 129.
[40] *Id.* (emphasis added) (citing 73 Fed. Reg. 7270, 7275 (Feb. 7,2008).
[41] Oregon law requires such decarbonization by 2040 with interim reductions of 80% by 2030 and 90% by 2035. Washington law requires decarbonization by achieving greenhouse gas neutrality by 2030 and zero emissions or fully renewable generation by 2045.

renewable resources that are frequently located far from load and necessarily require transmission to deliver energy to customers. Excluding transmission costs from ASCs in this context would effectively penalize exchanging utilities for complying with state law. In addition, reliance on transmission is no less important as the region transitions to organized day-ahead markets such as EDAM and SPP Markets+, which both fundamentally require utility participants to self-schedule their underlying transmission rights to serve load.

BPA has failed to explain why the inequities clearly present in 2008, which animated its decision to include all relevant transmission costs in the ASCM, are somehow missing today. Under the Administrative Procedure Act, an agency rule that implements a policy change by amending or repealing an existing rule is subject to arbitrary and capricious review.[42] The Supreme Court has held that an agency must provide a reasoned analysis for the departure from its own policy.[43] All of the justifications that BPA articulated in 2008 apply with equal, if not greater, force today. Indeed, as noted above, additional regulatory compliance and market forces compound how much the IOUs must rely on transmission systems to access distant and renewable resources.

For all of these reasons, continued inclusion of all transmission costs in the ASCM is both essential and consistent with the NWPA. BPA's unexplained departure to the contrary, despite consistent feedback from the IOUs and other stakeholders, is not only arbitrary and capricious, but also violates the NWPA.

2. Limitation on Injuries and Damages

In the Incremental Preliminary Draft ASC, BPA proposes to limit the inclusion of charges in FERC Account 925 (Injuries and Damages) to charges in Account 925 that are one percent or less of a utility's total system costs.[44] For any amount over the one percent threshold, BPA further proposes to require the utility to make a showing of where those charges were approved by a state public utility commission ("PUC") for retail rate recovery before the charges may be included in the ASC.[45]

BPA's proposal raises significant concerns for the IOUs. First, as with BPA's proposal to limit the inclusion of certain transmission costs, the limitation of Account 925-related costs has no basis in the statutory text. As noted above, the NWPA expressly identifies only three categories

[42] 5. U.S.C. § 706(2)(A) (emphasis added).
[43] *See, e.g., Motor Vehicle Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 41, 103 S. Ct. 2856, 77 L.Ed.2d 443 (1983) (holding that "[a]n agency changing its course by rescinding a rule is obligated to supply a reasoned analysis for this [policy] change beyond that which may be required when an agency does not act in the first instance.")
[44] Preliminary Draft ASCM §§ 301.4(w).
[45] *Id.*

of costs that are excluded from a utility's ASC: (a) the costs to serve any new large single load of the utility,[46] (b) the costs of additional resources in an amount sufficient to meet any additional load outside the region,[47] and (c) any costs of any generating facility which is terminated prior to initial commercial operation.[48] This provision of the NWPA establishes narrow, specific exceptions to the "costs" included in determining a utility's ASC, and does not exclude a utility's injuries and damages costs. As with transmission costs, a utility's injuries and damages costs are legitimate system costs that should be reflected in each IOU's ASC. Because the NWPA does not authorize BPA to carve out or otherwise limit injuries and damages costs, BPA lacks authority under the plain text of the NWPA to categorically restrict or limit recovery of Account 925 costs.

Second, beyond BPA's clear lack of statutory authority under the plain text of the NWPA to limit or exclude a utility's injuries and damages costs, BPA's proposal to limit Account 925 costs to one percent of a utility's total system costs and require PUC approval of costs above one percent is also arbitrary and capricious in several respects. At the outset, BPA has failed to articulate a justifiable basis for proposing limitations on Account 925 at all. This account can encompass numerous types of injury and damage-related costs legitimately incurred by utilities (e.g. employee injury costs, auto accident-related injury claims, etc.), and BPA provides no explanation for such a broad stroke limitation on this Account. This is particularly egregious given that BPA does not appear to hold itself (and, thus, its own cost recovery) to such restrictions. Moreover, even if general limitations on Account 925 were appropriate, BPA provides no justification for why one percent of a utility's total system costs would be an appropriate threshold to impose. The record is bereft of any explanation whatsoever for this seemingly randomly selected percentage, and BPA Staff have failed to articulate any justification in the workshops to date.

Finally, if a utility's Account 925 costs surpass the arbitrarily-chosen one percent threshold, BPA furthermore inappropriately limits any additional Account 925 costs to those approved by PUCs. Such a proposal is both short-sighted and administratively burdensome. As explained previously, PUC orders do not always expressly address injuries and damages and IOUs routinely receive recovery of Account 925 costs in transmission rates subject to FERC review and approval.[49] BPA provides no explanation for why Account 925 costs are any less legitimate simply because they are approved for rate recovery by FERC, as opposed to a PUC. In addition, BPA's narrow focus on retail-level recovery ignores the administrative efficiency and fundamental fairness underlying the use of utility FERC Form 1 accounts in the first place. Reliance on retail

[46] 16 U.S.C. § 839c(c)(7)(A).
[47] 16 U.S.C. § 839c(c)(7)(B).
[48] 16 U.S.C. § 839c(c)(7)(C).
[49] IOU January 21 Comments at 4.

rate recovery introduces unnecessary variability among utility rates and regulatory lag, which can be avoided through reliance on uniform and annually-updated utility accounting forms at FERC.

Simply put, under the NWPA, all Account 925 costs must be eligible for inclusion in the ASCM, regardless of whether they exceed an arbitrary percentage threshold set by BPA, or whether they are recovered through FERC- or state-jurisdictional rates. BPA's proposal is unworkable, inconsistent with the NWPA, arbitrary and capricious, and should not be adopted.

