Final Interpretation and Implementation of Endnote d(3) of the 2008 ASC Methodology

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1.0 INTRODUCTION

This Final Interpretation sets forth the Bonneville Power Administration's ("BPA") Interpretation and Implementation of Endnote d(3) ("Endnote d(3) Interpretation") of the 2008 Average System Cost Methodology ("2008 ASCM").

1.1 Background

Section 5(c)(7)(A) of the Northwest Power Act requires BPA to exclude from a utility's average system cost ("ASC") "the cost of additional resources in an amount sufficient to serve any new large single load of the utility[.]" 16 U.S.C. § 839c(c)(7)(A). A "new large single load," or "NLSL," is a load that was not "contracted for or committed to" by a BPA customer prior to September 1, 1979, and results in an increase in power requirements of such customer of "ten average megawatts or more in any consecutive twelve-month period." 16 U.S.C. § 839a(13)(A)-(B).

To implement this provision in the 2008 ASCM, BPA developed Endnote d to the Appendix 1. The Appendix 1 is the electronic form on which a utility reports its Contract System Costs and other necessary data to BPA for the calculation of the utility's Base Period ASC. In general, Endnote d describes three methods for removing from a utility's ASC the cost of resources associated with an NLSL. First, if the utility uses "dedicated resources" to serve the NLSL, then the costs of those resources (plus transmission) are excluded from the utility's ASC. *See* 18 C.F.R. § 301, Appendix 1, En. d(1). Second, if the utility purchased power from BPA under BPA's New Resources ("NR") rate, then the costs to be removed from the utility's ASC are the costs of the NR rate. *Id.* at En. d(2). If neither of these two subparts applies, then the cost of serving the utility's NLSL defaults to subpart (3). *Id.* at En. d(3). Under subpart (3), BPA calculates the resource costs sufficient to serve an NLSL by calculating the weighted fully allocated cost for all of the utility's resources in-service and dedicated to the utility's retail load after September 1, 1979. *Id.* The full text of d(3) is as follows:

> To the extent that NLSLs are not served by dedicated resources plus the Utility's purchases at the NR rate, the costs of the excess load will be determined by multiplying the kilowatt-hours not served under paragraphs (d)(1) and (d)(2) above, by the cost (annual fixed plus variable cost, including an appropriate portion of general plant, administrative and general expense and other items not directly assignable) per kilowatt-hour of all resources and long term power purchases (five years or more in duration), as allowed in the regulatory Jurisdiction to establish retail rates during the Exchange Period, exclusive of the following resources and purchases: (a) purchases at the NR rate; (b) purchases at the PF Exchange rate, pursuant to section 5(c) of the Northwest Power Act; (c) resources sold to Bonneville, pursuant to section 6(c)(1) of the Northwest

> Power Act; (d) dedicated resources specified in endnote d(1) of this Methodology; (e) resources and purchases committed to the Utility's load as of September 1, 1979, under a power requirements contract or that would have been so committed had the Utility entered into such a contract; and (f) experimental or demonstration units or purchases therefrom. Transmission needed to carry power from such generation resources or power purchases must be priced at the average cost of transmission during the Exchange Period.

Id. This Final Interpretation concerns only BPA's implementation of Endnote d(3).

1.2 Implementation of Endnote d(3)

In October of 2008, BPA commenced two concurrent ASC Review Processes to establish utility ASCs for FY 2009 and FY 2010-2011. These proceedings were the first ASC reviews BPA conducted under the terms of the 2008 ASCM. During the course of these proceedings, a number of NLSLs were reported in the ASC filings. Because none of these NLSLs were served with "dedicated resources" and none of the utilities with NLSLs purchased power from BPA at the NR rate, BPA used subpart (3) of Endnote d to calculate the cost of resources sufficient to serve these NLSLs. The operative language from Endnote d(3) that guided BPA's calculations is as follows:

> . . . the costs of the excess load will be determined by multiplying the kilowatt-hours not served under paragraphs (d)(1) and (d)(2) above, by the cost (annual fixed plus variable cost, including an appropriate portion of general plant, administrative and general expense and other items not directly assignable) per kilowatt-hour of all resources and long term power purchases (five years or more in duration), as allowed in the regulatory Jurisdiction to establish retail rates during the Exchange Period . . .

To implement this language, BPA developed the NLSL resource cost spreadsheet ("NLSL Tab"). The NLSL Tab allowed parties to input resource-specific data for all cost categories except (1) General Plant and (2) Administrative and General Expense ("A&G"). For these two accounts, the NLSL Tab required exchanging utilities to use a ratio based on installed generating capacity. Although the NLSL Tab met the requirements of Endnote d(3), the spreadsheet and BPA's proposed allocation factors did not receive much scrutiny during the ASC Review Processes.

Following the publication of the FY 2009 and FY 2010-2011 ASC Reports, BPA performed a detailed review of the models and spreadsheets used in the ASC calculations. As part of this review, BPA revisited the NLSL Tab. This review revealed two problems with the existing NLSL Tab spreadsheet. First, BPA discovered that two cost categories, General Plant Depreciation Expense and Federal and State Employee Taxes, were inadvertently missing from the NLSL Tab. These cost categories should have been included in the NLSL calculation.

Second, BPA found that the method it had been using to determine the cost of resources for NLSL purposes was different than the method BPA had been using to determine the cost of

resources for ASC purposes. For example, in the NLSL Tab, Plant Materials and Supplies costs were determined through a direct analysis performed by the utility. In the Appendix 1, however, Plant Materials and Supplies costs were functionalized using the PTD (Production, Transmission, and Distribution) ratio. *See* 18 C.F.R. § 301, Table 1. A&G costs were similarly misaligned. In the NLSL Tab, all A&G costs were allocated using the ratio of post-September 1, 1979 generating capacity to total generating capacity. In the Appendix 1 and ASC Forecast Model, however, A&G costs were broken out into fifteen separate FERC accounts, each of which was assigned a ratio by the 2008 ASCM. *Id.* Of the fifteen A&G accounts in the Appendix 1 and ASC Forecast Model, six accounts are allocated using the Labor Ratio, six are assigned to Distribution, two are allocated by the PTDG (Plant, Transmission, Distribution, and General Plant.) ratio, and one by the General Plant (GP) ratio. *Id.* A similar difference existed for General Plant, where the NLSL Tab used the previously described plant capacity ratio for all General Plant costs, while the Appendix 1 and ASC Forecast Model broke out General Plant into twelve FERC accounts and used three different ratios to assign the individual General Plant accounts. *Id.*

After discovering the inconsistent functionalization treatment, BPA reviewed the ASCM to determine whether there was any basis for calculating NLSL resource costs differently than resource costs in ASC. Finding none, BPA proposed to revise the NLSL Tab.

1.3 Revised Implementation of Endnote d(3)

Endnote d(3) requires BPA to include in the NLSL resource calculation "an appropriate portion of general plant, administrative and general expense and other items not directly assignable. . ." *See* 18 C.F.R. § 301, Appendix 1, En. d(3). The ASCM does not describe how BPA must determine the "appropriate portion" of cost categories not directly assignable, such as General Plant, A&G, General Plant Depreciation Expense, Property Taxes and Federal and State Employee Taxes. BPA will revise its implementation of Endnote d(3) by conforming the ratios and allocation factors used in the NLSL Tab to the ratios and allocation factors used in the ASC Appendix 1 and ASC Forecast Model. The specific changes in the implementation of Endnote d(3) through this interpretation are as follows:

Account	Previous Method	Revised Method
Plant Materials & Supplies	Direct Analysis	PTD Ratio
General Plant	Plant Capacity Ratio	See Functionalization Codes for Accounts 389-399.1
General Plant Depreciation Expense	None	GP Ratio
Administrative and General Expense (A&G)	Plant Capacity Ratio	See Functionalization Codes for Accounts 920-935; 404-406
Property Taxes	Direct Analysis	PTDG Ratio
Federal and State Employee Taxes	None	LABOR Ratio

BPA's decision to revise its implementation of Endnote d(3) with the above functionalization codes is reasonable for several reasons. First, the revised implementation mitigates the differences between the NLSL resource cost calculation and the ASC calculation. The previous NLSL calculation used allocation factors and methods different from the methods BPA used when calculating a utility's ASC. This resulted in conflicting allocation treatments for cost categories that were the same in both the ASC calculation and the NLSL calculation. For example, as noted above, Plant Materials and Supplies are line items in both the NLSL resource cost calculation and the Appendix 1. However, these costs were allocated under a direct analysis under the NLSL calculation but allocated using the PTD functionalization ratio under the Appendix 1. Using the same functionalization codes in both the NLSL calculation and the Appendix 1 will avoid these inconsistencies, and ensure that the costs removed from ASC as a result of an NLSL are determined in the same manner as the costs included in ASC.

