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Via email

U.S. Department of Energy
Bonneville Power Administration
techforum@bpa.gov

RE: Opposition to TC-27 Settlement

The Pacific Northwest Renewable Interconnection & Transmission Customer Advocates ("PRITCA") respectfully opposes Bonneville Power Administration's ("BPA") TC-27 Settlement Proposal, requests a pause in the proceeding process for additional information, briefing, and pre-proceeding process. This will allow BPA to provide the necessary information and analysis for the region, and myriad affected stakeholders, including many parties and types of interest not present and/or participating in the settlement process, and for further modification before BPA proceeds with the proceeding. PRITCA further notes that the proposed proceeding schedule is woefully inadequate relative to the scope, complexity, impacts, harms, and information and analysis needed, necessarily, in association with BPA's proposals, including both direct and indirect consequences.

PRITCA recommends that BPA instead redirect its efforts into promptly commencing a TSEP style cluster study, perhaps with enhanced focus on the new conditional firm product approach it proposes (standing up flow gate mitigations, to allow additional CF offers, but to the existing queue, considered in queue order, in reasonable tranches), which it relies on implicitly (but insufficiently discusses or describes), as the backdrop of the TC-27 Settlement. PRITCA also recommends that BPA incorporate in those efforts the well-developed regional plans-of-service in the prior TSEP study report, supporting the region's comprehensive needs, as the expedited and most productive focus of its efforts (rather than abandoning the same and starting over). This combination will yield the most fruitful use of BPA resources, best beneficial use of the existing system and staff's precious capacity (by *promptly commencing* standing up new flow gate management to unlock CF service otherwise immediately available, but for staff's decision to *not* commence these actions; and which does not require additional revenue or fees proposed here, because a mere 100 MW of new CF awards will pay for all staff), creates the most revenue immediately (with commensurate rate relief opportunities; GWs will help drive down PTP and power rates), and can do so without the myriad discriminatory, harmful, complex, and region

power investment destabilizing actions, and other disruptions (and litigation risk) irrevocably embedded into the core of current proposal, which predicates the *validity of transmission requests and preferential treatment, and creation of material market assets and probably distortions of market power upon selection criteria plainly inconsistent with the claimed (down or up) selection criteria*.

About PRITCA

PRITCA is an ad hoc coalition of BPA Interconnection and Transmission Customers, generation developers, power marketing, generation owners, operators, load developers, and other parties engaged in, investing in, or otherwise with vested interests in BPA transmission and interconnection policies, representing a large share of BPA's affected Interconnection Customers and Transmission Customer stakeholders.

PRITCA members also do business and/or have invested materially in doing business, with a wide range of LSEs (investor and consumer owned) operating on the BPA system, and with power marketers, off-takers, and other transmission and interconnection customers, doing business in, and/or incorporated or headquartered in Oregon, Washington, California, Arizona, Delaware, and other locations. Collectively, PRITCA members have invested hundred of millions of dollars in development and construction of many, many thousands of MW of PNW power generation development, comprising billions of generation opportunity (and at risk relative to BPA policies), disproportionately focused on and/or interacting directly with the Bonneville transmission system and its customers or adjoining systems. PRITCA members comprise more than 20% of the BPA interconnection queue by number of requests, and even more by MW proportionally; over 40% of the Transition Cluster Queue, a material portion of BPA's transmission service requests and long-term firm pending queue ("LTFPQ"), and a large portion of the *most viable generation development* in the region (as shown by BPA's studies). PRITCA members are signatories to hundreds of BPA interconnection and transmission service study agreements and have participated in hundreds of BPA scoping and study report meetings involving wind, solar, geothermal, battery storage and pumped storage projects ranging in size from 20 to 1300 MW. Generation developed by PRITCA members includes material alignment with BPA's existing Evolving Grid Projects (aka GERP), both benefiting from and supporting such investments, and affected by the delay in pursuit of other upgrades identified as broadly necessary in BPA's 2022/23/24 TSEP study. PRITCA members generation includes several GW of high viability dispatchable generation development, capable of supporting regional reliability needs, and/or harmed depending on BPA policies.