3. Definition of "Priority Firm Power"

The IOUs continue to oppose the proposed deletion of the definition of "Priority Firm Power" as raised in the IOU January 21 Comments.[50] BPA's current definition of "Priority Firm Power" accurately recognizes that, under the NWPA, BPA is obligated to make "electric power (capacity and energy) … continuously available for direct consumption or resale to… Utilities participating in the Residential Exchange Program," and that "[u]tilities participating in the Residential Exchange Program under section 5(c) of the Northwest Power Act may purchase Priority Firm Power under their Residential Purchase and Sales Agreements with Bonneville." Moreover, the definition recognizes that "deliveries" of such power may be reduced or interrupted only as permitted under the IOU's RPSAs with BPA. Accordingly, BPA's proposed deletion of this definition is inconsistent with the NWPA's requirement that BPA implement the REP as a physical exchange.[51]

4. Forecasting the Electric Market Price for Power Purchases Needed to Meet Load Growth Not Met by Major Resource Additions

In the IOU January 21 Comments, the IOUs identified two issues within the existing ASCM that were not addressed in the Preliminary Draft ASCM, but have the potential to materially affect the calculation of the ASC and, accordingly, REP benefits. In the Incremental Preliminary Draft ASCM, BPA incorporated changes to the materiality threshold that the IOUs support.[52] However, BPA has not addressed the issues that the IOUs raised regarding the ASCM Forecast Model and the methodology used to forecast electric market prices for power purchases required to serve load growth not met by major resource additions. The IOUs reiterate the recommendation that BPA revise the existing methodology and, at a minimum, establish a reasonable floor on forecasted purchased power prices to ensure that the cost of serving unmet load growth is not understated.

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[50] Preliminary Draft ASCM § 301.2; *see also* IOU January 21 Comments at 6.

[51] *See* IOU Comments in Response to BPA Draft Post-2028 Residential Purchase and Sale Agreement, submitted January 21, 2026.

[52] Incremental Preliminary Draft ASCM § 301.5(c)(4).

C. BPA has Failed to Meaningfully Engage with Stakeholders on ASCM Issues, as Required by the NWPA

Finally, BPA has not engaged in the kind of meaningful, cooperative consultation that the NWPA requires. As noted above, the statute directs BPA to develop a methodology for determining utility ASCs "in consultation with the Council, the Administrator's customers, and appropriate State regulatory bodies in the region." Legislative history demonstrates that Congress intended for the consultation process to be cooperative, allowing BPA's customers to share "information, concerns, and expertise" to shape the decision-making process from its earliest stages.[53] These public process and consultation provisions were not casually inserted into the statute, but rather, constitute a core part of BPA's decision-making process with respect to the ASCM in particular. Indeed, as shown in the congressional record:

> "…The purpose of these provisions is not simply to require input from the public and from BPA's customers at particular, specified points in the decision-making process. Rather, the intent is to have such consultation be an ongoing, comprehensive pattern in the conduct by the council and by BPA of all their respective functions. The spirit should be one of cooperation and respect, not one of aloof Government insulated from interested parties by layers of formalism and procedure…information, concerns and expertise can all shape the decision-making process from its earliest stages…."[54]

BPA's process to engage the "Administrator's customers, and appropriate State regulatory bodies in the region" in the development of the ASCM has been perfunctory at best and falls short of the meaningful, cooperative consultation required by statute. Since BPA initiated the ASCM proceeding in October of 2025, BPA has only held three workshops to discuss the proposed changes to the ASCM—which had not been updated since 2008. Those workshops were the only venue for stakeholders to hear and discuss BPA's rationale for its proposed ASCM changes, which, as outlined throughout Part III.B above, has been incomplete and inconsistent with longstanding BPA practice. Further compounding this problem, BPA afforded stakeholders only a single opportunity to comment on the substantial changes proposed in the December 10 Preliminary Draft ASCM. BPA's January 27, 2026 workshop—held only a few days after initial comments were received—provided IOUs and other stakeholders with only BPA Staff's verbal reactions to some of the concerns outlined in stakeholder comments. Rather than meaningfully engaging with this feedback, and thoughtfully expand the ASCM process timeline to accommodate iterative ASCM changes in response, BPA instead spent the substantial majority of the workshop previewing a new

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[53] Cong. Rec. S 14691 (daily ed. Nov. 19, 1980) (statement of Sen. Henry Jackson).
[54] *Id.*

set of iterative ASCM changes with apparently little, or no, consideration of the feedback that BPA had requested.

BPA has still not provided any substantive, written explanation or justification for its evolving ASCM changes beyond the workshop materials themselves. Although BPA expressly promised stakeholders during the January 27, 2026 workshop that it would provide written explanations for its revisions to the Incremental Draft Preliminary ASCM when it was published on February 3, 2026, BPA released only a redline comparison against the Draft Preliminary ASCM issued on December 10, 2025. A bare redline, without accompanying explanation from BPA, forces the IOUs to speculate about BPA's reasons and to reverse-engineer BPA's rationale for its changes.

In sum, although the IOUs agree with some of the changes proposed by BPA in the Incremental Draft Preliminary ASCM, overall, BPA's ASCM process to-date has fallen well short of the NWPA's "consultation" requirements and BPA's other agency obligations to explain its reasoning and decision-making. BPA has failed to explain the rationale behind many of its proposed ASCM revisions—particularly with regard to its policy reversal on transmission costs—which would impose an adverse and inequitable burden on IOU customers. As a result of a substantively and procedurally deficient ASCM process, the IOUs are left to analyze BPA's arbitrary decisions and unexplained departures from its own policies, without the transparency or meaningful consultation that the NWPA expressly requires.

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The IOUs appreciate BPA's consideration of these incremental informal comments to the Incremental Preliminary Draft ASCM and request that BPA address these comments directly in its Draft ASCM.

Attachment C

IOU Formal Comments in Response to BPA Draft Average System Cost Methodology

April 2, 2026

Avista Corporation, Idaho Power Company, NorthWestern Energy, PacifiCorp, Portland General Electric Company, and Puget Sound Energy, Inc. (together, the "investor-owned utilities" or "IOUs") offer the following formal comments in response to the Bonneville Power Administration's ("BPA") Draft Average System Cost Methodology ("Draft ASCM").[1]

In addition to and in support of these comments, the IOUs expressly incorporate the IOUs' prior comments relating to BPA's Post-2028 Average System Cost Methodology ("ASCM").[2] The IOUs are also attaching to these comments the BPA Staff workshop presentations, iterative redline drafts of the ASCM published by BPA, and BPA Staff clarification documents as Appendix A to provide important context for the determination to be made by BPA in the Record of Decision.

Introduction and Background

The federally-owned hydropower system was created for the benefit of all Pacific Northwest citizens and to broadly support healthy and safe communities. In the Pacific Northwest Electric Power Planning and Conservation Act ("NWPA"),[3] Congress recognized that there was a growing imbalance in the allocation of the benefits of the federal hydropower system: customers of publicly-owned utilities were receiving substantial benefits from low-cost federal hydropower, while IOUs and our customers were paying significantly more for electricity.[4] Congress stepped in to balance these benefits through the creation of a new mechanism—the Residential Exchange Program ("REP")—that gave IOUs the right to sell their power to BPA at their Average System Cost ("ASC") and purchase an equivalent amount of power back from BPA through a physical exchange, resulting in cost and non-cost benefits to be passed through directly to our residential and small farm customers. The REP has delivered more than $10 billion in savings for IOU Pacific Northwest customers since 1980, with $4 billion of those savings coming since 2012. The fundamental purpose of the REP is to reduce the disparity resulting from the IOUs' lack of access to federal hydropower by spreading the benefits of the federal system to IOU residential and small farm customers. The REP thus allows all Northwest residential and small farm electricity

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[1] Draft Average System Cost Methodology (Feb. 20, 2026), available at https://www.bpa.gov/energy-and-services/power/residential-exchange-program/post-2028-rep (Attachment A).