Second, the revised implementation will be less burdensome to implement for BPA and the exchanging utility. For BPA, having consistent functionalization codes means the NLSL Tab can be interconnected with the utility's Appendix 1 filings, reducing the burden on BPA Staff of calculating completely separate allocation factors. For utilities, the new implementation method will also reduce the administrative burden of filling out the NLSL Tab. The previous NLSL Tab required utilities to manually input data into the Plant Materials and Supplies and Property Taxes cost categories for each resource. To obtain these values, the utility had to determine the portion of Plant Materials and Supplies and Property Taxes to assign to each of its resources. BPA, in turn, had to review these values. The revised implementation, which adopts the default functionalizations from the ASCM, removes this burdensome process.

Third, the revised implementation is also more consistent with the ASCM's general policy of limiting direct analysis. The 2008 ASCM provides exchanging utilities with limited opportunities to perform a direct analysis on a cost category. Indeed, the ASCM specifically prohibits direct analysis on an account unless "Table 1 states specifically that a Utility may perform a direct analysis. . ." 18 C.F.R. § 301.7(a). This general limitation on performing direct analysis, however, was not being followed under the previous version of the NLSL Tab. As noted above, the NLSL Tab allowed exchanging utilities to perform a direct analysis on the cost categories of Plant and Materials and Property Taxes. Table 1 of the ASCM, however, requires that these cost categories be functionalized with the PTD and PTDG ratios. BPA's revised implementation corrects this inconsistency by changing the functionalization method for Plant and Materials and Property Taxes to the functionalization requirements in Table 1 of the ASCM.

Finally, BPA's proposed changes to the NLSL Tab should have a minor impact on the overall cost of resources sufficient to serve an NLSL. For example, in the initial NLSL resource cost calculation, Plant Materials and Supplies and Property Taxes were allocated based on total installed generation capacity. In the revised calculation, BPA will use ratios from the 2008 ASCM, modified to incorporate the language of Endnote d(3) (which requires that only resources in service after September 1, 1979, be in the calculation), to allocate those costs. BPA distributed a detailed example that compared the original NLSL worksheet with the revised NLSL resource cost calculation at a public workshop held on October 6, 2009. The comparison showed the NLSL resource cost calculations using 2007 data from Portland General Electric's ("PGE") 2010-2011 Final ASC Report. Under the revised NLSL resource cost model, PGE's

NLSL resource costs increased by a total of two percent. Half of the increase, however, was due to the inclusion of the mistakenly omitted cost categories of General Plant Depreciation Expense and Federal and State Employment taxes. Thus, the total increase in PGE's NLSL resource cost due to BPA's revised implementation model was a mere one percent. For other utilities, the change also should be minimal.

2.0 RESPONSE TO COMMENTS

2.1 Introduction

BPA presented a proposed Endnote d(3) Interpretation at a public workshop on October 6, 2009. At this workshop, BPA walked through its proposed changes to the existing method of calculating the cost of additional resources in an amount sufficient to serve any NLSLs and discussed the revisions with interested parties. BPA also notified parties that the agency was accepting comments on the proposed revisions until November 9, 2009. On October 22, 2009, at the request of the workshop participants, BPA posted a revised NLSL Calculation Template that incorporated the changes BPA proposed at the October 6 workshop. The revised NLSL Calculation Template allowed parties to input their own resource data into BPA's NLSL model to see the practical impact of BPA's revised interpretation of Endnote d(3) on their respective ASCs.

After the close of the first comment period, BPA commenced another workshop on February 25, 2010, where again BPA discussed its proposed revised interpretation of Endnote d(3). On March 1, 2010, BPA requested additional comments from parties on the items discussed during the February 25 workshop, including the proposed NLSL calculation.

Following the February 25, 2010, workshop, BPA commenced ASC Review Processes to establish utilities' ASCs for FY 2012-2013. BPA notified parties that it was preliminarily adopting the Endnote d(3) Interpretation for purposes of calculating resource costs in an amount sufficient to serve a utility's NLSL. BPA also informed parties that they would have an additional opportunity to comment on the Endnote d(3) Interpretation through the ASC Review Process by submitting comments on the Draft ASC Reports. Idaho Power Company ("Idaho Power" or "IPC") and the Idaho Public Utilities Commission ("IPUC") filed additional comments on the Endnote d(3) Interpretation.

The issues raised by parties in comments submitted to BPA prior to the commencement of the FY 2012-2013 ASC Review Processes are addressed in Issues 1-5. The additional issues raised by IPC and the IPUC in the FY 2012-2013 ASC Review Processes are presented in Issues 5-6. Issues 5-6 are an edited reproduction of BPA's responses to IPC's and the IPUC's comments as provided in Idaho Power's Final FY 2012-2013 ASC Report, pages 29-40, 43-46.

2.2 Issues

Issue 1

Whether the proposed revisions to the NLSL Tab result in substantive changes to the NLSL resource cost calculation established in Endnote d(3) of the ASCM.

Parties' Positions

IPC alleges that BPA's proposed interpretation is a reformulation of the methodology established in Endnote d(3) of the ASCM. IPC Comments at 3. IPC contends that because BPA is revising its interpretation, BPA should consider making substantive changes to the text of Endnote d(3). *Id.* at 1.

Evaluation and Decision

IPC comments that BPA Staff has "proposed to change the NLSL rate calculation from the existing methodology that uses actual cost value to a new methodology that uses allocated functionalized costs." IPC Comments at 1. Elsewhere in its comments, IPC argues that because BPA proposes to "reformulate or reinterpret the ASC methodology," it should reassess Staff's current understanding of how to assess the costs of service to NLSLs. IPC Comments at 3. In both of these instances, IPC alleges that BPA proposes to change the ASC Methodology, rather than to interpret the existing language in Endnote d(3). IPC is incorrect.

The NLSL calculation BPA proposes in this interpretation *implements* the existing language in Endnote d(3). It does not "reformulate" or "change" the 2008 ASC Methodology. The language in Endnote d(3), while providing that BPA must include "all resources" in the NLSL calculation, does not specify *how* BPA must determine these costs. Previously, BPA implemented this provision by developing a spreadsheet that allocated the cost of resources based on a direct analysis and a plant capacity ratio. While this was one way of implementing Endnote d(3), it was inconsistent with the allocation factors and methods used in the Appendix 1 and the ASC Forecast Model. To eliminate this inconsistency, BPA proposed to use the allocation factors used in other aspects of the ASC calculation to determine the allocation of resource costs in the NLSL calculation. Although IPC characterizes these revisions as a "reformulation" of the NLSL calculation, IPC has not explained how BPA's proposed interpretation deviates from the operative language in Endnote d(3). As explained in this Final Interpretation, the revised NLSL Tab conforms to the existing language in Endnote d(3).

The fact that BPA has clarified Endnote d(3) through this Final Interpretation should also come as no surprise to IPC. The ASCM specifically allows BPA to issue interpretations. *See* 18 C.F.R. § 301.5(b) ("The Administrator may, from time-to-time issue interpretations of the ASC methodology.") The ASCM Record of Decision ("ASCM ROD") explained that this provision was added to the ASCM to "give all parties notice that BPA may use this form of administrative interpretation to aid in the implementation of the ASCM." ASCM ROD at 153. BPA's proposed interpretation of Endnote d(3) and the NLSL calculation does just that. As explained more fully above and below, the revisions being discussed in this interpretation work within the existing language of Endnote d(3).

