

# ADMINISTRATOR'S RECORD OF DECISION

## Pre-Subscription, Post 2001 Contracts

### INTRODUCTION

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The Bonneville Power Administration (BPA) has decided to enter into a limited number of power sales contracts extending beyond 2001, in advance of the subscription process recommended by the Comprehensive Review of the Northwest Energy System (Comprehensive Review). This decision is a direct application of BPA's earlier decision to use a Market-Driven approach for participation in the increasingly competitive electric power market. The decision to enter into these pre-subscription, post 2001 contracts is consistent with BPA's Business Plan, the Business Plan Environmental Impact Statement (BP EIS) (DOE/EIS-0183, June 1995) and the Business Plan Record of Decision (ROD) (August 15, 1995).

In response to a need for sound policy to guide its business direction under changing market conditions, BPA explored six alternative plans of action in its BP EIS. The six alternatives were: Status Quo (No Action), BPA Influence, Market-Driven, Maximize Financial Returns, Minimal BPA, and Short-Term Marketing. In the subsequent Business Plan ROD, the BPA Administrator selected the Market-Driven alternative. Although the Status Quo and the BPA Influence alternatives were the environmentally preferred alternatives, the differences in total environmental impacts among alternatives were relatively small. Other business aspects, including loads and rates, showed greater variation among the alternatives. The Market-Driven alternative strikes a balance between marketing and environmental concerns. It also helps BPA to ensure the financial strength necessary to maintain a high level of support for public service benefits such as energy conservation and fish and wildlife mitigation activities.

The BP EIS and ROD were also intended to guide BPA in a series of related decisions on specific issues and actions. The decision to enter into pre-subscription, post-2001 contracts is one of these subsequent actions, and the subject of this tiered ROD. Tiering subsequent RODs to the Business Plan ROD helps delineate BPA decisions clearly and provides a logical framework for connecting broad programmatic decisions to more specific contract actions. BPA reviewed the BP EIS to ensure that pre-subscription, post 2001 contracts were adequately covered within its scope and, if appropriate, issue a tiered Record of Decision. This tiered ROD, which summarizes and incorporates information from the Business Plan ROD, is the result of such a review. It describes specific information on the decision to enter into pre-subscription, post 2001 power sales contracts, and provides a summary of the environmental impacts associated with this decision, as described in the BP EIS.

## **NEW COMPETITIVENESS IN THE ELECTRIC INDUSTRY**

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The electric utility industry is increasingly competitive and dynamic. Four factors have substantially affected BPA's ability to compete: market change, increased nonpower obligations, deterioration of BPA's cost/price advantage, and lost hydro output. However, BPA must be able to balance its costs and revenues. The availability of power at competitive prices from other suppliers prevents BPA from meeting costs simply by raising rates. The BPA firm power rate level, above which a rate increase would no longer increase BPA's revenue and cover BPA's costs, would produce BPA's maximum sustainable revenue (MSR). Allowing BPA's rates to exceed this level would not be consistent with sound business principles. It would result in a reduction in BPA's total revenue and BPA's ability to fund public benefits. BPA needs to retain its customers in order to balance its costs and revenues.

A few publicly-owned utilities, Direct Service Industry (DSI) customers, investor-owned utilities (IOUs) and marketers/aggregators have approached BPA about beginning negotiations for power purchases that extend beyond 2001. Some customers, anticipating the advent of retail access, are approaching BPA on behalf of large industrial customers they want to retain. All of the customers approaching BPA are motivated by real and urgent business needs. These customers need to act quickly and soon, with or without BPA. In addition, BPA needs to be able to maintain existing Northwest loads without undermining or disrupting the subscription process.

## **CUSTOMERS**

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Pre-subscription, post 2001 contracts will be available to all BPA's requirements customers, including preference customers, DSIs, and Federal agencies. Additionally contracts may be offered to marketers, aggregators and IOUs for surplus power sales or when power is to be delivered to a Northwest load that is currently served by a preference customer, DSI, or Federal agency.