[2] IOU Comments on Preliminary ASCM Draft (Jan. 21, 2026), available at https://www.bpa.gov/-/media/Aep/power/residential-exchange-program/post-2028-rep/20260123-IOU-Comments-on-Preliminary-ASCM-Draft.pdf; IOU Comments on Incremental ASCM (Feb. 13, 2026), available at iou-comments-on-incremental-ascm-draft.pdf.

[3] 16 U.S.C. §§ 839-839h.

[4] *Id.* at §839(1).

customers, whether served by an IOU or by a consumer-owner utility ("COU"), to benefit from reliable, clean, low-cost, federally-owned hydropower.

Central to the operation of the REP is the determination of each exchanging utility's ASC.[5] The methodology to determine an exchanging utility's ASC is developed through "consultation proceedings," as described in Section 5(c)(7) of the NWPA:

> The "average system cost" for electric power sold to the Administrator under this subsection shall be determined by the Administrator on the basis of a methodology developed for this purpose in consultation with the Council, the Administrator's customers, and appropriate State regulatory bodies in the region. Such methodology shall be subject to review and approval by the Federal Energy Regulatory Commission. Such average system cost shall not include—
>
> (A) the cost of additional resources in an amount sufficient to serve any new large single load of the Utility;
>
> (B) the cost of additional resources in an amount sufficient to meet any additional load outside the region occurring after the effective date of this Act; and
>
> (C) any costs of any generating facility which is terminated prior to initial commercial operation.[6]

The ASC framework is thus the statutory and methodological foundation for calculating the benefits that flow through the REP to IOU residential and small farm customers. Although a utility's ASC "shall be determined by the Administrator on the basis of a methodology developed for this purpose," such development must be "in consultation with the Council, the Administrator's customers, and appropriate State regulatory bodies in the region," and also be "subject to review and approval by the Federal Energy Regulatory Commission."[7] Notwithstanding BPA's obligation to develop and periodically update the ASCM, the methodology can only be upheld by FERC and the Courts if it is consistent with the NWPA.[8]

ASC "is not a conventional wholesale power rate."[9] Under the current ASCM approved by FERC in 2008, ASC is determined by dividing the utility's total cost of resources (referred to as

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[5] 16 U.S.C. § 839c(c)(1).
[6] 16 U.S.C. § 839c(c)(7).
[7] 16 U.S.C. § 839c(c)(7).
[8] Order No. 337, FERC Stats. & Regs. ¶ 30,506 at 30,738 (stating that the Commission can disapprove proposed ASC methodology only if it is inconsistent with the Northwest Power Act).
[9] 2008 ASCM Record of Decision at 2.

"Contract System Cost") by the utility's total system load (referred to as the "Contract System Load"); the quotient of this calculation is compared to BPA's PF Exchange rate, which is established in accordance with Section 7(b) of the NWPA.[10]

BPA's Draft ASCM is a significant departure from prior ASCMs and BPA policy, including and most notably, the current ASCM. BPA has not provided a reasoned explanation for its departure from the current ASCM, nor has BPA provided the IOUs an adequate consultation proceeding as required in Section 5(c)(7) of the NWPA. To that end, the IOUs oppose the Draft ASCM and provide formal comments on the provisions in BPA's Draft ASCM that the IOUs oppose as being inconsistent with the NWPA and BPA policy.[11]

Comments

I. The Draft ASCM's removal of most transmission costs is inconsistent with the NWPA and decades of ASCM policy.

For the first time in the history of the ASCM, BPA proposes to exclude all functionalized transmission costs in the ASCM other than those in (1) FERC Account 565 (Transmission of Electricity by Others) to account for third-party wheeling transmission costs, and (2) FERC Account 447 (Sales for Resale).[12] BPA's proposal is inconsistent with Section 5(c)(7) of the NWPA, which since the inception of the NWPA, has always included a participating utility's transmission costs in the ASC calculation. The inclusion of transmission costs is supported by a plain reading of Section 5(c)(7) of the NWPA, the NWPA's legislative history, and BPA's own statutory- and policy-based arguments, which have only become more compelling and applicable in the intervening years.

Under the Administrative Procedure Act, an agency rule that implements a policy change by amending or repealing an existing rule is subject to arbitrary and capricious review.[13] The Supreme Court has held that an agency must provide a reasoned analysis for the departure from its own policy or the departure is arbitrary and capricious.[14] As explained below, BPA has failed to provide a reasoned analysis for its decision to depart from nearly 50 years of precedent in how the ASC has been calculated. Accordingly, the IOUs urge the Administrator to reject the Draft ASCM proposal to exclude most transmission costs from the ASCM, as the exclusion is

[10] *See* 18 C.F.R. § 301.2 "Average System Cost (ASC)" ("The rate charged by a Utility to Bonneville for the agency's purchase of power from the Utility under section 5(c) of the Northwest Power Act for each Exchange Period, and the quotient obtained by dividing Contract System Cost by Contract System Load. 16 U.S.C. 839c(c).").

[11] The IOUs do not oppose other provisions in the Draft ASCM not addressed herein.

[12] Draft ASCM § 301.4(x).

[13] 5 U.S.C. § 706(2)(A).

[14] *See, e.g., Motor Vehicle Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 41 (1983) (holding that "[a]n agency changing its course by rescinding a rule is obligated to supply a reasoned analysis for this [policy] change beyond that which may be required when an agency does not act in the first instance.").

inconsistent with the NWPA, with how ASC has been calculated for decades, and is arbitrary and capricious.[15]

A. Transmission costs are a "system cost" of IOUs providing service under Section 5(c)(7) of the NWPA and thus must be included in a utility's ASC.