Issue 2

Whether BPA has proposed to revise its interpretation of Endnote d(3) to simplify the Above Rate Period High Water Mark calculation.

Parties' Positions

IPC asserts in its comments that the motivation behind BPA's current proposal is to resolve implementation issues associated with BPA's Rate Period High Water Mark ("RHWM") calculation. IPC Comments at 1-2. IPC claims that easing the administration of the RHWM is not grounds for adopting a revised NLSL calculation that will reduce Residential Exchange Program ("REP") benefits to exchanging utilities. *Id.* at 2.

Evaluation and Decision

IPC claims that BPA Staff's proposed revisions to the NLSL calculation are borne from the agency's desire to "have a uniform method for calculating the NLSL, and the Rate Period High Water Mark Tier II rate. . ." IPC Comments at 1-2. IPC contends that BPA's revised methodology removes more costs from a utility's ASC than BPA's previous method, which results in further reductions in REP benefits. *Id.* at 2. IPC claims that ease of calculating the RHWM is not a sufficient reason to "penalize" a utility's small farm and residential customers by using "less accurate data." *Id*. IPC also asserts that because BPA is proposing to "reformulate or reinterpret the ASC methodology to apply to BPA's regional dialogue long-term contracts, BPA should reassess the insufficient factual basis upon which BPA Staff base their current understanding of how to assess the costs of service to NLSLs." *Id.* at 3.

IPC is incorrect to assert that BPA has proposed the current interpretation simply to ease BPA's implementation of the RHWM ASC calculation. BPA Staff proposed to change the NLSL calculation to make the allocation factors in the NLSL calculation consistent with other parts of the ASC determination process, not because it made calculating the RHWM ASC simpler. IPC's assertions apparently come from its misinterpretation of statements BPA Staff made at the October 2009 workshop. In that workshop, BPA Staff explained that one of the tertiary benefits of the revised NLSL Tab was that it would make the calculation of the cost to serve Above-RHWM load simpler. As part of BPA's Tiered Rates Methodology, the cost of resources to serve Above-RHWM load is removed from ASC for COUs participating in the REP. Under the terms of an amendment to the Contract High Water Mark Power Sales Agreement, BPA and certain COUs agreed that the method for calculating the cost of serving Above-RHWM load would be "determined using a methodology similar to Endnote d of BPA's 2008 ASC Methodology." This interpretation of Endnote d(3) simplifies the calculation of the cost to serve both NLSLs and Above-RHWM loads, because both are calculated using a similar methodology. At no time, however, has BPA Staff represented that the only reason for these changes is to implement the calculation of RHWM ASC for participating COUs.

Issue 3

Whether IPC's comments raise issues that are outside of the scope of BPA's interpretation of Endnote d(3).

Parties' Positions

IPC argues that BPA's decision to consider "peaking units" within the calculation of costs of an NLSL is inappropriate because these units are rarely used to serve the industrial loads. IPC Comments at 2. IPC also claims that large industrial loads provide substantial benefits that make them less costly to serve. *Id.* at 2-3. Another alleged error cited by IPC is BPA's decision to include market purchases in Endnote d(3). *Id.* at 3. IPC also contends it was error for BPA to not consider in drafting Endnote d(3) the resources in existence at the time the NLSL occurred. *Id.* at 5.

Evaluation and Decision

Throughout its comments, IPC raises several substantive concerns with the text of Endnote d(3). As IPC is aware, the Commission approved the 2008 ASCM on a final basis on September 4, 2009. *See* Sales of Electric Power to the Bonneville Power Administration, Revisions to Average System Cost Methodology, 74 Fed. Reg. 47,052-01 (Sep. 4, 2009). No challenges to the Commission-approved ASCM were filed, and the time for filing an appeal of the 2008 ASCM with the courts has long passed. Inasmuch as IPC seeks to challenge the text of Endnote d(3), which is final and unreviewable, IPC's comments are outside of the scope of this interpretation and cannot be considered by BPA.

To maneuver around this jurisdictional bar, IPC casts much of its comments as a criticism of BPA's proposed "interpretation." However, a careful reading of IPC's comments reveals that most of IPC's objections relate to the text of Endnote d(3) and not BPA's proposed interpretation of the existing language. For example, IPC claims that BPA's decision to consider "peaking units" within the calculation of costs of an NLSL is inappropriate because these units are rarely used to serve the industrial loads. IPC Comments at 2. For support, IPC attaches to its comments the objections it filed on Endnote d(3) when the 2008 ASCM was pending before the Commission. *See* IPC Comments, Attachment A. These comments are clearly substantive challenges to Endnote d(3) and, therefore, must be rejected. Endnote d(3) unequivocally states that BPA must include in its NLSL calculation the cost of "*all resources* and long term power purchases . . ." 18 C.F.R. § 301, Appendix 1, En. d(3). No provision in the ASCM exempts "peaking units" from being considered in the NLSL calculation. Nor is BPA proposing to change the types of units included in the calculation through this interpretation. IPC's comments thus seek to challenge the substance of Endnote d(3), and cannot be considered in this Interpretation.

IPC's intent to challenge the substance of the ASCM is made clear by IPC's decision to append to its comment its filings with FERC. Attachment A is IPC's substantive challenge to Endnote d(3), to which BPA responded in its own filing before the Commission. *See* BPA Motion for Leave to Respond to IPC Arguments that were Improperly Raised in Reply Comments, Docket Nos. EF08-2011-000, RM08-20-000, dated January 12, 2009. The

Commission ultimately rejected IPC's challenges, and approved the ASCM as filed by BPA. *See* Sales of Electric Power to the Bonneville Power Administration, Revisions to Average System Cost Methodology, 74 Fed. Reg. 47,052-01 (Sep. 4, 2009). While IPC may wish to revisit these issues in its comment, BPA cannot do so. The ASCM is final and the time for challenging BPA's decisions has passed. The purpose of this interpretation is to address the technical implementation of the existing language, not to debate the merits of the factual underpinnings that led to the current text of Endnote d(3). IPC's attempt to revisit the merits of Endnote d(3) must be denied.

IPC also claims that large industrial loads provide substantial benefits that make them less costly to serve. IPC Comments at 2-3. IPC points to statements BPA made in the litigation of *Pac. Nw. Generating Coop. v. Bonneville Power Admin.*, 580 F.3d 792 (9th Cir. 2009) ("*PNGC*") and claims that the NLSL rate calculation as interpreted and implemented by and through the ASC Methodology "is not an accurate representation of the costs required to serve large loads, as understood by both Idaho and BPA." *Id.* at 3. IPC's assertion that "large industrial loads" provide certain benefits that make them less costly to serve is irrelevant to this interpretation. Endnote d(3) implements Congress's directive to exclude from ASC the cost of resources "in an amount sufficient to serve any new large single load of the utility[.]" 16 U.S.C. § 839c(c)(7)(A). Whether Endnote d(3) could have been developed to recognize the alleged "substantial benefits" IPC states is not an issue that BPA can now determine. The time to raise concerns with the text of Endnote d(3) was during BPA's eight-month consultation process. That consultation process ended in June of 2008, and the ASCM has since been reviewed and approved by the Commission on a final basis. No party, including IPC, challenged the ASCM and it is now unreviewable. The fact that BPA may have stated in a completely different context that large industrial loads provide certain benefits is irrelevant to whether BPA's *interpretation* complies with the language in Endnote d(3).

Moreover, even if BPA's statements in an unrelated case mean what IPC alleges, these statements cannot trump regulatory language that has been reviewed and approved by the Commission. As the Ninth Circuit recently noted, "[u]ntil BPA adopts new regulations, FERC or this court disapprove the existing regulations, or Congress changes the law, BPA is bound by its regulations." *Portland General Elec. v. Bonneville Power Admin.*, 501 F.3d 1009, 1035-36 (9th Cir. 2007) (internal citations omitted). In the instant case, Endnote d(3) requires BPA to consider all post-1979 resources in determining the cost of resources sufficient to serve an NLSL. BPA's proposed interpretation does just that, and IPC has not stated otherwise. The requirements of the ASCM and Endnote d(3) cannot be varied simply because IPC believes that large loads may provide benefits not recognized by the existing language.

