

September 1, 2026

Submitted via email to communications@bpa.gov

Re: Bonneville's August 25, 2026, Public Involvement Policy Workshop

Northwest Requirements Utilities ("NRU") appreciates the opportunity to comment on BPA's August 25 Public Involvement Policy Workshop and the accompanying draft Public Involvement Policy ("draft Policy"). NRU represents roughly 60 Load-Following preference customers and one generation and transmission cooperative, comprising roughly 36% of BPA's Tier 1 load. We appreciate the work BPA staff have put into this effort and the changes the draft adopts, including retention of the 30-day comment period, the expanded notice of intent, and the commitment to a close-out document responding to the substance of comments received.

We write prior to the start of the official public comment period because the draft Policy again fails to resolve the single issue NRU has raised at every stage of this process; an issue BPA staff recently expressed an intent to foreclose altogether. At the August 25 Workshop, BPA stated that processes in which BPA is not the sole decision-maker, or in which BPA lacks decision-making authority, are deliberately excluded from the Policy's scope. Placing outside the Policy the exact category of decision that gave rise to this review is more than questionable, and NRU urges BPA to reconsider before publishing the proposed Policy for official public comment.

I. The Draft Policy Deliberately Excludes the Very Circumstance That Prompted This Review

Regarding this exclusion, Section 1.1 provides that "[a]ny activity that has a defined process or procedure that is published outside of this Public Involvement Policy will not be subject to Sections 2 through 4," and Section 4 provides that the Policy "does not apply to ... any matter for which BPA has established a specific Public Involvement Process, settlements, rules of procedure, business or organizational practices, or the operational decisions implementing a Major Regional Power Policy." Meaning, when BPA participates in a proceeding, negotiation, or settlement governed by someone else's process, or by a process BPA has established outside this document, the Policy has nothing to say about what BPA owes its customers. Its scope is set by the forum in which BPA finds itself. Yet customer exposure does not diminish because BPA shares a table with other parties; if anything, the risk of a commitment made without customer input rises when BPA does not control the process.

BPA staff are well aware of this issue and the reason underlying this request. As both NRU and PPC explained in February, and as NRU reiterated in April, the December 14, 2023, CRSO

MOU committed BPA to hundreds of millions of dollars in financial obligations for preference customers, in a multi-party process, without first affording those customers a meaningful opportunity for engagement. Under the draft Policy that sequence of events would still be permissible. Additionally, the exclusion is also difficult to square with the Policy's statutory foundation. Section 4(g)(1) of the Northwest Power Act directs the Administrator to maintain comprehensive programs to inform the region of major regional power issues, to obtain public views on them, and to "secure advice and consultation from the Administrator's customers and others." Nothing in that mandate turns on whether BPA holds unilateral decision-making authority.

NRU's objection is not in regard to separately published processes, as such. Where an established process already affords BPA's customers a meaningful opportunity to be heard before the agency commits, this Policy is unnecessary. However, Section 1.1 asks only whether a process has been published, not whether that process gives customers a meaningful opportunity to engage; that is insufficient. Further, a proceeding to which BPA's customers are not parties, and in which they have no right to be heard, satisfies Section 1.1 as drafted. Closing this gap requires notice that BPA is engaged in such a process, an opportunity for engagement before the commitment is made, and, where another party controls the process, a formal request that customers be permitted to participate. These steps represent a procedural solution to this policy gap, and proposes requires no disclosure of confidential information, no customer consent, and no limit on the Administrator's settlement authority.

II. The Definition of Major Regional Power Policy Should Not be Discretionary

Section 4 defines a Major Regional Power Policy as a statement formulated by the Administrator that establishes how the Administrator will implement law or conduct business and that "the BPA Administrator identifies as involving a major regional power issue pursuant to section 4(g)." That last element makes the Policy self-triggering: it applies when, and only when, the Administrator says so. NRU does not propose that the Administrator's discretion be displaced or otherwise limited, but we do note that the 1986 framework paired that discretion with guidance the draft lacks. Commenters in 1986 asked BPA to adopt criteria, proposing standards keyed to "financial, operational, general economic, environmental, and contractual impacts on BPA and its customers." BPA declined to place criteria in the policy text, but did revise the explanatory language "to indicate the general types of considerations which typically guide these decisions." Those considerations were placed, seemingly deliberately, in the sections BPA now characterizes as supplemental.

