**Department of Energy**

Bonneville Power Administration
P.O. Box 3621
Portland, Oregon 97208-3621

SECURITY AND CONTINUITY OF OPERATIONS

October 10, 2013

In reply refer to: NN-1

Charles Johnson
Physicians for Social Responsibility
812 SW Washington St, Ste 1050
Portland, OR 97205

**FOIA #BPA-2014-00026-F**

Dear Mr. Johnson:

This is a final response to your request for records that you made to the Bonneville Power Administration (BPA), under the Freedom of Information Act, 5 U.S.C. 552.

**You requested the following:**
The 1999 Memorandum of Agreement between BPA and Energy Northwest identifying oversight authorities and responsibilities of BPA and management responsibilities of Energy Northwest: referenced in the Draft 2007 Eric Redman report "The BPA Energy Northwest Relationship in the Context of Columbia Generating Station Operating and Capital Budgets"

**Response:**
BPA is releasing the responsive document in its entirety.

Pursuant to 10 CFR 1004.8, if you are dissatisfied with the adequacy of the search, you may appeal this FOIA response in writing within 30 calendar days of receipt of a final response letter. The appeal should be made to the Director, Office of Hearings and Appeals, HG-1, Department of Energy, 1000 Independence Avenue, SW, Washington, DC 20585-1615. The written appeal, including the envelope, must clearly indicate that a FOIA Appeal is being made.

There are no fees associated with this request.

Please contact Kim Winn, FOIA Specialist, at 503-230-5273 with any questions about this letter.

Sincerely,

*/s/Christina J. Munro*
Christina J. Munro
Freedom of Information/Privacy Act Officer

Enclosure: Responsive document

Contract No. 00GS-75016

AUTHENTICATED

# *MEMORANDUM OF AGREEMENT*

# *BETWEEN*

# *BONNEVILLE POWER ADMINISTRATION*

# *AND*

# *ENERGY NORTHWEST*

***MEMORANDUM OF AGREEMENT BETWEEN***
***BONNEVILLE POWER ADMINISTRATION***
***AND***
***ENERGY NORTHWEST***

This MEMORANDUM OF AGREEMENT (Agreement) is entered into by Bonneville Power Administration ("Bonneville") and Energy Northwest (Bonneville and Energy Northwest are each sometimes hereinafter referred to individually as "Party" and jointly as "Parties").

## RECITALS

Whereas, Energy Northwest, a joint operating agency and municipal corporation, owns, operates and maintains Washington Nuclear Project 2 (Project 2); and

Whereas, Energy Northwest has the responsibility for the technical integrity and public safety associated with Project 2; and

Whereas, pursuant to the Project 2 Net Billing Agreements, Bonneville bears the cost of Project 2 power production and has a responsibility to maintain this cost within the framework of its total responsibility to manage resources and associated costs of the Federal Columbia River Power System (FCRPS); and

Whereas Bonneville and Energy Northwest recognize their mutual goal of long-term, stable, and reliable electric power can be met through the safe, environmentally sound, and cost efficient operation of Project 2, in a manner consistent with the overall management responsibility of the FCRPS; and

Whereas Bonneville and Energy Northwest share a commitment to preservation of public power and the effective, economical, and efficient operation of the FCRPS; and

Whereas Bonneville and Energy Northwest desire to foster a stronger alliance to provide for the attainment of their strategic and business advantages; and

Whereas Energy Northwest has the authority to perform multiple activities in support of electric power generation and distribution; and

Whereas Bonneville and Energy Northwest desire to express a mutual understanding with regard to certain Energy Northwest Management Incentive Fees and new business opportunities between the two organizations.

**NOW, THEREFORE,** the Parties hereto mutually agree as follows:

## A. KEY UNDERSTANDINGS

1. The following Key Understandings guide the Parties in implementing their responsibilities:
    a) Bonneville has Project 2 contract management/oversight authorities and responsibilities to discharge commensurate with Bonneville's statutory authorities, mission responsibilities, legal obligations, and level of financial risk;
    b) Energy Northwest has authority and responsibility for the management and operation of Project 2, retains the responsibility for the technical integrity and public safety associated with its projects and facilities, and ensures accountability for safe, environmentally sound performance to high regulatory standards;
    c) Bonneville has a business interest in the efficient execution of the nuclear O&M program and Energy Northwest has a business interest in the impacts of Bonneville's FCRPS operational decisions;
    d) Operation, maintenance, and scheduling of Project 2 is for the benefit of the Region's rate payers; and
    e) Rights established in the agreements related to Project 2 that are addressed herein are not diminished, amended, or modified in any way and remain in full force and effect.