- **Preference customers** - Public utility districts, municipalities, and cooperatives to which, by law, BPA must give preference for power available from the Federal base system resources. These customers include utilities without power generation that rely on BPA for all or nearly all of their wholesale power needs, and those with generation that meet some of their load with non-Federal resources.
- **DSIs** - Large industries that purchase power directly from BPA.
- **Federal agencies** - Those Federal agencies which presently or in the future may purchase power directly from BPA, or through a utility. Current customers include Fairchild Air Force Base and the U.S. Department of Energy, Richland Operations Office.
- **Power Marketers, Aggregators and IOUs** - Those power marketers and aggregators that have been authorized by FERC as approved power marketers that have the authority to purchase surplus firm power from BPA.

## **BACKGROUND**

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To assist the Pacific Northwest through the transition to competitive electricity markets, the governors of Idaho, Montana, Oregon, and Washington convened a “Comprehensive Review of the Northwest Energy System.” The goal of the review was to develop, through a public process, recommendations for changes in the region’s electric utility industry. The Comprehensive Review released its final report in December 1996.

As soon as the final report was released, BPA and other regional parties began to explore the actions necessary to implement the recommendations. In early 1997, the Governor’s representatives formed a Transition Board to monitor, guide, and evaluate progress on the recommendations. One of the recommendations was for BPA to institute a subscription process for Federal system power.

In early spring BPA and the Pacific Northwest Utilities Conference Committee (PNUCC) invited 2800 interested parties throughout the Pacific Northwest to help lay the groundwork for a subscription process. A collaborative effort to design a subscription process began with a public kickoff meeting on March 11, 1997. At this meeting, a BPA/customer design team presented a proposed workplan. An important element of the workplan was the formation of a Subscription Work Group to work through the issues necessary for implementation of the Comprehensive Review’s recommendation. The Work Group is open to the public.

During the public process, a few public agency and DSI customers approached BPA about beginning contract negotiations prior to the completion of the subscription process for power purchases that may extend beyond 2001. These pre-subscription contracts are to meet customers’ urgent business needs. In keeping with BPA’s decision to be Market Driven, BPA responded to the customers’ requests.

BPA met with the Transition Board on March 13, 1997, and informed the members that BPA intended to work with customers and constituents to develop an interim marketing plan with proposed boundaries for pre-subscription, post 2001 contracts. Over the next month, BPA hub managers, customer and constituent account executives, and tribal liaisons talked informally with key customers, states, public interest groups, and tribes. BPA then developed the Interim Marketing Plan which it presented to the Transition Board at its April 22 meeting.

The Transition Board reviewed the Interim Marketing Plan and agreed with BPA about making pre-subscription contracts available. The Interim Marketing Plan called for 800 megawatts (MWs) of in-region sales and 800 MWs of extra-regional sales. The extra regional sales are in addition to the already completed New Energy Ventures (NEV) and Bay Area Rapid Transit (BART) sales and the ongoing Hungry Horse Reservation sales. At that time, the Transition Board agreed with BPA’s Interim Marketing Plan but recommended only 500 MWs of in-region, pre-subscription contracts.

## **DESCRIPTION OF THE PROPOSED CONTRACTS**

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The pre-subscription, post 2001 sales will be for firm power and may include the associated transmission services. Any loads covered by a pre-subscription, post-2001 contract will be counted as part of the customer's subscription rights. Sales for both in-region and out-of-region sales will be made under the Firm Power and Services (FPS-96) rate schedule, or its successor. Pricing will obtain revenues equivalent to the Priority Firm (PF) rate. Commitments to deliver firm power extend no later than September 30, 2006. In certain circumstances BPA may offer a surplus firm power contract that extends beyond September 30, 2006. However, deliveries of power after September 30, 2006, will be subject to the availability of surplus firm power, as determined after the conclusion of the subscription process.