IPC also asserts that, under BPA's interpretation, large industrial loads are served at costs well above market prices because the full cost of new plants is allocated to those customers, without taking into account the fundamentally different economics associated with base-load and peak units which are built to serve loads, not large flat blocks of power. IPC Comments at 3. IPC's concerns over whether the NLSL calculation results in resource costs above or below prevailing market prices are not pertinent to whether BPA is performing the calculation correctly. BPA's responsibility is to implement the ASCM in accordance with Endnote d(3), which *requires* BPA to consider "*all resources*" of the utility when calculating resource costs of an NLSL. The only

exception to this general rule is when the NLSL is served by dedicated resources. If the NLSL is not served by dedicated resources, then BPA has no choice but to base the NLSL resource cost calculation on the costs of resources *sufficient* to serve the NLSL, which necessarily requires BPA to consider all of the utility's resources. To that end, BPA has complied with the ASCM by including *all* resources in the NLSL calculation.

Furthermore, IPC's concern that Endnote d(3) improperly assumes that the cost of resources sufficient to serve large industrial loads is above market prices could be readily remedied if IPC were to dedicate a low cost resource to serve its entire NLSL. Under Endnote d(1), resources "dedicated" to serving an NLSL are excluded from ASC. If IPC believes that Endnote d(3) does not properly reflect the costs of serving its NLSL, then IPC may dedicate a resource to serve its NLSL. If IPC's entire NLSL is served by low-cost dedicated resources and the retail rates to the NLSLs were based on the costs of such low cost dedicated resources, then Endnote d(3) would not apply. IPC's comments do not explain why that approach does not solve its concern.

Another alleged error cited by IPC is BPA's decision to include market purchases in Endnote d(3). IPC claims that BPA's "implementation and interpretation" of the ASCM frustrates the intent of Congress by isolating PURPA costs and attributing them to NLSLs in a manner that reduces the residential exchange benefits to utility customers. IPC Comments at 3. Here again, IPC's challenge is to the ASCM, not BPA's interpretation of Endnote d(3). Endnote d(3) specifically *requires* that market purchases be included in the NLSL resource calculations:

> . . . the costs of the excess load will be determined by multiplying the kilowatt-hours not served under paragraphs (d)(1) and (d)(2) above, by the cost (annual fixed plus variable cost, including an appropriate portion of general plant, administrative and general expense and other items not directly assignable) per kilowatt-hour of all resources and *long term power purchases* (five years or more in duration). . .

18 C.F.R. § 301, Appendix 1, d(3) (emphasis added). BPA has *no choice* but to include market purchases in the NLSL calculation because *Endnote d(3)* specifically calls for the inclusion of these purchases. If IPC believed Endnote d(3) should not have included market purchases, it should have raised this point during the consultation on the ASCM and challenged the ASCM in court. It did not and BPA cannot now change the text of Endnote d(3) to accommodate IPC's late-filed objections.

IPC also claims that including market purchases in the NLSL calculation frustrates Congress' intent under PURPA, but again IPC's charge is against the ASCM, not BPA's interpretation.

IPC also contends it was an error for BPA, when drafting Endnote d(3), not to consider the resources in existence at the time the NLSL occurred. IPC Comments at 5. IPC points to charts which it claims demonstrate that it did not purchase peaking units at the time of the NLSL. *Id.* IPC claims that this evidence demonstrates that it is improper for BPA to assume that IPC uses its peaking units to serve its NLSL. *Id.* Endnote d(3), however, does not permit BPA to remove resources from the NLSL resource calculation based on whether the resource was in existence at

the time of the NLSL. Indeed, in the ASCM ROD, BPA expressly rejected basing the NLSL calculation on the "vintage" of resources in existence at the time the NLSL was determined:

> By the same rationale, BPA cannot support PPC/NRU's position that the resource cost determination should be based on "vintage" resources in place when a load was determined to be an NLSL. Again, BPA believes this would create a record-keeping burden on the filing utilities, BPA and parties to the ASC review process because of the need to track the cost of individual resources and any replacements, upgrades and other modifications for the life of the NLSL.

ASCM ROD at 90. IPC's attempt to reargue these ASCM issues in its comments must be denied.

IPC next turns to BPA's NLSL Policy. IPC argues that the 10 average MW increase that resulted in its current NLSL determination has been offset by a much larger loss in its regional load. IPC Comments at 3-4. IPC claims that BPA erred in never considering lost load in the NLSL calculation. *Id.* IPC then presents a series of charts that show it has lost 240MW of industrial load since its original NLSL was determined. *Id.* This comment is clearly outside of the scope of BPA's interpretation of Endnote d(3). How NLSLs are determined and whether future load loss can negate an existing NLSL are issues IPC must raise with BPA's NLSL Policy. These issues have nothing to do with BPA's implementation of Endnote d(3), which concerns only how to *calculate the costs* of serving an NLSL once an NLSL has been determined.

In summary, IPC's comments raise a number of substantive challenges to the text of Endnote d(3) and the ASCM itself. These comments do not concern BPA's interpretation of Endnote d(3). Because these comments seek to challenge the ASCM or other BPA policies, they are outside of the scope of this Interpretation.

Issue 4

Whether IPC's proposals for calculating the cost of resources sufficient to serve NLSLs are consistent with the ASCM.

Parties' Positions

IPC offers several proposed solutions to the alleged errors in BPA's current implementation of Endnote d(3). First, IPC suggests that BPA change the plant capacity factors of the resources included in the NLSL calculation to better match the load characteristics of IPC's NLSL. To do this, IPC argues BPA should use the "weighted portion of fixed plant costs taking into consideration the NLSL customers' high load factor. . ." IPC Comments at 6. Second, IPC recommends that BPA use the variable rate from IPC's Combined Cycle Combustion Turbine ("CCCT"), which IPC plans to operate beginning in 2012, as the measure for NLSL resource costs. *Id.*

Evaluation and Decision

IPC claims BPA can correct the mismatch between a peaking plant's capacity factors and the load factors associated with large flat industrial loads by changing the capacity factors of the plants used in the NLSL rate calculation. IPC Comments at 3. To do this, IPC argues BPA should use the "weighted portion of fixed plant costs taking into consideration the NLSL customers' high load factor. . ." *Id.* at 6.

IPC's suggestion is unreasonable because it contravenes one of the guiding principles of the 2008 ASCM, which is to rely on FERC Form 1 data in order to reduce the cost and complexity of the ASC Filing and Review process. Using the FERC Form 1 as the source of data for resource information was one of the major improvements BPA proposed in the 2008 ASCM that was universally accepted by parties. As noted in the ASCM ROD:

> BPA's proposal to rely on a uniform data source (FERC Form 1) will improve access to data, transparency of data, and provides a more practical and administratively efficient way for BPA and all interested parties to accomplish the necessary review and approval of ASCs.

ASCM ROD at 26. All power plant specific operating information used in the original NLSL worksheet, and in BPA's revised NLSL calculation, comes directly from the Generating Statistics section of the utility Form 1 filings. The numbers from the Generating Statistics section are not changed in any way. The plant capacity factors and associated fuel and operating and maintenance expenses are based on the actual operations of each generating facility. In both the original and new NLSL resource cost calculation, BPA also included depreciation and appropriate overhead costs (described above) to determine the fully allocated costs of each plant. BPA did not change the Plant Generating Statistics information. If BPA understands IPC's suggestion correctly, it would require BPA to estimate fuel, operating and maintenance costs of the peaking units as if they ran at some high capacity factor similar to the industrial load they reference. Putting aside the considerable difficulty of determining the fuel, operating and maintenance costs of peaking turbines run as a base load units, IPC's suggestion turns the clock back to the 1980's and starts BPA and its customers on the road back to complex, expensive and contentious ASC filings and reviews.