PRITCA also includes BPA Transmission Customers with thousands of MW of confirmed long-term firm transmission rights on the BPA network and on the Pacific DC Intertie (PDCI), the California-Oregon Intertie (COI) aka Northwest AC Intertie (NWACI), as well as TSRs requested to deliver the output of California exports to various points in the system, and thousands of MW more of transmission requests for future long-term firm service. Collectively,

PRITCA's members and affiliates have funded tens of millions of dollars of BPA environmental studies, preliminary engineering agreements, engineering and procurement of network upgrades and interconnection facilities, deposits for Large Generation Interconnection Agreements, and other study agreements, as well as having paid tens of millions of dollars for transmission service under currently active transmission service agreements with BPA related to dozens of confirmed TSRs and transmission service. PRITCA members' experience includes have successfully developed hundreds of megawatts of generation serving both public power and IOU loads, investing hundreds of millions of dollars to construct the region's current and future power supply, as well as development and interconnection of the first-ever direct-connected-to-BPA solar generation. Affiliates of PRITCA members have funded and constructed and/or otherwise supported the existence of thousands of MW and billions of dollars of operating facilities throughout the country.

Several PRITCA members are today filing objections to the TC-27 Settlement and are adopting these comments by reference. Each member reserves the right to its own further comments, engagement, and all other rights and engagement, in addition to PRITCA engagement, including reserving standing and preservation of all objections, arguments, and claims through PRITCA's comments here.

Objections to the TC-27 Settlement

As set forth in greater detail in our April 10, 2026, comments to the Technical Forum, PRITCA espouses principles of competition, investment stability, and fidelity to open access principles as essential to attracting the huge investments needed to meet the demand for new energy infrastructure in the Pacific Northwest. Generally, PRITCA believes the TC-27 Settlement fails to adhere to these principles, and represents a significant retreat from open access principles in a number of respects.

PRITCA objects to the proposed TC-27 settlement on the following specific grounds (all references are to Appendix 1: Terms, unless otherwise indicated):

1. Excessive Fees & Deposits

The TC-27 settlement would require each Transition Planning Request the customer to submit a deposit equal to one year of transmission charges. (§ 2(c)(iv) & (vi)). These deposits are likely to require the deposit of several million dollars based on BPA estimates provided during the TC-27 workshop process. Although security may be provided through cash or an acceptable letter of credit, these requirements may impose substantial financial burdens on transmission customers before they receive any assurance that transmission service will ultimately be available.

Deposits of this size are unacceptable because: (1) they violate principles of open access and non-discrimination in that they predictably favor larger entities with access to deeper pockets; (2) they create an artificial barrier to entry, especially for smaller market participants, at a time when demand for energy (especially renewable energy) is rapidly growing in the region; (3) they violate cost causation principles because CFS service assumes existing capacity constraints, not funding of Network Upgrades, so there is no cost basis for such deposits; and (4) given the demand growth in the region, there is little risk that capacity would go unused, so there is no need for deposits to cover stranded cost risks. BPA should establish a clearer cost justification for these requirements and consider less burdensome alternatives.

2. Source and Load Maturity Requirements Are Discriminatory

BPA's Source Requirements (§ 2(b)(v)) and Load Requirements (§ 2(b)(vi)) are discriminatory and contrary to open access principles by requiring applications for transmission service to demonstrate that the applicant is, for example, associated with an existing generator. The settlement approach is discriminatory in that it explicitly treats applications submitted after January 1, 2026, differently from applications submitted before that time, and excludes applications that cannot meet the demonstrations, made worse by the fact that the settlement proposal would excuse certain applicants from deposit requirements entirely and penalize certain applicants by devaluing their queue positions. (§§ 2(c)(vi)(2)(a)(iv), 2(c)(vi)(2)(b)(iv), App. 3, Transition Planning Process Business Practice § B(1)(d)). To meet non-discrimination requirements, security deposit requirements should apply to all applicants, and the resulting deposits should be refunded in the form of transmission rate credits, as required under the FERC *pro forma* OATT. BPA has not adequately explained why these distinctions are necessary to achieve its planning objectives or why less discriminatory alternatives would be insufficient.

3. Retroactive Changes to TSR Processing

The Source and Load Requirements improperly impose new requirements on existing TSRs that were submitted with the understanding that the rules in place at the time those TSRs were submitted would apply. Worse, the Terms explicitly permit BPA to impose new, undefined information requirements in the future (§ 2(b)(viii)) and explicitly permit BPA to reassess existing applications "regardless of whether Bonneville previously determined an Application was valid." (§ 2(b)(ii)(1)(a); App. 3, Transition Planning Process Business Practice § B(1)(c)(v) ("BPA will evaluate each Transition Application for compliance regardless of whether it previously determined the Application was valid".) Retroactively imposing new requirements that did not exist when the customer entered the queue violates fundamental principles of retroactive ratemaking and also destabilizes the OATT as an investment platform by creating the risk that investors will face new, arbitrarily-imposed costs and barriers that could not have been anticipated at the time they filed their applications.

