

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

**IN THE MATTER OF:** ) **BPA FILE No.: OS-14**  
 )  
**2014 OVERSUPPLY RATE PROCEEDING** )  
 )  
 ) **PETITION FOR**  
 ) **INTERVENTION OF**  
 ) **WILLOW CREEK ENERGY**  
 ) **LLC AND GRAYS HARBOR**  
 ) **ENERGY LLC**  
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Pursuant to the notice appearing in the Federal Register on November 8, 2012, 77 Fed. Reg. 66,963, Willow Creek Energy LLC (“Willow Creek”) and Grays Harbor Energy LLC (“Grays Harbor”) respectfully petition for intervention as parties in this proceeding. Willow Creek’s and Grays Harbor’s primary concerns relate to 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, Willow Creek and Grays Harbor state as follows:

**I. PETITION TO INTERVENE**

Willow Creek is a Delaware limited liability company that owns and operates a 72 MW wind-powered electric generation facility in Gilliam and Morrow counties, Oregon, within BPA’s balancing authority. Grays Harbor is a Delaware limited liability company that owns and operates a 650 MW nameplate gas-fired electric generation facility in Grays Harbor County, Washington, within BPA’s balancing authority. Willow Creek and Grays Harbor are affiliates of Invenergy LLC. As the owners and operators of wind-powered and gas-fired electric generation facilities affected by the OS-14

Oversupply Rate, Willow Creek and Grays Harbor have material interests in this proceeding. Willow Creek's and Grays Harbor's interests cannot be represented adequately by any other party.

## II. COMMUNICATIONS

Copies of all pleadings, notices and other documentation should be served on the following authorized representatives of Willow Creek and Grays Harbor:

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## III. RESERVATION OF WILLOW CREEK'S AND GRAYS HARBOR'S LEGAL RIGHTS

The proposed Oversupply Management Protocol awaits review by the Federal Energy Regulatory Commission in Docket No. EL11-44 as a compliance filing submitted 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>1</sup> FERC has yet to take action on the Oversupply Management Protocol, which is opposed as unlawful by Willow Creek and Grays Harbor, through their affiliate Invenergy LLC, and a number of other parties to FERC Docket No. EL11-44. If FERC rejects the Oversupply Management Protocol as unlawful, BPA's Oversupply Rate would correspondingly become both unlawful and unnecessary. Participation by Willow Creek and Grays Harbor in this rate proceeding should not be construed as a change in the position they have advocated in Docket No. EL11-44 or as a waiver of any legal rights with regard to that FERC proceeding. Willow Creek and Grays Harbor also reserve all of their rights in the FERC proceeding in Docket No. NJ12-7, in which BPA has caused the Oversupply Management Protocol to be pending simultaneous with the proceeding in Docket No. EL11-44.

#### IV. CONCLUSION

For the reasons stated herein, Willow Creek and Grays Harbor respectfully request that they be allowed to intervene in BPA File No. OS-14 as parties.

DATED this 15th day of November, 2012.

Respectfully submitted,

/s/ Andrew Young

Andrew Young  
K&L Gates LLP  
1601 K Street, NW  
Washington, DC 20006-1600

Attorney for  
Willow Creek and Grays Harbor

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<sup>1</sup> Separately, Willow Creek's and Grays Harbor's affiliate Invenergy LLC and several other petitioners each filed petitions for review of Environmental Redispatch and the Oversupply Management Protocol with the U.S. Court of Appeals for the Ninth Circuit, Case Nos. 11-72310, *et al.*, and 12-71763, *et al.* Those cases have been stayed by the Court, pending the outcome of the FERC proceeding in Docket No. EL11-44. Willow Creek and Grays Harbor hereby preserve all of their rights in such proceedings before the Ninth Circuit.

**CERTIFICATE OF SERVICE**

I hereby certify that I have on this day served a copy of the foregoing PETITION FOR INTERVENTION OF WILLOW CREEK ENERGY LLC AND GRAYS HARBOR ENERGY LLC upon the individuals listed below via electronic mail:

Hearing Clerk – L-7  
Bonneville Power Administration  
905 NE 11th Avenue  
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DATED this 15th day of November, 2012.

Respectfully submitted,

**/s/ Andrew Young**  
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Attorney for  
Willow Creek and Grays Harbor