IPC's second suggestion is equally misplaced. IPC recommends that BPA use the variable rate from IPC's yet-to-be completed CCCT in the NLSL resource calculation. IPC Comments at 6. Endnote d(3), however, does not permit BPA to use only a single resource in determining the cost of resources sufficient to serve an NLSL. Rather, Endnote d(3) specifically requires BPA to include "all resources." IPC's comment does not explain how using a single CCCT in the NLSL resource calculation comports with the language in Endnote d(3), nor does BPA see how the language in Endnote d(3) may be construed to achieve this end. BPA notes, however, that Endnote d(1) permits IPC to dedicate a resource to serve its NLSL. Thus, if IPC wants to exclude only the cost of its CCCT from its ASC, IPC need only dedicate this resource to serving its NLSL and base the retail rate to the NLSL on the costs of the CCCT.

Issue 5

Whether BPA should allow the direct assignment of overhead costs in the NLSL resource cost calculation.

Parties' Positions

The Pacific Northwest Investor-Owned Utilities (Puget Sound Energy, Portland General Electric Company, PacifiCorp, and Avista Corporation) ("IOUs") wish to retain the option of directly assigning overhead costs, when such costs can be identified and differentiated from other overhead costs in the NLSL Resource Cost Calculation Methodology. Comments of the Pacific Northwest Investor-Owned Utilities in Response to BPA's Request for Comments on October 6, 2009, ASC Workshop, at 3-4. IPC reiterated this objection during the FY 2012-2013 ASC Review Process. *See* Idaho Power's Issue List FY12, Idaho Power, August 24, 2010, at 1.

Evaluation and Decision

The IOUs request that they be given the option of directly assigning overhead costs in the NLSL calculation provided they can properly identify the overhead costs of the resource. Comments of the Pacific Northwest Investor-Owned Utilities in Response to BPA's Request for Comments on October 6, 2009, ASC Workshop, at 3-4. IPC raises a similar concern. Specifically, in its Issue List submitted in the FY2012-2013 ASC Review Processes, IPC argues that BPA has improperly calculated the overhead costs associated with the cost of serving an NLSL. *See* IPC's Issue List FY12, IPC, August 24, 2010, at 1. IPC references a supporting document, Comments_FY12_ Idaho Power, at 3, which it supplied with its initial ASC Filing. In this document, IPC argues that since it is not the owner/operator of the Valmy or Boardman power plants, the overhead costs should not be included in the NLSL calculation. Instead, the amount applied to the multiplication of the allocation ratio should be the number found in the FERC Form 1 that applies to the production-related expenses. *Id.* IPC notes that this method would result in a much lower allocation of production expenses for the calculation of NLSL costs. The IPUC has also responded to IPC's Issues List to BPA and stated that they agree with IPC's technical arguments pertaining to the proportional ownership overhead costs allocators. *See* IPUC's Comments on IPC's August 24, 2010 Issue List FY12, IPC, at 1.

BPA, on September 3, 2010, replied to IPC's Issue List, stating:

> The intent of the 2008 ASCM is to include all allowable production and transmission costs and revenues in the determination of the utility's ASC. These costs are a direct input from Idaho Power's FERC Form 1 and include the investment/capital costs (Schedule 1) of the Valmy and Boardman power plants. Schedule 3, Expenses, identifies all (allowable) expenses necessary to operate these plants.

BPA Response to Issue List FY12 IPC, September 3, 2010, at 2.

BPA believes that Endnote d(3) should be interpreted such that the same level of overhead resource costs is used both in the calculation of a utility's ASC and in determining the cost of serving an NLSL. *Id.* Several reasons support this treatment.

First, the revised implementation mitigates the differences between the NLSL resource cost calculation and the ASC calculation. The previous NLSL calculation used allocation factors and methods different from the methods BPA used when calculating a utility's ASC. This resulted in conflicting allocation treatments for cost categories that were the same in both the ASC calculation and the NLSL calculation. For example, Plant Materials and Supplies are line items in both the NLSL resource cost calculation and the Appendix 1. However, these costs were allocated under a direct analysis under the NLSL calculation but allocated using the PTD functionalization ratio under the Appendix 1. Using the same functionalization codes in both the NLSL calculation and the Appendix 1 avoids these inconsistencies, and ensures that the costs removed from ASC as a result of an NLSL adjustment are determined in the same manner as the costs included in ASC.

Second, the revised implementation will be less burdensome to implement for BPA and the exchanging utility. For BPA, having consistent functionalization codes means the NLSL Tab can be interconnected with the utility's Appendix 1, reducing the burden on BPA Staff of calculating completely separate allocation factors. For utilities, the new implementation method will also reduce the administrative burden of filling out the NLSL Tab. The previous NLSL Tab required utilities to manually input data into the Plant Materials and Supplies and Property Taxes cost categories for each resource. To obtain these values, the utility had to determine the portion of Plant Materials and Supplies and Property Taxes to assign to each of its resources. BPA, in turn, had to review the utility's values. The revised implementation, which adopts the default functionalizations from the 2008 ASCM, removes this burdensome process.

Third, the revised implementation is also more consistent with the 2008 ASCM's general policy of limiting direct analysis. The 2008 ASCM provides exchanging utilities with limited opportunities to perform direct analysis on cost categories. Indeed, the 2008 ASCM specifically prohibits direct analysis on an account unless "Table 1 states specifically that a Utility may perform a direct analysis . . ." 18 C.F.R. § 301.7(a). This general limitation on performing direct analysis, however, was not being followed under the previous version of the NLSL Tab. As noted above, the NLSL Tab allowed exchanging utilities to perform direct analysis on the cost categories of Plant and Materials and Property Taxes. Table 1 of the 2008 ASCM, however, requires that these cost categories be functionalized with the PTD and PTDG ratios. BPA's revised implementation corrects this inconsistency by changing the functionalization method for Plant and Materials and Property Taxes to match the functionalization requirements in Table 1 of the 2008 ASCM.

In short, BPA believes that having consistent calculations between the allocation of overhead and related items in the NLSL calculation and the ASC calculation is both sensible and reasonable. The plant costs recorded in IPC's FERC Form 1 and used in the ASC determination should be the same costs used in the NLSL cost allocation. BPA believes that the calculation of allocated overhead costs is within the prescribed treatment as outlined in Endnote d(3) of the 2008 ASCM.

Next, IPC argues that BPA is allocating an inappropriate amount of overhead costs, total general plant, plant materials and supplies, general plant depreciation, and A&G to IPC's NLSL because IPC is not the primary owner/operator of the Valmy and Boardman power plants. Comments_FY12_ Idaho Power at 3. IPC states that for Valmy and Boardman it receives bills

for overhead-type expenses. *Id.* IPC asserts that it employs a total of only four employees who do in fact charge some of their time directly to fuel expenses for Valmy and Boardman, which allocate directly through FERC Account 501. *Id.* The remaining 327 employees who work in power supply at IPC are directly assigned to the operation, maintenance, relicensing and other requirements of IPC's hydro fleet, and therefore are not includable in the allocated overhead costs for either Valmy or Boardman. *Id.* IPC is concerned that the ratios used to allocate general plant, materials and supplies, taxes, and depreciation are all based upon investment rather than IPC's actual 2009 FERC Form 1 amounts. *Id.*

IPC's objection is misguided. In effect, IPC argues that BPA is allocating a higher share of plant costs to the cost of serving NLSLs for Valmy and Boardman than is actually being spent by IPC. *See* IPC's Comments to BPA, June 1, 2010, at 3. However, if this is the case, then BPA is also allocating a higher share of plant costs to Contract System Cost than is actually being spent by IPC. What IPC fails to realize is that BPA uses the same ratio method to allocate costs for NLSLs as it does to allocate costs for Contract System Costs included in ASC. In effect, then, IPC is asking BPA to include the higher fully allocated costs of Valmy and Boardman for purposes of calculating ASC, but then include only the lower "actual" cost of these resources when calculating the cost to serve NLSLs. IPC cannot have it both ways. If BPA includes the lower costs of Valmy and Boardman in the calculation to serve NLSLs, than for consistency purposes, BPA would also have to adjust IPC's Contract System Cost to reflect the "lower" actual costs of the Valmy and Boardman power plants. IPC does not appear to advocate for this comparable reduction in its ASC, and BPA believes it is unwise to begin to adjust costs in this manner. As noted above, making all of these precise calculations creates a huge administrative burden on BPA and IPC. BPA does not believe undertaking such a task is either reasonable or necessary if another viable alternative is available. BPA believes using the pre-existing ratios identified in the 2008 ASCM for the same cost items is one such alternative. Rather than creating disconnected and inconsistent treatment of similar cost categories, as advocated by IPC, BPA finds that the 2008 ASCM permits BPA to adopt consistent functionalization treatment between the cost items included in the NLSL calculation and the ASC calculation.