### Cost Recovery

Entering into a pre-subscription contract will neither increase or decrease a customer's cost recovery obligation to BPA. This allows a customer to enter into a contract with the assurance that its cost recovery exposure is not increased. At the same time, BPA's future cost recovery flexibility is preserved, protecting other Pacific Northwest customers and BPA's public responsibilities. Early post-2001 power sales contracts will improve the chances of avoiding stranded costs for everyone.

## **ENVIRONMENTAL ANALYSIS**

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Consistent with the Business Plan ROD, the BPA Administrator reviewed the BP EIS to determine whether offering the proposed contract templates and the amendment for requirements customers was adequately covered within the scope of the BP EIS. The BP EIS was intended to support a number of decisions, including contract terms BPA would offer to customers. Nineteen key policy issues were addressed in the BP EIS, including bundling or unbundling of BPA power products and services, determination of BPA firm loads, and determination of BPA firm loads. The BP EIS alternatives analyzed a range of options for each of these issues. The market-driven alternative included marketing competitively-priced unbundled products and services, offering rebundled firm power service packages to PNW utility customers, continuing to offer cost-based firm requirements power products that meet Northwest Power Act obligations, and stabilizing firm requirements service at current levels (Table 2.4-1). Pre-subscription, post 2001 contracts are consistent with BPA's market-driven approach. Moreover, the responsiveness and flexibility demonstrated by BPA enhances the business relationship with customers and lessen incentives for BPA's customers to significantly reduce their BPA loads.

Consistent with the Business Plan ROD, the Administrator reviewed the Business Plan EIS to determine whether entering into contracts like the pre-subscription, post 2001 contracts was adequately covered within the scope of the Business Plan EIS. The BP EIS was intended to support a number of decisions, including the contract terms BPA will offer for power sales. The Business Plan EIS alternatives analyzed a range of ways for BPA to enter into contracts with its customers. Under the Market-Driven alternative,

BPA shares power system development costs and risks with its full requirements customers under long-term contracts through its obligation to meet their loads, but also offers more flexible arrangements under either long-term or short-term agreements.

The Business Plan EIS showed that environmental impacts are determined by the responses to BPA's marketing actions, rather than by the actions themselves. These market responses include resource development, resource operation, transmission development and operation, and consumer behavior.

### **Environmental Impacts**

The BP EIS showed that environmental impacts are determined by the responses to BPA's marketing actions, rather than by the actions themselves. These market responses include resource development, resource operation, transmission development and operation, and consumer behavior. These market responses are discussed in detail in section 4.2 of the BP EIS. Typical environmental impacts of the market responses are discussed in section 4.3.

The primary source of environmental impacts is resource development and operation. The customers' decisions on whether to buy power from BPA to serve their firm loads, or to buy from non-BPA suppliers effects resource development and operation. The decision to enter into pre-subscription, post 2001 contracts helps BPA retain firm loads. Therefore, it will reduce opportunities for independent power producers, marketers, brokers, and other utilities to develop new resources--most likely combined-cycle combustion turbines.

Making pre-subscription, post 2001 contracts available on a limited basis will not affect resource development. Under the market-driven approach, BPA would not rely on long-term acquisition of the output of new generating resources to meet increases in BPA loads. Instead, BPA would likely rely on market purchases because of the power surplus in the west coast market. The environmental impacts will not be beyond those described in the BP ROD (BP ROD, Table 1, page 7 and Figure 2, page 8). However, since BPA has very few firm purchase commitments past 2001, it is very unlikely that any post 2001 contracts signed in the near term would require purchases.

Resource operation is not likely to change. Consistent with its market-driven approach, BPA will remain active in the competitive market, working to assure the success of the subscription process. Little or no change is expected in transmission development and operation.

Power comparable to BPA's power is currently available from alternate suppliers at competitive prices. BPA must generate enough revenue to pay all of its costs. If costs exceed revenues, BPA may not be able to meet its financial obligations to repay the United States Treasury or to meet its public responsibilities. However, the increased revenues BPA anticipates by making pre-subscription, post 2001 contracts available will help keep BPA rates low. Moreover, pre-subscription will help stimulate interest in the subscription process, increasing the likelihood BPA will retain firm load post 2001.