The 1986 revision also expanded the definition to reach "generic agreements, contracts, or other instruments between BPA and its customers which, while not policies, nevertheless establish major regional power policy." The draft drops that coverage. Because the commitments of greatest consequence to preference customers increasingly arise from "instruments" rather than policy-like documents, NRU requests that BPA restore it. NRU also agrees with PPC that a

financial threshold for what constitutes a major regional power issue should be a focus of this review.

III. The Policy Should Be Clarified

Specifically, NRU is seeking clarity around the trigger for public involvement, not an expansion of the Policy's subject matter. We recognize that extending the Policy to processes BPA does not control could be read to draw the agency into obligations it neither anticipates nor can sustain. Section 4(g) was enacted in 1980, well before Order Nos. 888 and 890 and the functional separation of BPA's power and transmission functions, and should not be read today to reach categories of activity it was never intended to include. What NRU proposes is a gap-filling provision: where an established process already gives customers an opportunity to be heard before BPA commits, it does not apply.

Accordingly, the Policy should include your requisite "including-but-not-limited-to" boilerplate language, making it clear that the formulation of a Major Regional Power Policy does not encompass the planning, construction, maintenance, or retirement of individual transmission or generation facilities; the procurement of equipment, materials, or services, such as the purchase of a transformer; or individual transmission service and interconnection requests. These are engineering, procurement, and service decisions carried out under BPA's published transmission processes and under contract and are not the sort of "major regional power issue" to which section 4(g) is addressed. NRU supports the exemptions BPA proposed in April for procedures established under section 212(i)(2)(A) of the Federal Power Act and for the transmission business practice process. The distinction is between policy and implementation, not between BPA's power and transmission functions.

The same reasoning governs operational matters. NRU does not seek, and does not read section 4(g) to require, a public process preceding the operation of the Federal Columbia River Power System or the transmission system, actions taken to maintain reliability, consultation under statutes supplying their own procedures, or BPA's participation in negotiations such as those under the Columbia River Treaty. BPA's positions, strategy, and conduct of a negotiation are the agency's own. In NRU's opinion, the hook for public involvement is the commitment, not the subject matter. The December 2023 MOU illustrates the difference: our concern was never with how BPA operates the system on a given day, nor with the substance of BPA's negotiating position, but that BPA bound itself for years to fund and to forgo, with the costs falling to preference customers, without first providing them with an opportunity to engage.

IV. The Draft Eliminates the 1986 Policy's Treatment of Other BPA Actions

Section VI of the 1986 Policy addressed public involvement for BPA actions other than major regional power policies, identifying categories of such actions and eight factors for determining the appropriate level of involvement, among them the precedential nature of the action, its effect on BPA and its customers, and the level of public interest. The draft contains no

analogue; everything outside Section 4 is consolidated in Section 3 as “best practices” that apply only when “BPA elects to offer public involvement opportunities.” NRU requests that BPA restore a comparable section. It would be permissive, as in 1986, when the factors were “listed to illustrate the type of factors that may be considered,” and would not subject the activities discussed in Section III to a required public process.

V. The Draft Inappropriately Converts Commitments into Aspirations

NRU appreciates that the draft is a policy rather than a procedure. But nearly every substantive provision in Section 3 is qualified as a “best practice,” and most are qualified twice; e.g., “best practice is to publish notice of a meeting a minimum of 14 calendar days prior ... whenever practicable”; while Section 4.1.3 qualifies the 30-day comment period with “[w]henever practicable” and Section 1.1 reserves “the full scope of discretion allowed by law” notwithstanding all that precedes it. Though it should go without saying, a document composed almost entirely of practices BPA aspires to follow does not deliver the clarity and accountability NRU understood to be the goal of this review.