Customers may have only ten business days to cure newly identified deficiencies before an application is declined. (§ 2(b)(iii)). Applying materially new eligibility requirements to previously submitted and validated TSRs undermines reasonable commercial expectations and threatens existing queue priorities, potentially jeopardizing substantial investments made in reliance on BPA's prior tariff requirements and determinations. BPA should provide adequate transitional protections and preserve existing queue priorities absent a clearly justified basis for altering them.

4. Improper Impairment of Vested Transmission Rights

Multiple provisions of the Settlement permit BPA to remove or eliminate existing TSRs or reorder the queue position of existing TSRs. (§§ 2(b)(ii), 2(b)(iv), 2(b)(v), 2(b)(vi), 2(b)(x), 2(b)(xi), 2(c)(ii), 2(c)(vii), 2(c)(viii), 2(d)(iii), 2(d)(iv); App. 3, Transition Planning Process Business Practice § B(1)(c), (d)). These provisions are unacceptable because they materially impair the economic value of vested transmission rights, queue positions, and associated commercial expectations. Customers have incurred substantial development, interconnection, and transmission-related expenses in reliance on previously established queue priorities. BPA has not adequately justified the proposed changes or demonstrated that appropriate protections exist for affected customers. These include impacts on firm, non-firm, long-term, short-term, network, and PTP rights, positions, uses, actionability, and ability to receive and be considered for studies in a timely manner, as well as probable impairment due to the cannibalization of short-term transmission inventory and resource on myriad paths, and changes in curtailment risks en masse, particularly on short-term uses (and redirect uses), which is highly probably to material, large, far reaching, but which has not been materially analyzed or considered, much less duly addressed by BPA in its materials, particularly given the discriminatory nature of proposals, inherent harms, arbitrary, and lack of substantial evidence.

5. Unconstitutional Taking

By impairing vested rights in transmission and interconnection positions, and the loss of investments in projects dependent upon those positions, the Settlement will cause uncompensated taking of property in violation of the Takings clause of the Fifth Amendment. U.S. Const. amend. V ("nor shall private property be taken for public use, without just compensation"),

6. Unlimited BPA Discretion

The Terms and supporting documents contain multiple provisions reserving unlimited discretion to BPA. Phrases such as "including but not limited to," "at the discretion of Bonneville," and "commercially reasonable efforts" appear throughout the settlement documents. Such unlimited authority undermines the certainty needed for BPA's OATT to properly function as a platform for energy industry investment in the region and allows BPA

unrestricted discretion to demand undefined data under pain of loss of queue position and application fees.

7. Discrimination Against Specific Technologies

The settlement explicitly bars battery storage units from being treated as load, and permits batteries to receive only short-term or non-firm PTP service or Secondary Network Transmission Service. (§ 2(b)(vi)(5).) This unjustifiably discriminates against battery storage as a resource. Worse, it undermines battery storage as a solution to reliability and capacity problems in the region given that batteries offer their greatest value in times of system stress, when short-term transmission is unlikely to be available. BPA's promise to hold workshops on the issue of planning for battery storage as a load is cold comfort since it allows the indefinite continuation of this discriminatory policy to some indeterminate future date.

8. Potential and Probability to Create Market Power; incluing for Foreign Owned Entities, with Power Cost Escalation Risk and/or Probability for BPA Power and Transmission Customers

The fundamental purpose of the open access transmission regime is to curtail the power of incumbents to use their control of transmission to restrict the access of competitors in the generation market, thereby stifling competition. By providing transmission rights to incumbents who own or control existing generation on a preferential basis (§ 2(b)(v)), the settlement threatens to hand these incumbents substantial market power through the control of constrained transmission pathways, undermining open access and competition in the generation markets.

Independent transmission customers that do not own or control the generation facilities physically interconnected to BPA may be required to secure third-party affirmations to maintain their applications. These requirements could unnecessarily restrict competition for scarce transmission capacity and give generation owners or other rights holders undue influence over independent transmission customers. BPA has not adequately explained why these restrictions are necessary or assessed their potential effects on competition in regional generation markets.

