

Comments of the Sacramento Municipal Utility District,
Transmission Agency of Northern California, and Turlock Irrigation District
TC-20 Rate Case Workshops
May 30, 2018

The Sacramento Municipal Utility District, Transmission Agency of Northern California, and Turlock Irrigation District (collectively, the Northern California Utilities or NCUs) appreciate the opportunity to provide the following comments on BPA's TC-20 Rate Case Workshops.

The NCUs have very clear interests in both the TC-20 and BP-20 proceedings:

1. bilateral transactions (both short-term and long-term) should promote seamless integration of resources in the Northwest across multiple transmission owners to loads in California; and
2. the potential for changes in practices and protocols on the Network to have unintended consequences on the Interties should be understood, recognized and accounted for; for example, new congestion management protocols in lieu of unlimited Hourly Firm service that BPA currently provides, could affect the price and availability of surplus energy sold at COB and NOB.

The NCUs generally support BPA's movement toward the FERC *pro forma* tariff and industry standards. We also support the goals of business certainty and stability, because entities such as SMUD and TID expect to rely on renewable resources from outside California to meet state Renewables Portfolio Standard (RPS) requirements in both the short-term and long-term. The NCUs recognize that some departures from the FERC *pro forma* tariff may be reasonable and necessary, but such departures should be limited, such as to conform to the service that BPA is capable of providing on its own system or to comply with statutory requirements outside of the Federal Power Act (FPA).

As noted in NCUs' comments on the BP-20 workshops, the NCUs request that BPA provide for parties to raise issues independently and make presentations during TC-20 workshops. If the NCUs have an issue(s) to raise in a presentation, the NCUs will provide adequate notice in advance of such requests, to permit adjustments to the schedule.

Legal Standards

Regarding transmission rates, BPA has obligations under several statutes, including both the Northwest Power Act and the FPA. Under the Section 212 of the FPA, BPA must provide transmission service at *rates, terms and conditions* that are *just and reasonable, and not unduly discriminatory or preferential*. Therefore, even if BPA's rates and tariff conditions were otherwise compliant with the Northwest Power Act, it would be counterproductive to adopt tariff changes that could not pass muster under Section 212. In the context of CAISO transmission rate design, BPA itself has argued that these same FPA standards apply to the CAISO, prohibiting undue discrimination between in-region and out-of-region transmission charges (see attached); the NCUs agree with BPA's statements in the CAISO rate forum. The NCUs expect BPA to apply these same non-discrimination standards in both the TC-20 and BP-20 proceedings.

Proposed Section 9

In “TC-20 Customer Response v3-clean.pdf” (posted April 30, 2018, at 2), BPA clarifies that it “does not propose to add a substantive standard to Section 9.” Whether or not BPA incorporates a substantive standard in section 9 of the Tariff, BPA has obligations under Section 212 of the FPA to adopt rates, terms and conditions that are just, reasonable, and not unduly discriminatory or preferential, *as determined by FERC*. The argument that recitation of a substantive standard in section 9 would “elevate one standard over another” is not accurate because the FPA already requires that the Commission take into account *all* of BPA’s statutory obligations. However, the NCU’s see no reason to recite any statutory standards in the Tariff, unless *all* standards are recited. On this issue, the NCU’s agree with BPA’s proposal to omit references to statutes in its Tariff.

Further, and equally important, the standards of the FPA apply not only to BPA’s terms and conditions, but also to BPA’s rates. The BP-20 case may be conducted under the Northwest Power Act, but the hearing officer and the Administrator should take into account *all* statutory standards in determining rates that meet the standards of the FPA. To our knowledge, previous transmission rate proceedings have not explicitly incorporated or applied the FPA standards.

In this regard, the NCU’s respectfully disagree with the conclusion in the *TC-20 Customer Response* (at 4) that consistency between the BPA Tariff and the *pro forma* tariff regarding terms and conditions automatically leads to a presumption that the Tariff, which of necessity relies on the transmission and ancillary service rate schedules, will “satisfy” the FPA Section 212 standards. A tariff that follows the terms and conditions of FERC’s *pro forma* tariff, but is inconsistent with the *rate* requirements of section 212 (such as the bar against undue discrimination), *by definition*, would not “satisfy” FPA Section 212 standards. The results of the TC-20 and BP-20 proceedings, *considered together*, should as a practical matter satisfy *all* of the FPA 212 standards – including the requirements that rates be just and reasonable and not unduly discriminatory. For this reason, the NCU’s again encourage BPA to adopt procedural reforms that include an initial decision by the Hearing Officer on both rates and tariff provisions, to help ensure compliance with FPA section 212 and to improve the efficiency of the proceedings by eliminating the Administrator’s Initial Decision in the BP-20 process.

Finally, BPA refers to the “due process requirements of the Section 212 process” (*ibid.*, at 4). BPA’s May 2, 2018 proposed procedural rules are intended to satisfy the due process requirements of the Section 212 process, but have not been formally adopted pending the required notice and comment period. The NCU’s, and doubtless others, will submit comments on the proposed rules. BPA will have to take those comments into account and its final rule may look different from its proposed rule. Thus, BPA’s conclusion at this time regarding the consistency of the Administrator’s final determination of terms and conditions with “applicable law” is premature. Also, this conclusion is too narrow, because it does not incorporate BPA’s obligations under FPA Section 212 that BPA’s transmission *rates* must *also* meet the same statutory standards. Accordingly, BPA must ensure that both the BP-20 and TC-20 proceedings are conducted in light of all of BPA’s statutory obligations.