Fortunately, BPA has supplied the preferred approach in the draft itself: Section 4.2 permits the Administrator to bypass the process for good cause but requires that the finding and “a brief statement of the reasons for the finding” be incorporated in any adopted policy. NRU asks that BPA apply that structure; i.e., a commitment, a defined exception, and an obligation to explain, to the core timelines and notice obligations.

VI. Purpose, Objectives, and Statutory Grounding Should Appear in the Policy Text

NRU appreciates BPA’s commitment at the April Workshop to review whether portions of the 1986 Background and Explanation of Policy sections should be incorporated. The draft carries forward a description of Section 4(g) at the opening of Section 4, but contains no statement of purpose and no statement of objectives, and nowhere states that the Policy exists in service of the obligations Section 4(g) imposes. That omission matters most for Section 3, which describes what BPA does without saying why. NRU requests the inclusion of a purpose and objectives section carrying forward the substance of 1986 Sections I and II, including the commitment to “consider the views and information presented by the public prior to reaching decisions.”

VII. Interim Public Feedback Requires Guardrails

NRU supports the clearer terminology of “Interim Public Feedback” and “Official Public Comment,” but our April concern about unconstrained discretion is now confirmed, thought it has yet to be addressed. The definition states that “BPA is not required to publish Interim Public Feedback,” and Section 3.3 provides only that BPA “will strive to notify” the length of the period, whether feedback will be published, and whether BPA intends to respond. NRU requests that those notification elements be commitments and include the scope of the matter on which feedback is sought; that 14 calendar days be the norm where BPA seeks feedback on draft policy

language, with seven days the floor for narrower questions; and that the Policy state that Interim Public Feedback supplements, and does not substitute for, Official Public Comment on major regional power policy matters.

VIII. Conclusion

NRU remains supportive of this effort and of the improvements the draft reflects, but we would be remiss to characterize our position as one of general support with few concerns. The draft Policy, as written, fails to close the gap that prompted this review; indeed, BPA seems inclined to memorialize that gap in the Policy text. NRU respectfully requests that BPA revisit the exclusion of processes in which it is not the sole decision-maker before publishing the proposed Policy, and we are prepared to work with staff in the interim. The proposed language included in the Appendix to this letter fills a gap rather than adding a layer, applying only where no established process already affords customers an opportunity to be heard. NRU appreciates BPA's consideration of these comments and looks forward to the official public comment period this fall.

Sincerely,

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Northwest Requirements Utilities

Appendix: Public Involvement Policy – Proposed Language

NRU offers the following language for BPA’s consideration. It is drafted as a gap-filling provision, and is intended to apply only where no established process already affords BPA’s customers a meaningful opportunity to be heard. The language pairs a defined trigger with a departure mechanism modeled on the draft’s existing Section 4.2. NRU does not represent that this drafting is final, and we would welcome the opportunity to further refine it with staff.

1. Proposed new Section 5, **Customer Engagement Prior to Significant Commitments**. This language is intentionally not included as a subsection of Section 3. Because Section 1.1 provides that activities with separately published processes “will not be subject to Sections 2 through 4,” inclusion there would negate the provision for the very matters it is intended to address. A proposed conforming amendment to Section 1.1 appears at item 2 below.

“5. Customer Engagement Prior to Significant Commitments

5.1 Purpose and Application. BPA participates in negotiations, settlement discussions, legal proceedings, and multi-agency and multi-party processes that can result in obligations ultimately borne by BPA’s customers, including processes in which BPA is not the sole decision-maker or holds no decision-making authority. This section establishes what BPA will do before assuming such an obligation. It applies to the commitment BPA makes, and not to the subject matter of the process in which the commitment arises. This section does not apply to any matter for which an established process, whether established by statute, regulation, this Policy, BPA, or other third party already affords BPA’s customers a meaningful opportunity to be heard before the commitment is made.