The Draft ASCM's exclusion of most transmission costs is inconsistent with NWPA Section 5(c)(7). In determining a utility's ASC, BPA must calculate the "system costs" of a participating utility's resources to bring power to its residential and small farm loads—a notable portion of which indisputably includes transmission costs.[16] In its 2008 ASCM Record of Decision ("ROD"), BPA explained why transmission costs are a cost to IOUs in serving their residential and small farm customers and thus should be included in calculating a utility's ASC:

> ***Transmission costs are a cost to a Utility of delivering power to load and should be included in the calculation of a Utility's ASC.*** Increasingly, utilities rely on transmission to find the least cost resource available to serve load. This includes bringing power to load from distant, lower cost generation, particularly renewable resources such as wind where moving fuel to local generation is not an option. In addition, dramatic changes in the electricity industry have taken place since BPA originally developed the 1984 ASCM, such as increased reliance on independent power producers to develop generation to sell at market ("merchant plant") or under long-term power purchase agreements; strengthening of wholesale power markets; increased reliance on planning and operating the region's transmission system under a "one Utility" vision through ColumbiaGrid (an independent regional transmission entity); the creation of an Independent System Operator in California; and a more constrained transmission system. ***These changes support including transmission as a cost of ASC. BPA should, therefore, include transmission as a component of ASC***.[17]

Legislative history confirms that the NWPA requires the ASCM to capture all of a utility's costs with limited exceptions. In the November 19, 1980 Senate Congressional Record, Senator McClure explained that the ASCM developed by BPA should pay for the *full* cost of power that a utility exchanges with BPA, subject to the limited exclusions in Section 5(c)(7), so that IOU

[15] The Draft ASCM proposes to delete § 301.4(v), the treatment of transmission and distribution lines using the Commission's seven factor test contained in FERC Order 888. Because the IOUs disagree with BPA's transmission cost proposal, by extension, this change is also unnecessary, given that all appropriate transmission costs related to delivering power to load should remain in the ASC.

[16] *See* 16 U.S.C. § 839c(c)(1); 18 C.F.R. § 301.2 "Contract System Cost" ("The Utility's costs ***for production and transmission resources***, including power purchases and conservation measures, which costs are includable in, and subject to, the provision of Appendix 1. Under no circumstances will Contract System Cost include costs excluded from ASC by section 5(c)(7) of the Northwest Power Act. 16 U.S.C. § 839c(c)(7).") (emphasis added).

[17] 2008 ASCM Record of Decision at 126 (emphasis added).

customers "will not be forced to shoulder an extra financial burden."[18] By excluding most transmission costs from the ASCM, BPA is setting up a disparate system whereby IOU customers can recoup only a portion of the total system costs to which they are subject—leading to an "extra financial burden" that Congress expressly prohibited and sought to avoid under the NWPA.

In BPA's Post-2028 ASCM process, BPA has not offered any explanation or analysis—much less a reasoned one—that would change or alter its determinative conclusion in 2008 that transmission costs are a system cost to IOUs of delivering power to customers and thus should properly be included as a cost in calculating ASCs. Considering the 2008 ASCM ROD has been in effect for nearly 20 years, BPA's unexplained departure from its interpretation of the NWPA to now exclude most transmission costs from the ASCM is arbitrary and capricious.

B. BPA has not provided a reasoned explanation for departing from decades of BPA policy to include transmission costs in the ASC and therefore such departure is arbitrary and capricious.

Not only has BPA failed to explain its decision to no longer consider transmission costs as a cost under Section 5(c)(7), BPA has also failed to address the decades of compelling policy reasons it has relied on for including transmission costs in calculating a utility's ASC, particularly BPA's reasoned analysis in the 2008 ASCM ROD.

In the inaugural 1981 ASCM, the participating parties—including COUs and BPA—supported the inclusion of transmission costs, without issue, as a cost incurred by utilities for purposes of calculating ASCs. BPA stated in the 1981 ASCM ROD that "[i]nvestor-owned utilities . . . have [transmission] facilities . . . which will be included in ASC."[19]

The 1984 ASCM ROD slightly narrowed the categories of transmission costs that could be included in calculating a utility's ASC out of a fear that utilities might build unnecessary transmission facilities to artificially increase their ASCs.[20] The 1984 ASCM ROD allowed utilities to include all transmission in service as of July 1, 1984, but any new transmission had to integrate resources to the transmission system grid, and the cost of those facilities had to be less expensive than the cost of constructing facilities to connect the same resource to BPA's transmission system plus any transmission charges BPA would charge to transmit the resource to the utility.[21] Even with these restrictions, the 1984 ASCM still included most transmission costs.[22]

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[18] Cong. Rec. S 14698 (daily ed. Nov. 19, 1980) (statement of Sen. James McClure).
[19] 1981 ASCM Record of Decision at 20. In the 1981 ASCM, the parties primarily disputed whether transmission costs incurred by preference customers should be included in calculating their ASCs; the question of whether it should be included for IOUs was a non-issue.
[20] 2008 ASCM Record of Decision at 126; 1984 ASCM Record of Decision at 36–40.
[21] 1984 ASCM Record of Decision at 42–43.
[22] 2008 ASCM Record of Decision at 131.

In 2008, however—after extensive input and engagement with stakeholders as described in section V below—BPA returned to its 1981 position on transmission and removed the 1984 ASCM ROD limitations on including transmission costs in a utility's ASC. The 2008 ASCM ROD described in detail the significant changes in the wholesale power and transmission markets between the 1984 ASCM ROD and 2008 that BPA determined warranted including *all* transmission costs back into the ASC calculation.[23]

The 2008 ASCM ROD observed that utilities had become more dependent on transmission to serve customers due to the need to purchase power from a broader pool of suppliers at market-clearing prices (e.g., through indices such as Mid-C) and had come to rely more heavily on independent power producers selling into the market or under long-term power purchase agreements.[24] BPA acknowledged that, to serve load at least cost, utilities had become increasingly reliant on transmission to import generation into their service territories, even as regional underinvestment in transmission created a more constrained grid than existed in 1984.[25] As BPA aptly summarized:

> ***Electric utilities have a variety of robust ways to acquire generation to serve retail load, most of which entail incurring transmission costs***. For example, utilities can: (1) rely on wholesale power markets; (2) build centralized generation units close to the fuel source; (3) build generation close to the load center and transport the fuel source (e.g. coal by rail); (4) import power from outside the region; and (5) purchase power under long-term power purchase agreements with independent power producers. In addition, many large power plants are owned by more than one Utility.[26]

Given this diversity of resource acquisition needs, BPA reasoned that "excluding transmission costs from the ASC calculation would have adverse effects on Utilities."[27] BPA explained further that "exclusion of the transmission component of electricity production and delivery would ***introduce an inequity*** between Utilities that develop resources close to their service territory and those that develop geographically distant resources. BPA, therefore, proposed to return to its ***original position*** of including all transmission costs in ASC."[28]

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[23] 2008 ASCM Record of Decision at 128.
[24] *Id*.
[25] *Id*.
[26] *Id*. (emphasis added).
[27] *Id*. at 129.
[28] *Id*. (emphasis added) (citing 73 Fed. Reg. 7270, 7275 (Feb. 7, 2008)).