Issues Proposed for Deferral to TC-22

In materials discussed at the April 23, 2018 workshop (as subsequently amended), BPA proposes to defer several topics to the TC-22 proceeding for various reasons. Although we recognize practical limits on human resources, the NCUs respectfully disagree with the proposed deferral of any changes to existing tariff provisions pertaining to the Study Process and Attachment K, because they are pertinent to ensuring rates, terms, and conditions for both intra- and inter-regional transmission and interconnection services that are not unduly discriminatory. The NCUs are not opposed to deferral of some aspects of Schedule K where there is good reason to do so, such as lack of finality or uncertainty about the scope of regional planning and cost allocation obligations, but not in this instance, and not for a two year period. Any deferral should be accompanied by a firm commitment to ensure that the causes for deferral are promptly addressed and resolved.

The primary concern of the NCUs is the need to treat access to all of BPA's transmission capacity in a non-discriminatory or preferential manner. To the best of our knowledge, BPA has different processes for responding to and managing access to the Interties and the Network. For example, BPA has conducted several Cluster Studies on the Network, but none on the Southern Intertie. The NCUs are unaware of any Cluster Studies having been conducted on any Intertie; in fact, the "TSR Study and Expansion Process" (TSEP) Business Practice (10/1/16, version 2, at 1) refers specifically to Cluster Studies *on the Network*, to the exclusion of the Interties: "TSEP is a recurring process under which BPAT responds to eligible requests for transmission service on the *BPA Network*." There is no provision for the existing TSEP or a different TSEP to address TSRs on the Interties.

The NCUs recognize that coordination of studies with third-party transmission owners may be necessary; such a need is already explicitly identified in section G of the TSEP Business Practice (at 7): "[w]hen a study identifies a potential impact or a requirement to upgrade facilities on another Transmission Provider's transmission system, BPAT reserves the right, pursuant to section 21 of its tariff, to coordinate the upgrades on its transmission system with those on the impacted third-party Transmission Provider's system." However, given that the TSEP BP excludes the Interties, there is currently no obligation for BPA to coordinate upgrades on the Interties with upgrades that may be required on the systems of third parties that connect to the Interties. Ensuring that BPA's Study Process provisions reflect current *pro forma* OATT requirements insofar as BPA is capable would help ensure just, reasonable, and not unduly discriminatory or preferential rates, terms and conditions for transmission and interconnection service.

Similarly, the NCUs question whether BPA's current approach to transmission planning treats the Interties and the Network differently. For example, the BPA Transmission Plan issued in December 2017 shows no completed or deferred plans of service on the Southern Intertie, in contrast with the status of planning efforts on the Network. The NCUs would appreciate BPA's explanation of the basis for this result and a comparison of its planning for Interties and the Network.

Because of the nature of resource development in the West, these two issues should not be deferred until the TC-22 proceeding. Utilities throughout the WECC are preparing for investments in new generation to comply with state and federal environmental and renewable resource standards. The efficient operation of markets throughout the WECC could easily be undermined by unnecessary barriers to trade, including inadequate or delayed access to transmission capacity. Workshops should be scheduled this summer to review tariff provisions and related Business Practices to ensure that *all* requests for service receive non-discriminatory treatment, whether on the Network or the Interties.

Hourly Firm (HF) Service on the Network

The NCU's understand that BPA has determined that unlimited Hourly Firm (HF) service on the Network is no longer technically feasible, and that changes to HF are required to ensure reliable service to load in the Northwest. At this point, BPA is considering alternative mechanisms to manage the congestion that results from unlimited HF service on the Network.

One of those mechanisms may be the purchase by BPA of INCs and DECs on either side of congested cutplanes, which could be called upon to relieve congestion. For example, BPA has implemented a pilot program to this effect on the South-of-Alston cutplane. (See <https://www.bpa.gov/transmission/CustomerInvolvement/Non-Wire-SOA/Pages/default.aspx>.) Based on the results of the summer 2017 pilot, the NCU's are concerned that the design of the program to purchase INCs and DECs has led, and may lead, to non-competitive prices to clear congestion. The number of bidders in 2017 was reportedly very small, and reports by customers of spot market energy prices at or above \$200/MWh strongly suggest the exercise of local market power. Congestion management protocols and prices could affect the cost of energy both inside and outside the Northwest. Transactions on the Network, whether terminating in the Northwest or elsewhere, that rely on BPA's congestion management protocols could be adversely affected by the exercise of local market power. Even "organized markets" are susceptible to the exercise of local market power due to inadequate information and faulty procedures. We encourage BPA to avoid protocols that create economic barriers within the Northwest to the competitive pricing and liquidity of energy markets, both to customers in the Northwest and to loads outside the region.

TC-20 Workshop Schedule and Topics

The NCU's have reviewed the proposed revisions to BPA's OATT and note that many sections are labeled "Under Review". If BPA intends or plans to revise the OATT further, it is essential that such revisions be released as soon as possible, to allow adequate time for review, understanding, and commentary.

Thank you.

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Attachment: BPAComments-ReviewTACStructure-RevisedStrawProposal