5.2 Definition. A Significant Commitment is an undertaking by BPA, whether or not legally binding, that obligates BPA to expend funds, to forgo revenue, or to accept restrictions on the operation or use of the Federal Columbia River Power System or the Federal Columbia River Transmission System, in an amount or for a duration that the Administrator, in their sole discretion, reasonably anticipates would have significant implications for BPA’s customers’ rates or service.

5.3 Engagement. Where the Administrator reasonably anticipates that BPA’s participation in a process could result in a Significant Commitment, BPA will, before assuming that commitment:

- (1) publish notice identifying the anticipated commitment, its subject matter, and the anticipated timeline, to the extent permitted by law and any applicable confidentiality obligation;
- (2) provide customers a meaningful opportunity for constructive engagement on the anticipated commitment; and

- (3) where another party controls the process and BPA cannot provide that opportunity unilaterally, formally request that BPA's customers be permitted to participate in the process on terms affording meaningful constructive engagement, and document the request and its disposition.

5.4 Processes and Activities Not Subject to This Section. This section does not apply to a matter for which an established process already affords BPA's customers a meaningful opportunity to be heard before BPA commits, and it does not require BPA to conduct a Public Involvement Process before taking, or participating in, an activity that does not itself result in a Significant Commitment. Nothing in this section is a basis for delaying or conditioning any such process or activity. By way of illustration and not limitation, this section does not apply to:

- (1) processes conducted under statutes or regulations that establish their own public involvement or consultation procedures, including ratemaking under section 7(i) of the Northwest Power Act, resource acquisition under section 6(c), procedures established under section 212(i)(2)(A) of the Federal Power Act, and processes conducted under the National Environmental Policy Act or the Endangered Species Act;
- (2) matters governed by BPA's published transmission tariff, business practice, or transmission planning processes;
- (3) the operation of the Federal Columbia River Power System and the Federal Columbia River Transmission System, and actions taken to maintain reliability or to comply with mandatory reliability standards;
- (4) the implementation of an adopted policy or an executed agreement, including the planning, design, construction, upgrade, maintenance, or retirement of individual facilities, the procurement of equipment, materials, and services, individual transmission service and interconnection requests, and the administration of individual customer contracts; and
- (5) BPA's internal administration, including personnel, contracting, real property, and information technology, and matters concerning physical security, cybersecurity, or information otherwise protected from public disclosure.

5.5 Limitations. Nothing in this section requires BPA to disclose information protected from disclosure by law, regulation, court order, or an applicable confidentiality agreement; limits BPA's authority to participate in any process, to litigate, or to settle, or the terms on which BPA may do so; or conditions any BPA action on the consent of its customers. BPA's formulation of its positions, its negotiating strategy, and its conduct of negotiations and litigation are not subject to this section. This section reaches only a Significant Commitment that BPA agrees to as an outcome.

5.6 Departure. If the Administrator finds, in their sole discretion and for good cause, that carrying out a step described in Section 5.3 is impracticable or contrary to the public interest, the Administrator may modify or omit that step. The Administrator will

document the finding and a brief statement of the reasons for it, and will provide that documentation to BPA's customers at the earliest time permitted by law and any applicable confidentiality obligation."

2. Conforming amendment to Section 1.1. At the end of the first paragraph, add:

"The exclusions described in this section do not affect the application of Section 5. A separately published process may determine how BPA conducts public engagement on an activity; it does not determine whether Section 5 applies to a Significant Commitment arising from that activity."

3. Proposed revision to Section 4, definition of Major Regional Power Policy. Restore coverage of instruments that establish major regional power policy in substance by adding, after the existing definition:

"A Major Regional Power Policy includes a generic agreement, contract, or other instrument between BPA and its customers or other parties that, while not styled as a policy, nevertheless establishes major regional power policy. A Major Regional Power Policy does not include an agreement, contract, or instrument entered into in the ordinary course of the activities described in Section 5.4."