

UNITED STATES OF AMERICA  
DEPARTMENT OF ENERGY  
BEFORE THE  
BONNEVILLE POWER ADMINISTRATION

**IN THE MATTERS OF:** )  
 )  
**BPA FY2014 RATE CASE, AND** ) **BPA FILE NO. OS-14**  
 )  
**OVERSUPPLY RATE PROPOSED AS** ) **INTERVENTION PETITION OF**  
**PART OF FERC COMPLIANCE FILING** ) **CAITHNESS SHEPHERDS FLAT,**  
 ) **LLC**  
\_\_\_\_\_ )

Pursuant to the notice appearing in the Federal Register on November 8, 2012, Caithness Shepherds Flat, LLC (“Caithness”) respectively petitions for intervention as a party in this proceeding. Caithness’ interest in OS-14 relates to the structure of the new ancillary service rate, the “Oversupply Rate,” being proposed by Bonneville Power Administration (“BPA”) as part of an unapproved compliance filing to the Federal Energy Regulatory Commission (“FERC”) in Docket No. EL11-44. In support of this request, Caithness states as follows:

**I. PETITION TO INTERVENE**

Caithness owns and operates the Shepherds Flat wind energy resource, located within the BPA balancing area in eastern Oregon. Power from Shepherds Flat flows to market utilizing 724-MW of long-term, firm, point-to-point transmission service acquired from BPA. Shepherds Flat is connected to the BPA transmission system pursuant to three, substantially identical Large Generator Interconnection Agreements with BPA.

As a wind generator operating within BPA’s balancing authority, Caithness has been subjected to BPA’s Oversupply Management Protocol, by which BPA forces the curtailment of output from Shepherds Flat when the project’s firm transmission capacity

is taken for federal use. Under this Protocol, now awaiting FERC review in Docket No. EL11-44,<sup>1</sup> BPA proposes to compensate wind generators forced into curtailment. The Oversupply Rate is the mechanism by which BPA would recover from customers the costs of all such compensation to wind generators in its balancing area.

As a BPA customer whose interests are materially affected by the Oversupply Management Protocol, including the proposed rate, Caithness has a material interest in this proceeding. Caithness' interest cannot adequately be represented by any other party.

## II. COMMUNICATIONS

Copies of all pleadings, notices and other documentation should be served on the following authorized representatives of Caithness:

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## III. RESERVATION OF CAITHNESS' LEGAL RIGHTS

BPA's proposed Oversupply Management Protocol awaits review by the Federal Energy Regulatory Commission in Docket No. EL11-44 as a compliance filing submitted

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<sup>1</sup> The tariff terms implementing the Oversupply Management Protocol were also submitted to FERC for acceptance in Docket No. NJ12-7-000. For the avoidance of doubt, Caithness submits that the effectiveness of the Oversupply Rate cannot precede the later of FERC's resolution of the EL11-44 or the NJ12-7 proceedings.

by BPA after its predecessor protocol, Environmental Redispatch, was declared unlawful under Section 211A of the Federal Power Act in an order issued by FERC on December 7, 2011.<sup>2</sup> FERC has yet to take action on BPA's compliance filing, which is being opposed as unlawful by Caithness and a number of other parties to FERC Docket No. EL11-44. Consequently, there is no FERC-accepted Oversupply Management Protocol in effect, and the Administrator has no legal basis to implement that Protocol by means of the proposed (or, at this time, any) Oversupply Rate.

If FERC rejects the Oversupply Management Protocol as unlawful, BPA's Oversupply Rate would correspondingly become both unlawful and unnecessary. From a financial standpoint, creation of an unlawful Oversupply Rate under these circumstances will cause BPA to set its power rates too low, creating a serious prospect of cost under-recovery. Better to defer development of this new rate at least until FERC has ruled definitively in its pending dockets. Accordingly, Caithness believes that the Administrator should stay any present effort to establish the Oversupply Rate.

If the Administrator decides to proceed with development of an Oversupply Rate at this time, Caithness believes that the two dockets should be consolidated because of the obvious cost and revenue interrelationships between an Oversupply Rate and BPA's other rates. At the very least, a second set of power rates should be developed on the record – the second set including those costs of fish and wildlife measures and costs of unsold power that would be shifted, unlawfully, to transmission customers under the Oversupply Rate.

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<sup>2</sup> Separately, Caithness and several other petitioners each filed petitions for review of Environmental Redispatch and Oversupply Management with the U.S. Court of Appeals for the Ninth Circuit. Those cases have been stayed by the Court. Caithness hereby preserves all of its rights in such proceedings before both FERC and the Ninth Circuit.

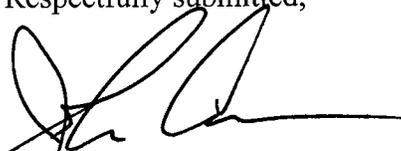
#### IV. CONCLUSION

For the reasons stated herein, Caithness respectfully requests that it be allowed to intervene in BPA File No. OS-14 as a party.

Participation by Caithness in these proceedings should not be construed as a change in the position it has advocated in Docket No. EL11-44 or as a waiver of any legal rights with regard to that FERC proceeding. Caithness also reserves all of its rights in the FERC NJ12-7 proceeding, in which BPA has caused the Oversupply Management Protocol to be pending simultaneously with the EL11-44 proceeding.

DATED this 13th day of November, 2012.

Respectfully submitted,



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Of Attorneys for Caithness  
Shepherds Flat, LLC

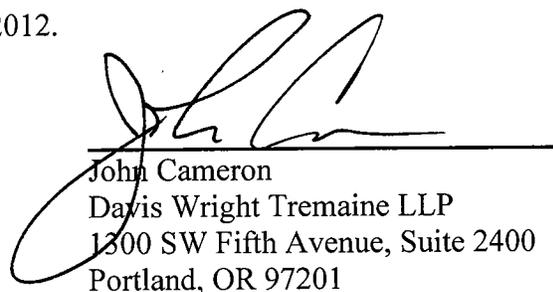
**CERTIFICATE OF SERVICE**

I hereby certify that I have on this day served a copy of the foregoing **PETITION FOR INTERVENTION OF CAITHNESS SHEPHERDS FLAT, LLC**, upon the individuals listed below via electronic mail:

Hearing Clerk – L-7  
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Barry Bennett, LC-7  
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DATED this 13th day of November, 2012.



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