The 2008 ASCM ROD also accurately articulated the administrative challenges associated with excluding transmission costs for IOUs driven by changes to the electricity market:

> [T]his diversity of choice provides utilities with more options to find least-cost supply solutions, ***nearly all of these choices entail absorbing significant transportation costs as utilities purchase generation from a larger pool of potential sellers or develop their own generation***. Indeed, purchased power, which nearly always entails paying transmission costs, is playing a much more significant role in utilities' resource mix than it did in 1984. As an administrative matter, it would be virtually impossible for BPA to remove the transmission component from these transactions with access to the individual contracts. Such information is not readily available, not consistent from contract to contract, and is difficult to assess once obtained. ***All of these factors militate in favor of including transmission in ASC***.[29]

For these reasons, the 2008 ASCM ROD concluded that transmission costs must be included because "[m]ore than ever, the power industry is in many ways a transmission-centric business."[30]

BPA's compelling rationale in 2008 for including all applicable transmission costs in a utility's ASC, namely—(i) the evolution of the energy industry creating greater utility dependency on transmission to serve load at least cost; (ii) not including transmission costs in ASC would effectively penalize utilities that make "an economic decision to site their generation at greater distances from their load"[31]; and (iii) the administrative challenges of identifying the transmission component of power purchase transactions—remains equally valid and applicable today.

BPA has failed to articulate a reasoned analysis (or again, any analysis) for moving away from this change in policy. The factual and policy foundations BPA relied upon in 2008 remain fully applicable now, and subsequent developments only reinforce the conclusion that all transmission costs should continue to be included in a utility's ASC. Nothing has changed since the 2008 ASCM ROD to suggest that a substantial portion of transmission costs should now be excluded; to the contrary, the evolution in wholesale power and transmission markets occurring in 2008 has only intensified and, moreover, the region is now subject to stringent decarbonization mandates that further increase utilities' reliance on transmission.

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[29] 2008 ASCM Record of Decision at 132.

[30] *Id.*

[31] *Id.* at 129.

For example, since 2008, Washington and Oregon have adopted robust carbon compliance regimes that obligate the IOUs to decarbonize their retail electricity sales.[32] Whereas BPA's 2008 analysis focused primarily on economic tradeoffs between siting generation near fuel sources or near load (often coal-based), utilities now have state-mandated reasons to procure renewable resources that are frequently located far from load and necessarily require transmission to deliver energy to customers. Excluding transmission costs from ASCs in this context would effectively penalize exchanging utilities for complying with state law.[33] In addition, as the Northwest moves toward regionalization in day-ahead markets—the California Independent System Operator's Extended Day-Ahead Market and the Southwest Power Pool's Markets+—transmission is required to effectuate regional transfers used to serve utility customers. Lastly, Northwest utilities that participate in the Western Resource Adequacy Program "*must ensure deliverability of resources in their Forward Showing by demonstrating firm transmission to deliver at least 75% of the resources claimed in their Forward Showing Portfolio from source-to-sink*."[34]

BPA has failed to explain why the inequities clearly present in 2008, which animated its decision to include all transmission costs in a utility's ASC, are somehow missing today. All of the justifications that BPA articulated in 2008 apply with equal, if not greater, force now. Indeed, as noted above, additional regulatory compliance and market forces compound how much the IOUs must rely on transmission systems to access distant and renewable resources. Continued inclusion of all transmission costs in the ASCM is both essential and consistent with the NWPA. BPA's unexplained departure to the contrary, despite consistent feedback from the IOUs and other stakeholders, is arbitrary and capricious.[35]

[32] Oregon law requires such decarbonization by 2040 with interim reductions of 80% by 2030 and 90% by 2035. Washington law requires decarbonization by achieving greenhouse gas neutrality by 2030 and zero emissions or fully renewable generation by 2045.

[33] While not the focal point, this issue was discussed in 2008 ASCM ROD, where parties explained that "excluding transmission costs would particularly harm utilities that need to acquire more renewable resources. Both parties explain that renewable resources, such as wind, geothermal, and solar, typically need to be located where the resources are, without regarding to where the load is located. They claim that transmitting the output of these renewable projects to loads consequently becomes a significant component of the costs of these resources, and therefore, should be included in the ASC determination." 2008 ASCM Record of Decision at 129 (citations omitted).

[34] Western Resource Adequacy Program, Western Power Pool, Detailed Design Document, March 2023, at 11, 52, 75, available at https://www.westernpowerpool.org/private-media/documents/2023-03-10_WRAP_Draft_Design_Document_FINAL.pdf (emphasis added).

[35] *See Nat'l Cable & Telecommunications Ass'n v. Brand X Internet Servs.*, 545 U.S. 967, 981 (2005) (an "[u]nexplained inconsistency" in agency policy is "a reason for holding an interpretation to be an arbitrary and capricious change from agency practice").

C. BPA's exclusion of most transmission costs to create symmetry between the ASC and the PF Exchange rate violates the NWPA.

The only basis BPA appears to rely on to justify its exclusion of nearly all IOU transmission costs, except for those in (1) FERC Account 565 (Transmission of Electricity by Others) to account for third-party wheeling transmission costs, and (2) FERC Account 447 (Sales for Resale), is its desire to create "symmetry" between ASC and the transmission costs in BPA's PF Exchange rate or the Section 7(b)(2) rate test.[36]

There is nothing in the NWPA that mandates this symmetry nor is BPA permitted to exclude actual costs incurred by IOUs to serve customers in calculating ASC to create symmetry with the PF Exchange rate. Rather, exchanges under Section 5(c)(1) of the NWPA are based on "the average system cost ***of that utility's resources***."[37] In calculating a utility's ASC, BPA must comply with Section 5(c)(7) by including actual resource costs incurred by participating utilities in serving customers.[38] Whether or how this relates to the PF Exchange rate or Section 7(b)(2) is not relevant for purposes of calculating a utility's ASC and BPA's consideration of this violates the NWPA.

BPA's justification for removing most transmission costs from a utility's ASC so it matches the PF Exchange rate is backwards. The threshold question in calculating a utility's ASC is whether transmission costs are appropriately a system cost incurred by the utility under Section 5(c)(7). If it is—which, until now, BPA has *always* said it is—to create symmetry between ASC and PF Exchange rate, the adjustment must be made to the PF Exchange rate consistent with Section 7(b).[39] But the makeup of the PF Exchange rate cannot be considered as part of the ASCM process:

> BPA cannot determine in this proceeding what transmission costs would be or would not be appropriate in the PF Exchange rate. As noted above, those matters must be addressed in a section 7(i) proceeding. . . . ***The REP is designed to compare BPA's PF Exchange rate with a Utility's cost of resources.*** The PF Exchange rate is a BPA rate, as such, must be developed

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[36] ***See*** Post-2028 Residential Exchange Program Average System Cost Methodology Workshop at 16–17 (Dec 3, 2025) ("Dec. 3 Presentation"), available at https://www.bpa.gov/-/media/Aep/power/residential-exchange-program/post-2028-rep/20251203-phase-2-post-2028-rep-ascm-workshop.pdf (attached hereto as Attachment H to Appendix A).