Retaining load post 2001 is essential for BPA to keep rates low, meet financial obligations, and provide public benefits.

### **Marketing Impacts**

To the extent BPA is successful in applying a market-driven approach to its business activities, customers will be less likely in the long term to reduce their power purchases from BPA. BPA is making a systematic effort to meet customer needs and improve business relationships. Providing pre-subscription, post 2001 contracts as part of this effort will help BPA retain firm load. More firm load placement reduces the uncertainty surrounding BPA's operations and reduces BPA's resource development risks. If BPA's unbundled products and services are priced competitively, there should not be as much price incentive in the future for customers to turn to non-BPA suppliers. By being responsive to customers' requests, BPA hopes to strengthen its overall relationship with those customers and build momentum for subscription.

The market-driven alternative includes flexible contract arrangements to respond to the increasingly competitive and deregulated electric power market. Making pre-subscription, post 2001 contracts available to meet customers' urgent business needs demonstrates BPA's commitment to flexible contract arrangements. Responding to customer concerns and strengthening business relationships now will enhance BPA's competitiveness when its utility contracts expire in 2001.

### **Public Service Benefits**

The decision to offer pre-subscription, post 2001 contracts strikes a balance between marketing and environmental concerns. Consistent with the market-driven approach, providing flexible contract terms and strengthening business relationships with customers allows BPA to be a more active participant in the competitive power market. BPA can use its success in the market to ensure the financial strength necessary to better produce the public benefits that BPA affords the region. In addition, pre-subscription will build some momentum toward subscription, leading to more long-term load on BPA. This additional load will enhance BPA's ability to fulfill its public responsibilities.

### **Mitigation**

The BP ROD contained response strategies to mitigate for changing electric utility market conditions (BP ROD, page 13). These response strategies--which include means to decrease spending, increase revenues, and transfer costs--could be implemented if BPA's costs and revenues do not balance. Preservation of BPA's rights regarding recovery of stranded costs is also a potentially important means for insuring BPA's financial obligations will be met. BPA has already decided (in the BP ROD) to implement as many mitigation response strategies, or equivalents, as necessary whenever BPA's costs and revenues do not balance. These mitigation strategies will be implemented to enable BPA to best meet its financial, public service and environmental obligations, while remaining competitive in the wholesale electric power market.

In making pre-subscription, post 2001 contracts available to customers, BPA is implementing a response strategy (increase revenues) contained in the market-driven alternative. Implementing this mitigation allows BPA to retain load that otherwise would have been lost. Maintaining load will help the agency to balance costs and revenues. Such mitigation enhances BPA's ability to continue to adapt to changing market conditions and improves BPA's long-term attractiveness as a power supplier and business partner.

## **PUBLIC AVAILABILITY**

This ROD will be distributed to all interested and affected persons and agencies. Copies of the Business Plan, Business Plan EIS, and the Business Plan ROD and additional copies of this ROD are available from BPA's Public Involvement Office, P.O. Box 12999, Portland, Oregon 97212. Copies of these documents may also be obtained by using BPA's nationwide toll-free document request line, 1-800-622-4520.

## **CONCLUSION**

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I have decided that BPA will make available to its customers pre-subscription, post 2001 power sales contracts on a limited basis, within the boundaries suggested by the Transition Board. This decision is consistent with BPA's Market-Driven approach for participation in the increasingly competitive electric power market. BPA seeks to be responsive to its customers' needs while ensuring the financial strength necessary to produce public benefits such as fish and wildlife mitigation and energy efficiency. BPA considers making pre-subscription, post-2001 contracts available to its customers to be an action apart from its subscription process for post-2001 Priority Firm power sales.

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/s/ Randall W. Hardy  
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Administrator and Chief Executive  
Officer