## B. ALLIANCE COMMITTEE

1. An Alliance Committee shall be created to administer the responsibilities undertaken in this Agreement. The Alliance Committee shall meet as required, but at least twice each year.
2. The Alliance Committee consists of Bonneville's Vice President Generation Supply, Bonneville's Manager Contract Generating Resources, Energy Northwest's Vice President Generation and one other member designated by Energy Northwest.
3. Each Party shall have one vote to cast as a representative of the Alliance Committee.
4. At the end of each Fiscal Year, the Alliance Committee shall determine adjustments that should be made to the actual Project 2 cost and generation (in accordance with Paragraph C.4) in order to determine the annual Cost of Power Incentive Fee earned.
5. The Alliance Committee shall initiate meetings no later than January 1, 2002, to determine EUCG comparative data and adjust the quartiles on Attachment 2 for Fiscal Years 2003 and 2004, and biennially thereafter for subsequent two year periods. The Alliance Committee may also adjust Incentive Fee amounts.
6. The Alliance Committee shall develop, review, and approve the benchmark data to be used for incentives. The Alliance Committee may designate subgroups that shall not have any of the authorities of the Alliance Committee, but shall report to and be responsible to carry out the instructions of the Alliance Committee.
7. The Asset Investment Credit (AIC) shall be created, managed, and tracked by the Alliance Committee.

8. The Alliance Committee shall operate in a manner that is consistent with the missions, operating plans, and legal authorities of the Parties.

9. The Alliance Committee shall, at least annually, compile information, prepare, and submit a report to the Parties. Such report shall provide an analysis of the cost effectiveness and efficiency of performance under this Agreement. If, within 30 days following receipt of such report, either Party determines that this Agreement is not achieving the benefits anticipated, then either Party may, subject to the conditions of Section I, provide written notice to terminate this Agreement.

10. The Alliance Committee shall determine the manner and method to report information with regard to the Cost of Power Incentive Fee.

**C. COST OF POWER INCENTIVE FEE**

1. The Parties agree to an annual Cost of Power Incentive Fee payable by Bonneville to Energy Northwest. The Cost of Power Incentive Fee may be used by Energy Northwest for any lawful purpose; however, the Parties expect the primary use will be the creation of new business opportunities which are intended to reduce Project 2's cost of power. The Cost of Power Incentive Fee shall become effective for Energy Northwest's Fiscal Year 2000 operations beginning July 1, 1999. Project 2's cost of power for purposes of this incentive fee shall be measured against EUCG data for nuclear power plants comparable to Project 2. Attachment 1 represents the initial benchmark assessment of comparable plants and EUCG cost of power results.

2. Attachment 2 represents the Cost of Power Incentive Fee schedule associated with various levels of cost performance. This schedule will be used to determine the Cost of Power Incentive Fee for Fiscal Years 2000, 2001, and 2002. The Cost of Power Incentive Fee shall not exceed seven million dollars ($7,000,000) nor become a negative number in any given Fiscal Year. For illustrative purposes, representative points along the Attachment 2 curve are described below:

    a) If Energy Northwest achieves a Project 2 cost of power in the fourth quartile ($25^{th}$ percentile or below), reflecting a cost of power of 29.9 mills or higher on Attachment 2, no Cost of Power Incentive Fee shall be earned.

    b) If Energy Northwest achieves a cost of power equal to the median ($50^{th}$ percentile), reflecting a cost of power of 23.7 mills on Attachment 2, a Cost of Power Incentive Fee in the amount of seven hundred fifty thousand dollars ($750,000) shall be earned.

    c) If Energy Northwest achieves a cost of power equal to the $75^{th}$ percentile, reflecting a cost of power of 21.8 mills on Attachment 2, a Cost of Power Incentive Fee in the amount of one million dollars ($1,000,000) shall be earned.

    d) If Energy Northwest achieves a cost of power approximately equal to the $90^{th}$ percentile, reflecting a cost of power of 17.8 mills on Attachment 2, a Cost of Power Incentive Fee in the amount of seven million dollars ($7,000,000) shall be earned.

4. For the purpose of the Cost of Power Incentive Fee, the Alliance Committee shall determine and make appropriate adjustments to Project 2's cost of power to account for Bonneville requests including, but not limited to, fuel load and core configuration, outage length and economic dispatch or for other valid reasons as determined by the Alliance Committee.

**D. OTHER MANAGEMENT INCENTIVE FEES**

1. Other management incentive fees are not precluded by this Agreement and may be separately negotiated and documented as an addendum to this Agreement or in other instruments.

2. Attachment 3 represents a Treasury Services Incentive Fee and targets for FY 2000. The Treasury Services and Incentive Fee and targets for subsequent fiscal years, if applicable, will be mutually established annually and documented in writing signed by the Parties.

**E. INCENTIVE PAYMENTS**

Incentive fees shall be paid annually within ninety (90) days of the end of Energy Northwest's Fiscal Year.

**F. IMPACT OF INCENTIVES ON COST OF POWER**

1. The Cost of Power Incentive Fee payment shall not be included as a Project 2 cost in the Cost of Power benchmark assessment or Cost of Power Incentive Fee calculation.

2. Incentive fees paid pursuant to this Agreement will be included as a Project 2 cost in Bonneville's budgets but not as a cost in Project 2's Annual Budget.