[37] 16 U.S.C. § 839c(c)(1) (emphasis added); 2008 ASCM ROD at 133 ("The key question is the Utility's average system cost of resources.").

[38] ***See*** 18 C.F.R. § 301.2 "Average System Cost (ASC)" ("The rate charged by a Utility to Bonneville for the agency's purchase of power from the Utility under section 5(c) of the Northwest Power Act for each Exchange Period, and the quotient obtained by dividing Contract System Cost by Contract System Load. 16 U.S.C. 839c(c).").

[39] ***See*** 2008 ASCM Record of Decision at 135 ("Under the traditional implementation of the REP, BPA has *always* included transmission costs in the PF Exchange rate because the ASCM has *always* allowed transmission costs into ASC.") (emphasis in original).

> in accordance with section 7 of the Northwest Power Act. The Act is explicit that BPA's rates must be designed to recover the costs "incurred by the Administrator." [40]

BPA faced a similar argument in the 2008 ASCM ROD, but determined that the ASCM process was the inappropriate proceeding to consider or create symmetry with the PF Exchange rate because the only question in the ASCM is the system costs incurred by utilities.[41] Decisions made in rate proceedings, such as the PF Exchange rate, cannot be predetermined through other processes, such as the ASCM.[42] If parties or BPA desire that the PF Exchange rate be symmetrical to ASC on transmission, that is a ratemaking question that cannot alter the statutory requirement under Section 5(c)(7) that ASC include a participating utility's actual costs of providing service.[43] By excluding most transmission costs in the Draft ASCM to create symmetry with the PF Exchange rate or Section 7(b)(2), BPA is doing exactly what it refused to do in the 2008 ASCM ROD.[44] BPA's proposal to limit transmission costs to only those recovered by BPA in the PF Exchange rate clearly violates the requirements of Section 5(c)(7).[45]

By excluding nearly all transmission costs from its proposed ASCM in its desire for symmetry, BPA is not only ignoring the NWPA's unambiguous directive to calculate a participating utility's costs to deliver power to load, but the agency is also unfairly disadvantaging IOUs in the process. This is particularly concerning given that, contrary to the relative proximity of COU systems to BPA resources and transmission, IOUs must, as BPA has observed, "[i]ncreasingly . . . rely on transmission to find the least cost resource available to serve load."[46] In other words, BPA is ignoring the NWPA's directive to base a utility's ASC on actual IOU system costs and, in the process, BPA is intentionally understating the costs paid by IOU customers and impermissibly reducing the associated share of REP benefits, violating the fundamental purpose of the NWPA to reduce the disparity resulting from the IOUs' lack of access to federal hydropower by spreading the benefits of the federal system to IOU residential and small farm customers.

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[40] ***See*** 2008 ASCM Record of Decision at 140.
[41] ***See*** 2008 ASCM Record of Decision at 142.
[42] ***Id.*** at § 839e(i)(5).
[43] ***See*** 2008 ASCM Record of Decision at 133 ("The key question is the Utility's average system costs of resources. Historically, BPA has always included transmission costs as a component of resource costs in ASC. Rate unbundling has not fundamentally changed this aspect of ASC. The only issue created by rate unbundling is ensuring that the ASCs and BPA's PF Exchange rate are symmetrical. As described earlier, BPA intends to address these issues in its rate process.").
[44] ***See*** 2008 ASCM Record of Decision at 142.
[45] ***See*** Dec. 3 Presentation at 17 ("These 'transmission' costs are equivalent to the costs BPA Power recovers in the PF rate."). But these costs are improperly limited to third-party wheeling transmission costs (Account 565) and transmission associated with Sales for Resale (Account 447).
[46] 2008 ASCM Record of Decision at 126.

Finally, by excluding actual participating utility transmission costs, BPA is also impermissibly creating additional categories of excluded costs not permitted in the statute. The statute expressly excludes only three categories of costs from inclusion in a utility's ASC: (a) the costs to serve any new large single load of the utility,[47] (b) the costs of additional resources in an amount sufficient to meet any additional load outside the region,[48] and (c) any costs of any generating facility which is terminated prior to initial commercial operation.[49] BPA's proposal to categorically exclude most transmission costs is a direct violation of the NWPA. As explained above, the costs for transmission to deliver IOU resources to load are a legitimate system cost that should be accounted for as part of each IOU's respective ASC.

Given BPA's drastic departure from how ASCs have been calculated for decades under the NWPA and its refusal to substantively explain its reasoning for its abandonment of positions taken in the 2008 ASCM ROD, the IOUs urge the Administrator to reject BPA's transmission proposal as arbitrary and capricious.

II. The Draft ASCM's Limitation on Injuries and Damages in FERC Account 925 is Arbitrary and Capricious

In the Draft ASC, BPA proposes to limit the inclusion of charges in FERC Account 925 (Injuries and Damages) to charges in Account 925 that are one percent or less of a utility's total system costs.[50] For any amount over the one percent threshold, BPA further proposes to require the utility to make a showing of where those charges were approved by a state public utility commission ("PUC") for retail rate recovery before the charges may be included in a utility's ASC.[51]

BPA's proposal raises significant concerns for the IOUs. First, as with BPA's proposal to limit the inclusion of certain transmission costs, the limitation of Account 925-related costs has no basis in the statutory text. As noted above, the NWPA expressly identifies only three categories of costs that are excluded from a utility's ASC.[52] This provision of the NWPA establishes narrow, specific exceptions to the "costs" included in determining a utility's ASC, and does not exclude a utility's injuries and damages costs. As with transmission costs, a utility's injuries and damages costs are legitimate system costs that should be reflected in each IOU's ASC. Because the NWPA does not authorize BPA to carve out or otherwise limit injuries and damages costs, BPA lacks

[47] 16 U.S.C. § 839c(c)(7)(A).
[48] 16 U.S.C. § 839c(c)(7)(B).
[49] 16 U.S.C. § 839c(c)(7)(C).
[50] Draft ASCM §§ 301.4(w).
[51] *Id.*
[52] 16 U.S.C. § 839c(c)(7)(A)-(C).

authority under the plain text of the NWPA to categorically restrict or limit recovery of Account 925 costs.