9. Demonstrably False Assumptions form the Basis of Key Provisions of BPA's Proposed Picking of Winners & Losers

The predication of which TSRs and TCs will be permitted to be considered and/or offered studies, service and non-harm is based on eligibility criteria inconsistent with the stated rationale and justification – in particular the ability for certain parties to use transmission by being online during certain time windows and/or expand generation. Incumbent generation being non-harmed in these contexts at the expense of others is not, by definition, increasing generation on the

system, but rather expanding the rights and market power of incumbents, which may or may not even ever use the offered transmission in association with the generation qualifying such parties for non-harm, non-removal, study consideration, and/or actual service offers. Similarly, BPA proposes to similarly uplift certain parties based on, for example, Late Stage status in the interconnection queue, and the presumption of interconnection service commencing during a window in which, individually and en bulk, those customers are unlikely and/or undemonstrated, given BPA's own incapability and indisputable history of interconnection study process, to be *actually* online in those service start-date years, or even in the 3-5 years afterwards; conversely, there are other PODs and PORs *more* likely to have a probability of service in those time periods (or leastwise prior to those being discriminated in favor of by BPA's proposals), including in particular due to where PORs and PODs are directly attached to BPA substations already planned to be constructed, or in construction, and/or budgeted or approved, but do not preserve rights.

A NEPA ANALYSIS SHOULD BE PREPARED

BPA is, of course, a federal agency subject to the National Environmental Policy Act, 42 U.S.C. § 4321 *et seq*. Because the proposed settlement of TC-27 is a "major Federal action[] significantly affecting the quality of the human environment," an environmental analysis is required prior to adoption. Environmental impacts of the settlement are likely to include the loss or delay of renewable energy projects that are eliminated by application of new Source Maturity, Source Ownership, and Line/Load Maturity requirements, excessive deposit requirements, and discriminatory treatment of battery storage. And, by reducing market liquidity in the renewable generation sector, the settlement is likely to raise prices for renewable energy, retarding its adoption and causing fossil generation to remain online in the region longer than it otherwise would.

None of the Categorical Exclusions for power marketing administration activities apply here. For example, Categorical Exclusion B4.1 exempts only "contracts, policies, and marketing and allocations plans" from NEPA analysis if they are "related to electric power acquisition." 10 C.F.R. § Part 1021, App. B4.1. Categorical Exclusion B4.3 applies only to "[r]ate changes" for transmission and other products provided by a Power Marketing Administration "that are based on changes in revenue requirements." TC-27 goes well beyond a simple rate change driven by a change in revenue requirements. *Id.* at App. B4.3. Other potentially available Categorical Exclusions are limited in similar ways. An environmental analysis is therefore required before the TC-27 settlement can be adopted. *See, e.g., Solar Energy Indus. Ass'n v. FERC,* 80 F.4th 956, 990–97 (9th Cir. 2023) (FERC violated NEPA by failing to prepare a NEPA analysis of Order No. 872).

THE COMMENT PERIOD SHOULD BE EXTENDED

BPA released the settlement proposal on October 2, 2026, and set a deadline of October 16, 2026, for objections, allowing only two weeks for interested parties to evaluate dozens of pages of complex settlement and tariff language. Further, many parties who are likely to be affected by the settlement, including, for example, regulators, load-serving entities, legislators, landowners, and other public officials, energy investors, and many others, did not participate in the settlement process and therefore have not been provided any information about the contents of the settlement, its justifications, the analysis (if any) BPA has performed to determine if the settlement will advance regional decarbonization goals or reduce or stabilize prices for electric consumers.

In order to ensure that the settlement is fully understood and vetted, BPA should extend the comment deadline as follows: within 30 days, BPA will provide a detailed explanation of and justification for the settlement; parties will be given 30 days to seek additional information and clarification; final comments on the settlement will be due 30 days thereafter. This process will allow interested parties time to fully digest and understand the information and make a fully-informed decision about whether the settlement should go forward. At a minimum, BPA should confirm that objections timely submitted under the existing deadline will preserve the opportunity for affected parties to develop additional arguments, submit supporting evidence, and participate fully in any subsequent contested TC-27 proceeding before the Settlement is adopted.

The proceeding will require at least one year to properly develop a record, including the need for material discovery related to BPA internal information, knowledge, pre-determination of outcomes, premeditated intentions, and the extent to which BPA has or has not duly examined myriad issues affecting the material harms and/or benefits involved, and/or withheld such information from affected stakeholders—and to duly informed a reasoned decisions consistent with applicable law and practical issues.

CONCLUSION

PRITCA supports BPA's effort to restore movement in the queue, process de minimis requests, and create a workable path for nearer-term CFS service. But TC-27 should not do so via proposals that violate open access, established queue priorities, regional decarbonization goals, system reliability, or cost-causation principles.

For these reasons, PRITCA respectfully opposes adoption of the TC-27 Settlement in its present form and requests that BPA extend the period for objections and address the substantive and procedural concerns identified above. PRITCA hereby reserves all rights it may have to challenge the TC-27 settlement or otherwise to challenge BPA actions related to transmission and interconnection rights.

PRITCA incorporates comments, objections, and standing of its members herein.

Sincerely yours,

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Attorney for PRITCA