Issue 6

Whether BPA should adopt the proposed Endnote d(3) Interpretation.

Parties' Positions

IPC argues that BPA's proposed interpretation is inconsistent with both the Northwest Power Act and the 2008 ASCM.

Evaluation and Decision

During the FY 2012-2013 ASC Review Processes, BPA allowed parties additional opportunities to submit comments on BPA's proposed Endnote d(3) Interpretation. IPC submitted comments opposing the Endnote d(3) Interpretation. *See* IPC's Response to BPA's Issue List, September 2, 2010, at 7; *see* IPC Issue List, at 1. The IPUC filed comments supporting IPC's opposition. *See* IPUC's Response to IPC's Issue List, September 3, 2010, at 1.

IPC claims that the proposed interpretation is erroneous for two reasons. *See* IPC's Response to BPA Issue List, September 2, 2010, at 7. First, IPC argues BPA's treatment of costs of peaking plants is inappropriate. *Id.* IPC claims it has included costs of additional resources in amounts more than sufficient to serve any new large single load customer in its FY 2012–2013 ASC Filing. *Id.* IPC further asserts that large load customers (including NLSL customers) by nature are the IPC's least expensive loads to serve. *Id.*

BPA disagrees with IPC's argument. IPC claims that BPA's decision to include peaking plants is inappropriate, but does not cite the proper authority to support its assertion. As BPA has noted in every filing it has produced on this topic, Endnote d(3) *requires* BPA to calculate the NLSL calculation based on "all resources and long term power purchases. . ." 18 C.F.R. § 301, En. d(3). Thus, the 2008 ASCM does not permit BPA to "pick and choose" which resources to include in the calculation. If IPC believed this language was in error, then it should have filed a challenge to the 2008 ASCM. It did not, and therefore, BPA cannot depart from the unambiguous requirements of the 2008 ASCM to accede to IPC's request.

IPC next claims that large industrial loads (including NLSL customers) are "by nature" the company's least expensive loads to serve. Response of IPC to BPA Issue List, at 7. Thus, IPC argues that peaking units should not be included in the resource calculation because NLSLs tend to be "relatively flat." *Id.* If they are included, IPC claims that the costs should be proportioned in an amount sufficient to match the NLSL's contribution to a system peak above base load only—not the peak in its entirety. *Id.* IPC then incorporates by reference the comments it raised before the Commission opposing Endnote d(3). *Id.*

IPC's argument must be rejected for several reasons. First, this comment is clearly outside of the scope of BPA's proposed Endnote d(3) Interpretation. Nowhere in the interpretation does BPA even hint that it is reconsidering which resources to include in its calculation of Endnote d(3). As IPC notes, IPC raised its objections to the text of Endnote d(3) before the Commission. Despite IPC's objections, the Commission approved the ASCM, *including Endnote d(3).* *See* Sales of Electric Power to the Bonneville Power Administration, Revisions to Average System Cost Methodology, 74 Fed. Reg. 47,052-01 (2009). BPA cannot reconsider the language the Commission has already approved. IPC's comment seeks to challenge Endnote d(3) rather than BPA's *interpretation* of the existing language. Consequently, IPC's argument is outside of the scope of this proceeding and must be rejected.

Second, BPA has already responded to IPC's claim that Endnote d(3) does not properly take into account the characteristics of the load in the Endnote d(3) Interpretation and in filings before the Commission. *See* BPA Motion for Leave to Respond to IPC's Arguments that were Improperly Raised in Reply Comments, Docket Nos. EF08-2011-000, RM08-20-000, dated January 12, 2009. To the extent that IPC's claim is relevant to the issues in the Endnote d(3) Interpretation, which they are not, BPA incorporates by reference its previous responses. *Id.*

Third, IPC's concern that large loads are, in fact, less expensive to serve than other loads is irrelevant for purposes of calculating the exclusion of NLSL costs. Congress designed the Act to intentionally discourage NLSLs from relocating to the Pacific Northwest:

> [u]nder this bill, rates for increased loads resulting from any new commercial and industrial activity ('New Large Single Loads', section 3(12)) are excluded from the Federal base resource rate. Thus, any Utility seeking additional power to serve such a load would be charged a rate equivalent to the new resource cost. This new resource cost should be the same or higher than the cost to utilities in other regions to serve such load. This provision should help to narrow, rather than expand, the Northwest's advantage in attracting new industry through lower cost electricity.

H.R. Rep. No. 96-976, Pt. I, 96th Cong. 2d Sess. 43-44 (1979).

Following IPC's logic, BPA should only be excluding the low-cost resources from the ASC calculation when excluding NLSL costs, which would have the perverse effect of increasing IPC's ASC. This argument was soundly rejected in the 2008 ASCM ROD. *See* 2008 ASCM ROD at 92-93.

Also, IPC's "cost of serving" argument is based either on a mischaracterization or misreading of the NLSL provision of the Northwest Power Act, which specifically requires the Administrator to exclude from ASC the cost of additional resources "*in an amount sufficient to serve* any new large single load of the utility." *See* 16 U.S.C. § 839c(c)(7)(A) (emphasis added). Neither the Northwest Power Act nor the 2008 ASCM makes any reference whatsoever to the "cost of serving NLSLs." That mischaracterization of the Northwest Power Act is by itself enough to invalidate most of IPC's arguments concerning BPA's revised Endnote d(3) Interpretation. The Northwest Power Act and the 1981, 1984 and 2008 ASCMs all refer to the cost of additional resources *in an amount sufficient to serve* any new large single load of the Utility. *See* 1981 ASCM Footnote 15(b); 1984 ASCM Footnote (f); 2008 ASCM En. d.

Finally, the existing text of Endnote d provides a solution to IPC's alleged inequity. Endnote d(1) permits BPA to exclude the costs of dedicated resources from ASC. 18 C.F.R. § 301, En. d(1). If IPC believes that its NLSL is being served only by low-cost resources, it should dedicate those resources to its NLSL and use the provisions of Endnote d(1) to calculate the cost of resources to exclude from ASC. IPC has never explained why this provision does not solve its concerns.

IPC claims that BPA's proposed interpretation "over-assign[s] and double-count[s] resource costs and expenses." IPC's Response to BPA Issue List, September 2, 2010, at 7. To support these statements, IPC points to the 2008 ASCM, where BPA presented a fully allocated cost of $34 to $40 per MWh for the Boardman Plant depending upon the capacity factor of the plant. *Id.; see also* 2008 ASCM, at 89. IPC claims that under BPA's new calculation methodology proposed in the Endnote d(3) Interpretation, this figure becomes $44.85 per MWh, or 21% greater than the average of BPA's estimate from its 2008 ASCM ROD. *Id.* IPC asserts that a 21% increase should be considered a significant change and departure from the results of a direct allocation calculation, which more fairly and reasonably captures the intention of the 2008 ASCM and the Act. *Id.* IPC claims that its calculation of the cost submitted in its Appendix 1 with the June 1, 2010, Filing is within the bounds of the BPA-estimated range of fully allocated costs for the plant from the 2008 ASCM ROD. *Id.*

IPC's reliance on this example is misplaced. The section cited by IPC relates to a part of the 2008 ASCM where BPA is explaining its rationale for *moving away* from using base load resources alone in the NLSL calculation. BPA proposed this change because relying on base load resources only in the NLSL calculation could result in an ASC *increasing* in the event BPA were to remove the base load resource costs from ASC. The full context of the language cited by IPC is provided below:

> In the ASCM consultation process, BPA staff discussed its concern that, for many utilities, the resource cost determination prescribed in Endnote d could result in a cost of resources below a Utility's ASC. This is because many of the resources used in the calculations were large, central station, coal-fired resources that were installed in the early 1980s. Because some of these resources are near the end of their depreciable lives, the return component is low and fuel and variable O&M are also low. Analysis prepared by BPA staff and discussed during the consultation process indicated that the fully allocated cost of Colstrip Units 3 and 4 was about $30-34/MWh and Boardman was about $34-40/MWh depending on the capacity factor of the plant. Colstrip Units 3 and 4 and Boardman are both baseload resources built in the early 1980s and would be a part of the NLSL resource cost determination for many of the IOUs. This contrasts with current wholesale market prices in the $60-80/MWh range and the fully allocated cost of gas-fired combined cycle combustion turbines (CCCTs) in the $60-65/MWh range.
>
> For utilities that own a large quantity of baseload resources built in the early 1980s, it will be many years before the quantity and cost of new baseload resources, such as CCCTs, result in an NLSL resource cost determination that is higher than the utilities' respective ASCs. If the NLSL resource cost determination is below a Utility's ASC, it will result in an increase in that Utility's ASC. *BPA believes that increasing a Utility's ASC as a result of excluding the costs of serving NLSLs is inconsistent with the intent of the NLSL provisions of the Northwest Power Act. When BPA serves a preference customer, any NLSL service is priced at BPA's NR rate, which generally reflects current incremental resource costs.*

ASCM ROD, at 89 (emphasis added).

As the above text makes clear, BPA's analysis in this section was merely illustrative of a problem that existed under the previous NLSL calculation in the 1984 ASC Methodology. By removing low-cost base load resources from ASC on account of an NLSL, a utility's ASC could potentially benefit because the only remaining resources would be higher-cost resources. BPA decided that such an outcome was illogical and therefore determined that

> the NLSL resource cost determination must reflect the current types of resources acquired by exchanging utilities. BPA will include <u>all</u> post-September 1, 1979, generating resources in the determination of the cost of resources used to serve NLSLs to better reflect the diversity of generating resources exchanging utilities use to meet the requirements of meeting their customers' energy requirements.

> Review of any current integrated resource plan or similar document prepared by a regional Utility would clearly show that relying on baseload generating resources for NLSL resource cost determinations is out of touch with modern generating resource portfolios.

ASCM ROD, at 89-90.

In its comments, however, IPC has ignored the illustrative nature of these figures and proffered them as binding ASC determinations on the appropriate cost to be excluded from ASC for the Boardman plant. IPC's Response to BPA Issue List, September 2, 2010, at 7. IPC claims that when comparing BPA's illustrative figures generated two years ago in the ASCM ROD with the present-day figures that were generated in a six-month ASC Review Process, the net difference is 21%. *Id.* IPC asserts that a 21% increase should be considered a significant change and departure from the results of a direct allocation calculation, which more fairly and reasonably captures the intention of the ASC Methodology and the Act. *Id.* This comparison, however, is inapposite. The 2008 ASCM could not be clearer that this figure was not expected nor intended to be a final determination of *actual* resource costs. The ASCM ROD specifically states that

> Analysis prepared by BPA staff and discussed during the consultation process indicated that the fully allocated cost of Colstrip Units 3 and 4 *was about* $30-34/MWh and Boardman *was about* $34–40/MWh *depending on the capacity* factor of the plant.

ASCM ROD, at 89.

As these statements make clear, the figures referenced in the 2008 ASCM ROD were high-level estimates of resource costs and were not intended as definitive findings of the costs of the Boardman resource. These numbers were not constructed with the same precision or analysis that BPA Staff uses when developing resource cost calculations in the ASC Review Processes. Moreover, the figures developed in the 2008 ASCM ROD were based on data that BPA had at the time, which was from 2006. These figures cannot be compared to the specific resource information that BPA Staff reviewed in this proceeding, which relies on resource data developed in CY 2009, and escalates to the midpoint of the Exchange Period.

Also, IPC's arguments inappropriately compare Endnote d resource cost calculations from different years. Endnote d resource cost calculations are annual costs that vary from year to year because of changes in such components as return on equity, coal or natural gas prices, and the actual generation of the resource. For example, in 2006 the Boardman coal plant, of which IPC is a co-owner, experienced an extended outage due to problems with the generator rotor. The fully allocated cost of Idaho's share of the Boardman plant in 2006 was $55/MWh based on BPA's 2009 Final ASC Report for IPC. However, the fully allocated cost of Idaho's share of the Boardman plant in 2007 dropped to $35/MWh. The dramatic drop in the cost of the Boardman plant between 2006 and 2007 was almost entirely due to the 40% capacity factor[1] of Boardman

[1] The ratio of the electrical energy produced by a generating unit for the period of time considered to the electrical energy that could have been produced at continuous full power operation during the same period. U.S. Energy Information Agency Glossary.

in 2006 as a result of the outage. In 2007, after repairs were complete and Boardman returned to normal operations, the capacity factor was 78%. The fully allocated cost of resources will vary from year to year for a variety of reasons, completely independent of the calculation methodology.

Finally, the 2008 ASCM ROD does not address the central issue which BPA sought to resolve through its Endnote d(3) Interpretation. As noted before, the question being resolved through the Endnote d(3) Interpretation is the proper treatment in the NLSL calculation of Plant Materials & Supplies, General Plant, General Plant Depreciation Expense, Administrative and General Expense (A&G), Property Taxes, and Federal and State Employee Taxes. The 2008 ASCM ROD focused on the more general question of what resources to include in the NLSL calculation, and therefore did not specify the method for allocating the aforementioned costs in the NLSL calculation. *See* 2008 ASCM ROD, at 88-93. The only guidance in the 2008 ASCM ROD on the treatment of these costs was an instruction to "[c]alculate the fully allocated costs of the 'Base Period' post-1979 resources (fully allocated costs include return, depreciation expense, O&M, Fuel, allocated A&G, and Property taxes)." *Id.* at 93. The method for "calculating" the fully allocated costs, however, was not addressed. Thus, a "gap" was left in both the 2008 ASCM ROD and the 2008 ASCM that BPA is properly filling here with the adoption of the Endnote d(3) Interpretation.

IPC next contends that in its prior year's ASC filings, its proposed cost for the Boardman facility was accepted in BPA's Final ASC Reports. IPC's Response to BPA Issue List, September 2, 2010, at 7. IPC is incorrect. While BPA may have *allowed* a certain NLSL cost method in the previous ASC filings, neither the FY 2009 Final ASC Reports nor the FY 2010-2011 Final ASC Reports determined what the proper treatment of Plant Materials & Supplies, General Plant, General Plant Depreciation Expense, Administrative and General Expense (A&G), Property Taxes, Federal and State Employee Taxes would be in the NLSL calculation. As noted in the "Background" section of this interpretation, BPA did not discover the inconsistency within the NLSL Tab until after the Final ASC Reports were issued. Thus, BPA only allowed this treatment because it did not know it was inconsistent with other provisions of the 2008 ASCM.

The absence of any substantive discussion on this issue in the prior ASC Reports undermines IPC's claim that BPA's previous allowance of this treatment is precedential. Indeed, both the FY 2009 Final ASC Report and the FY 2010-2011 Final ASC Report clearly state that BPA's allowance of a particular calculation without comment is not to be construed as approval of the proffered treatment:

> BPA's ASC determination is limited to specific findings on those issues identified for comment, with the exception of ministerial or mathematical errors. There may have been additional issues that BPA did not identify for comment in this filing. *Acceptance of a utility's treatment of an item without comment is not intended to signify a decision of the proper interpretation to be applied either in subsequent filings or universally under the 2008 ASCM.*

FY 2009 Final ASC Report, IPC, at 11; FY 2010-2011 Final ASC Report, IPC, at 11 (emphasis added).