Second, beyond BPA's clear lack of statutory authority under the plain text of the NWPA to limit or exclude a utility's injuries and damages costs, BPA's proposal to limit Account 925 costs to one percent of a utility's total system costs and require PUC approval of costs above one percent is also arbitrary and capricious in several respects. At the outset, BPA has failed to articulate a justifiable basis for proposing limitations on Account 925 at all. BPA justifies its apparent rationale for excluding these costs as "large and statistically uncommon"[53] but this itself is an arbitrary standard. Statistically uncommon costs can occur in any of the FERC Form 1 accounts, but this does not warrant the broad stroke BPA is proposing here. Notably, Account 925 can encompass numerous types of injury and damage-related costs legitimately incurred by utilities (e.g. employee injury costs, auto accident-related injury claims, etc.). While BPA apparently has no problem restricting participating utilities from including these legitimate costs, BPA admitted during its February 13, 2026 workshop that if it were to incur similar costs, it would recover such costs in its rates. Apparently for BPA, it only advocates for symmetry if it benefits itself.

Finally, if an IOU's Account 925 costs surpass the arbitrarily-chosen one percent threshold, BPA furthermore inappropriately limits any additional Account 925 costs to those affirmatively approved by PUCs. Such a proposal is short-sighted and administratively burdensome and unworkable because it is not aligned with realities of retail ratemaking. PUCs routinely issue rate decisions without making explicit line-by-line findings on every cost a utility incurs. Reliance on retail rate recovery introduces unnecessary variability among utility rates and regulatory lag, which can be avoided through reliance on uniform and annually-updated utility accounting forms at FERC. Further, Account 925 costs are commonly included in FERC-approved formula rates.

Simply put, under the NWPA, all Account 925 costs must be eligible for inclusion in the ASC, regardless of whether they exceed an arbitrary percentage threshold set by BPA, or whether they are recovered through FERC- or state-jurisdictional rates. BPA's proposal is unworkable, unnecessary, inconsistent with the NWPA, and arbitrary and capricious, and therefore should not be adopted.

III. BPA's Deletion of the "Priority Firm Power" Definition Is Unnecessary

The IOUs oppose BPA's proposed deletion of the definition of "Priority Firm Power" from the Draft ASCM. BPA's current ASCM definition of "Priority Firm Power" accurately recognizes that, under the NWPA, BPA is obligated to make "electric power (capacity and energy) . . .

[53] ***See*** BPA Staff Clarification to Draft 2026 ASCM, Published Feb. 20, 2026 at 1, available at https://www.bpa.gov/-/media/Aep/power/residential-exchange-program/post-2028-rep/20260220-bpa-staff-clarification-to-draft-2026-ascm.docx (attached hereto as Attachment B to Appendix A).

continuously available for direct consumption or resale to . . . [u]tilities participating in the Residential Exchange Program," and that "[u]tilities participating in the Residential Exchange Program under section 5(c) of the Northwest Power Act may purchase Priority Firm Power under their Residential Purchase and Sales Agreements with Bonneville."[54] Moreover, the definition observes that "deliveries" of such power may be reduced or interrupted only as permitted under the IOUs' Residential Purchase and Sale Agreements ("RPSA") with BPA. The definition is relevant to the question as to whether Section 5(c) of the NWPA requires BPA to implement REP purchase and exchange sales as physical transactions.

In informal comments on BPA's prior iterations of its proposed ASCM, the IOUs requested that BPA retain the "Priority Firm Power" definition.[55] BPA has refused to incorporate the request, providing only a verbal explanation at its February 13, 2026 workshop that the deletion is simply a ministerial change to implement modifications to the High Watermark and Regional Dialogue contracts that waive Public Power participation in the REP. But this waiver does not explain why a wholesale deletion of the "Priority Firm Power" definition is necessary. Instead, it is apparent that BPA's deletion of the "Priority Firm Power" definition is to support BPA's recent position in the RPSA ROD proceeding that purchase and exchanges sales under the REP will not be implemented as physical transactions.[56] BPA's proposed deletion of this definition is inconsistent with the NWPA's requirement that BPA implement the REP as a physical exchange.

The IOUs maintain that "Priority Firm Power" is a critical term in the context of the REP and should remain in the ASCM. The definition of "Priority Firm Power" supports the IOUs' position that the REP involves a physical, rather than purely financial, exchange, and the IOUs disagree with BPA's inappropriate and pretextual deletion of the definition.[57]

IV. BPA Should Revise Its Forecasting Method for Electric Market Price for Power Purchases Needed to Meet Load Growth Not Met by Major Resource Additions

In the IOU January 21 Comments, the IOUs identified two issues within the existing ASCM that were not addressed in the Preliminary Draft ASCM, but have the potential to materially affect the calculation of the ASC and, accordingly, REP benefits. In the Incremental Preliminary Draft ASCM, BPA incorporated changes to the materiality threshold that the IOUs support.[58] However, BPA has not addressed the issues that the IOUs raised regarding the ASCM Forecast

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[54] ASCM § 301.2.

[55] *See* IOU Informal Comments in Response to BPA Preliminary Draft ASCM, January 21, 2026 at 6, available at https://www.bpa.gov/-/media/Aep/power/residential-exchange-program/post-2028-rep/20260123-IOU-Comments-on-Preliminary-ASCM-Draft.pdf; *see also* IOU Incremental Informal Comments in Response to BPA Incremental Draft ASCM, February 10, 2026 at 11, available at https://www.bpa.gov/-/media/Aep/power/residential-exchange-program/post-2028-rep/iou-comments-on-incremental-ascm-draft.pdf.

[56] Bonneville Power Admin., 2026 Residential Purchase and Sale Agreement Record of Decision at 34 (Mar. 6, 2026).

[57] *Id.*

[58] Draft ASCM § 301.5(c)(4).

Model and the methodology used to forecast electric market prices for power purchases required to serve load growth not met by major resource additions.

Under the existing ASCM Forecast Model, BPA forecasts the electric market price used to serve load growth not met by major resource additions by calculating average short-term purchased power prices and average sales for resale prices over recent historical periods. These values are used to calculate a market price applied to incremental load during the Exchange Period. As implemented, this methodology can produce purchased power prices that are materially below reasonable expectations of the prices utilities can obtain in the market. In some cases, the forecasted prices are significantly lower than a utility's average cost of serving load and do not reflect observable market conditions or procurement experience.