Because BPA has not previously evaluated the treatment of Plant Materials & Supplies, General Plant, General Plant Depreciation Expense, Administrative and General Expense (A&G), Property Taxes, Federal and State Employee Taxes in the NLSL calculation, the fact that BPA *allowed* a different treatment in previous ASC Reports is irrelevant.
IPC asserts that under BPA's new Endnote d(3) Interpretation, there is a "significant increase to the cost" of serving an NLSL. IPC's Response to BPA Issue List, September 2, 2010, at 7. IPC claims that when compared to the FERC Form 1, BPA's comparable "Expenses per Net KWH" is approximately $10 greater (36%) per MWh than the 0.0269 per kWh as calculated by the FERC Form 1 (page 402, line 35), not including the additional 13% increase to "Return on Capital" that BPA has also incorrectly assumed by allocating excessive costs to the Boardman plant. *Id.*

IPC's assertion that BPA's Endnote d(3) interpretation results in a significant increase to plant costs relates to BPA's treatment of allocated costs and was raised by IPC as a separate issue. *See* IPC's Issue List, August 24, 2010, at 1. BPA addresses this separate issue in Section 4.2.8.3 of IPC's Final FY2012-2013 ASC Report, which BPA hereby incorporates by reference.

IPC next argues that the Endnote d(3) interpretation results in "double-counting expenses" for two non-owner-operated plants. IPC's Response to BPA Issue List, September 3, 2010, at 7. IPC claims that the new NLSL tab, in general, allocates peaking expenses to "relatively non-peaking load." *Id.* IPC asserts that the result of the calculation does not conform to either the Company's own approved retail rates for an NLSL customer or the costs as calculated in the FERC Form 1. *Id.* IPC concludes that the effect of all of the above is an assignment of costs far greater than the "amount sufficient to serve any new large single load of the utility." *Id.*

BPA is unsure what IPC is attempting to argue in this comment. First, IPC's comment does not explain how BPA is "double-counting" costs in the NLSL Tab. Thus, BPA cannot formulate a response to this conclusory statement. Second, IPC's observation that the NLSL Tab "allocates peaking expense to relatively non-peaking load[s]" makes no sense. *Id.* BPA does not know what a "relatively non-peaking load" is or why the characteristic of the load matters for purposes of determining the cost of serving an NLSL. BPA can only assume that IPC is attempting to assert in another form its argument that the costs of peaking resources should be excluded from the NLSL calculation. If that is IPC's intent, then BPA has already thoroughly addressed this issue above.

The next two observations in IPC's comments are equally unclear. IPC first observes that the results of the Endnote d(3) Interpretation do not "conform to . . . the Company's own approved retail rates for a NLSL customer." *Id.* However, IPC does not explain *why* the results of BPA's NLSL calculation *must* conform to the retail rates for IPC's NLSLs. Indeed, the 2008 ASCM specifically contemplates that BPA's ASC determinations will, in many instances, *not* conform to the retail rate treatment afforded by the state commissions. This outcome is not odd or illogical, but a natural result of BPA's decision to move away from a jurisdictional-based approach to ASC determinations. As noted in the 2008 ASCM ROD:

> Using the jurisdictional cost approach as the data source for the ASC calculations has proven to be inefficient, cumbersome, and extremely contentious. BPA therefore is proposing to not use a jurisdictional costing approach for the revised ASCM. In its place, BPA is proposing to use a data source that is uniform and that facilitates ease of administration for all parties.

2008 ASCM ROD, at 24.

IPC's second observation is even more cryptic. IPC claims that BPA's proposed Endnote d(3) Interpretation does not conform to ". . . the costs as calculated in the FERC Form 1." IPC's Response to BPA Issue List, September 2, 2010, at 7. Factually, this comment is incorrect because the only information BPA used to calculate the cost of serving IPC's NLSL was from IPC's Appendix 1, which is based on IPC's FERC Form 1. Without further details as to how BPA's proposed Endnote d(3) Interpretation fails to conform to IPC's FERC Form 1, BPA cannot formulate a response to this comment.

IPC next asserts that BPA has not followed all the language in the 2008 ASCM in the Endnote d(3) Interpretation. *Id.* IPC claims that, under the 2008 ASCM, NLSL costs are limited to the amount "allowed in the regulatory jurisdiction to establish retail rates during the Exchange Period." *Id.* IPC claims that the retail rate for the NLSL is "substantially less" than the total rate applied to the load using either of BPA's NLSL methodologies. *Id.* IPC concludes that the current NLSL methodology in use in the Appendix 1 does not conform to the ROD determination that the cost of the NLSL is the amount "allowed in the regulatory jurisdiction to establish retail rates during the Exchange Period." *Id.*

It is unclear from this comment whether IPC seeks to challenge the Endnote d(3) Interpretation or BPA's implementation of Endnote d(3) generically. Either way, IPC's view of the ASCM is misguided. The provision IPC relies on states as follows:

> To the extent that NLSLs are not served by dedicated resources plus the Utility's purchases at the NR rate, the costs of the excess load will be determined by multiplying the kilowatt-hours not served under paragraphs (d)(1) and (d)(2) above, by the cost (annual fixed plus variable cost, including an appropriate portion of general plant, administrative and general expense and other items not directly assignable) per kilowatt-hour of all resources and long term power purchases (five years or more in duration), as allowed in the regulatory Jurisdiction to establish retail rates during the Exchange Period . . .

18 C.F.R. § 301, End. d(3).

The operative language IPC relies on is the final phrase "as allowed in the regulatory Jurisdiction to establish retail rates during the Exchange Period . . ." IPC claims this phrase limits the NLSL calculation to only the cost of resources used to set the retail rates of the *utility's* NLSL. IPC's Response to BPA Issue List, September 2, 2010, at 7. This reading of Endnote d(3), however, is faulty. The text cited by IPC does not say that the only resource costs used in the NLSL calculation are those costs used to set the "retail rates" of the NLSL. Parsing the language into its component parts, the language is intended to read as follows:

> the costs of the excess load will be determined by multiplying the kilowatt-hours not served under paragraphs (d)(1) and (d)(2) above . . . by the cost . . . per kilowatt hour of all resources and long term power purchases . . . , as allowed in the regulatory Jurisdiction to establish retail rates during the Exchange Period. . .

Read properly, the text says that the cost included in the NLSL calculation is the cost of *all resources* that are allowed into retail rates. The "retail rates" referenced in this section are not those applicable only to the NLSL, but the retail rates applicable to *all* of the utility's customers. If the intent of Endnote d(3) was to limit the cost of resources to only those used to serve the NLSL, then the text would have mentioned the NLSL in the latter half of the sentence. It does not, so the more natural reading of the sentence leads to the conclusion that the reference to "retail rates" is to retail rates of all customers of the utility, not just the retail rates of the NLSL. Consequently, if the resource cost is in retail rates, then the resource cost is properly in the NLSL calculation. This result makes sense because resource costs that are not in retail rates would not be resource costs allowed in ASC. Section 5(c)(7)(B) of the Northwest Power Act specifically excludes from ASC 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 . . ." 16 U.S.C. § 839c(c)(7)(B). Resources that are dedicated to out-of-region loads would be resources that would not be "allowed in the regulatory Jurisdiction to establish retail rates" and therefore would not be resources included in the NLSL calculation. BPA's method of calculating NLSL costs would exclude these out-of-region resources, and therefore the current method of calculating NLSL costs is consistent with the ASCM.

IPC claims that the current methodology BPA uses to determine the cost of serving an NLSL is improper because it does not limit the costs in the NLSL calculation to only those included in "retail rates." IPC's Response to BPA Issue List, September 2, 2010, at 7. However, IPC does not explain in its comments how BPA's proposed Endnote d(3) Interpretation violates this phrase. IPC has not identified any costs included in the NLSL calculation that are not allowed in retail rates. Thus, BPA's Endnote d(3) Interpretation properly implements the terms of Endnote d(3) and should be adopted.

3.0 CONCLUSION

For the foregoing reasons, the Endnote d(3) Interpretation is consistent with the 2008 ASCM and the Northwest Power Act. BPA hereby adopts the interpretation of Endnote d(3) as described in this interpretation for purposes of calculating the cost of resources sufficient to serve an NLSL.

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/s/ Stephen J. Wright
Stephen J. Wright
Administrator

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