The IOUs are concerned that the existing methodology systematically understates the cost of serving load growth not met by new resources. The assumption that incremental load can be served at extremely low market prices does not reflect how utilities actually procure power and results in ASCs that are not representative of underlying costs. For example, assuming incremental load can be served at market prices ignores the increasingly stringent environmental requirements imposed on utilities that typically cannot be met through market purchases.[59]

When applied across the Exchange Period, these low market price forecasts effectively price all unmet load growth at levels that are inconsistent with market realities and environmental requirements. This outcome understates purchased power costs and materially affects the calculation of the ASC and REP benefits.

The IOUs recognize the inherent uncertainty in forecasting future market prices. However, the existing approach produces outcomes that are not reasonable and do not align with utility experience. The IOUs reiterate the recommendation that BPA revise the existing methodology and, at a minimum, establish a reasonable floor on forecasted purchased power prices to ensure that the cost of serving unmet load growth is not understated.

V. BPA Has Failed to Conduct an Adequate Consultation Proceeding as Required by the NWPA

Finally, BPA has not engaged in the kind of meaningful, cooperative consultation that the NWPA requires. As noted above, the NWPA directs BPA to develop a methodology for determining utility ASCs "in consultation with the Council, the Administrator's customers, and appropriate State regulatory bodies in the region."[60] Legislative history demonstrates that Congress intended for the consultation process to be cooperative, allowing BPA's customers to share "information, concerns, and expertise" to shape the decision-making process from its earliest

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[59] *Id.*

[60] 16 U.S.C. § 839c(c)(7).

stages.[61] These public process and consultation provisions were not casually inserted into the statute, but rather, constitute a core part of BPA's decision-making process with respect to the ASCM in particular. Indeed, as shown in the congressional record:

> The purpose of these provisions is not simply to require input from the public and from BPA's customers at particular, specified points in the decision-making process. Rather, the intent is to have such consultation be an ongoing, comprehensive pattern in the conduct by the council and by BPA of all their respective functions. The spirit should be one of cooperation and respect, not one of aloof Government insulated from interested parties by layers of formalism and procedure…information, concerns and expertise can all shape the decision-making process from its earliest stage."[62]

BPA's process to engage the "Administrator's customers, and appropriate State regulatory bodies in the region" in the development of the ASCM has been perfunctory at best and falls short of the meaningful, cooperative consultation required by statute. Since BPA initiated the ASCM proceeding in October 2025, BPA has only held three workshops to discuss the proposed changes to the ASCM, and two additional meetings to discuss stakeholder comments on and incremental changes to the ASCM—which has not been updated since 2008. These workshops have been the only venue for stakeholders to hear and discuss BPA's rationale for its proposed ASCM changes, which, as described above, has been inadequate and inconsistent with prior ASCM consultation proceedings.

BPA's ASCM consultation process here particularly pales when compared to its process in the 2008 ASCM. In that case, beginning in August 2007, BPA first conducted nine informal public workshops and/or working sessions where stakeholders closely participated in the development of the initial draft ASCM.[63] After the close of informal workshops, on February 7, 2008, BPA published in the Federal Register a proposed ASCM, "based in large part on public comment,"[64] as well as a detailed process for the consultation proceeding:

> The Federal Register Notice (FRN) also contained detailed procedures for public participation in the consultation proceeding. The FRN solicited a new round of formal written comments from interested members of the public and provided for a comment period from February 8, 2008, through May 2, 2008. The notice also included a procedural schedule for taking official comments in the formal consultation proceeding. The schedule

[61] Cong. Rec. S 14691 (daily ed. Nov. 19, 1980) (statement of Sen. Henry Jackson).
[62] *Id.*
[63] 2008 ASCM Record of Decision at 14.
[64] 2008 ASCM Record of Decision at 14 (73 Fed. Reg. 7270, Feb. 7, 2008)).

> allowed numerous opportunities to comment as well as multiple opportunities to discuss matters with BPA staff in public workshops, all of which were specifically designed to facilitate the compilation of a full record upon which the Administrator would base a decision to establish a new ASCM.
>
> Although preliminary informal comments had already been made by some groups and members of the public, the FRN initiated the process to receive formal comments on the proposed ASCM. With the issuance of the proposal, BPA solicited different approaches, new ideas and other types of feedback from interested parties. The proposal was developed with guidance from public workshops and was meant to provide a foundation to facilitate further ideas and approaches.[65]

Consistent with the 2008 ASCM Federal Register Notice, beginning in February 2008, BPA made a formal presentation to the Northwest Power and Conservation Council, conducted eight more public workshops, and held formal briefings and consultations with the Oregon Public Utility Commission, the Montana Public Service Commission, the Idaho Public Utility Commission, and the Washington Utilities and Transportation Commission.[66] As noted above, BPA also offered several rounds of informal and formal comment opportunities, including the opportunity to comment on a draft ROD.[67]

When compared to the process for the 2008 ASCM, it is evident BPA has not met its obligation under Section 5(c)(7) of the NWPA to provide an adequate consultation process for developing the ASCM. Indeed, this was confirmed when the IOUs requested that BPA provide substantive, written explanation or justification for its evolving ASCM changes beyond the workshop presentations. BPA declined, stating that it had not "scoped" the ASCM proceeding to provide such engagement from BPA Staff and therefore would not be providing written explanations for its substantial proposed changes to the ASCM. BPA's refusal to provide a reasoned explanation for its ASCM changes, the minimal opportunities it offered for parties to engage on the ASCM, and the fact that BPA apparently will not be providing parties an opportunity to comment on a draft ROD, demonstrates that the Draft ASCM is per se arbitrary and capricious.

BPA's lack of justification falls well short of BPA's obligation to consult with its customers under the NWPA and is in stark contrast to BPA's approach to the recently-concluded Provider of Choice contract proceeding, where BPA provided multiple rounds of written

[65] 2008 ASCM Record of Decision at 14.
[66] 2008 ASCM Record of Decision at 15.
[67] 2008 ASCM Record of Decision at 14–15.

justification in response to COU comments. BPA's lack of engagement with IOUs in the development of the ASCM is contrary to the regional cooperation that the NWPA requires.

In sum, BPA's ASCM process does not satisfy the NWPA's "consultation" requirements and BPA's other agency obligations to explain its reasoning and decision-making. BPA has failed to explain the rationale behind many of its proposed ASCM revisions—particularly with regard to its policy reversal on transmission costs—which will impose an adverse and inequitable burden on IOU customers. As a result of a substantively and procedurally deficient ASCM process, the IOUs are left to analyze BPA's arbitrary decisions and unexplained departures from its own policies, without the transparency or meaningful consultation that the NWPA expressly requires.

The IOUs' urge the Administrator to reject the Draft ASCM on this basis.

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The IOUs appreciate BPA's consideration of these comments and request that BPA reconsider and revise the Draft ASCM to conform to the language and purposes of the NWPA as discussed above.