**G. ASSET INVESTMENT CREDIT**

1. An Asset Investment Credit (AIC) will be used to measure and track Project 2's contribution to Bonneville's revenues. The purpose of the Credit is to:

   a) Highlight for Energy Northwest and Bonneville, Project 2's contribution to Bonneville's revenues ; and

   b) Use this performance measurement tool in seeking additional funding for: (1) large or unforeseen Plant-related obligations; and (2) investments to improve the output and reliability of Project 2.

2. The annual positive or negative accrual to the AIC will be calculated as follows:

   Power Business Line (PBL) total power revenues divided by PBL megawatt hours sold less PBL PF rate multiplied by WNP-2 generation.[1]

[1] ((PBL Total Power Revenues/PBL megawatt hours sold) – PBL PF rate)*WNP-2 generation. WNP-2 generation for this calculation will be based on Bonneville's fiscal year.

The accrual to the AIC will be calculated by December 1 of each year and will be based on the PBL's most recently completed fiscal year results.

3. Additional funding using the AIC performance measurement tool could be for major expenditures such as those examples listed below.
   a) Regulatory Required:
      i) Spent fuel storage facility and casks;
      ii) Thermo lag;
      iii) ECCS suction strainers; or
      iv) FSAR upgrade.
   b) O&M issues:
      i) Hydrogen water chemistry installation;
      ii) Discretionary nuclear fuel inventory purchases;
      iii) Plant service water piping replacement; or
      iv) Other plant, facility, or capital improvements.
   c) Additional decommissioning fund contributions.
   d) Debt service payments.
   e) Purchase of Project 2 replacement power.
   f) Budget overruns;
4. Actual funding for any of the above will be approved via the normal budget and net billing procedures, provided however that expenditures authorized by the Alliance Committee shall be included in the Project 2 budget and not be subject to re-review during the budget approval process.
5. The Alliance Committee will determine whether or not the additional funding is included or excluded in the Cost of Power Incentive Fee calculation.

## H. SERVICES

1. Efficient use of existing Energy Northwest resources, as well as the development of new business units by Energy Northwest are desirable practices intended to reduce Project 2 and overall FCRPS costs of operation.

2. In support of such efforts, Bonneville shall use its best efforts to place or cause to have placed by FCRPS entities, orders with Energy Northwest for FCRPS (power or transmission) related services in the minimum amount of five hundred thousand dollars ($500,000) during Fiscal Year 2000, one million dollars ($1,000,000) during Fiscal Year 2001, and one million five hundred thousand dollars ($1,500,000) during Fiscal Year 2002. The cost of power used to calculate the Cost of Power Incentive Fee shall be adjusted by the dollar amount of such orders not placed with Energy Northwest; provided, however, no such adjustment shall be made in cases where Energy Northwest's proposals/bids for such services were not cost competitive. Such services may include, but are not limited to:

   a) Management and Administrative Services;

   b) Training;

   c) Nuclear and Electric Energy Technical Services;

   d) Strategic Planning Support;

   e) Hydroelectric or other Generation Capability Operational Support;

   f) Financial and Debt Service Management;

   g) Physical Plant Maintenance Planning: Scheduling and Work Performance; and

   h) Resource Acquisition or Development.

3. All services acquired by Bonneville’s Power Business Line from Energy Northwest shall be pursuant to a written Task Order issued under Intergovernmental Contract (IGC) No. 99 BI 19231, or other written contract. Each Task Order shall specify the work to be performed, identify the schedule and deliverables, method and terms of payment. Orders for FCRPS services may also be placed by other governmental entities using separate contracts.

## I. TERM, TERMINATION, AMENDMENT, AND DISPUTE RESOLUTION

1. This Agreement shall be effective July 1, 1999, and shall continue in effect through June 30, 2006, unless extended or terminated as provided for herein. All liabilities incurred hereunder are to be preserved until satisfied.

2. The Parties may, by mutual agreement, extend the term of this Agreement. In this event, the Parties shall prepare and execute an amendment to this Agreement to accomplish such extension.

3. Notwithstanding any other provisions of this Agreement, the body of this Agreement (excluding exhibits) may be amended only by mutual written agreement of the Parties.

4. Either Party may terminate this Agreement at any time upon written notice to the other Party; provided, however, that any such written notice shall specify a termination date that is at the end of the Fiscal Year of the date shown on the notice, provided further, however, that no termination date shall be earlier than June 30, 2002. In the event of termination, the Parties shall fulfill their mutual obligations under this Agreement even if doing so requires performance beyond the effective date of termination.

5. In the event of a dispute under this Agreement, the Parties shall use their best efforts to resolve that dispute in an informal fashion through consultation and communication or other forms of mutually acceptable non-binding alternative dispute resolution. Failing agreement, either Party may give notice to terminate the Agreement.

6. A Party's decision to provide notice to terminate this Agreement shall not be subject to any dispute resolution procedure.

## J. DEFINITIONS

"Fiscal Year" means the Energy Northwest fiscal year that begins on July 1 and ends on the following June 30.

## K. ASSIGNMENT

Rights under this Agreement shall not be assigned and obligations shall not be delegated under this Agreement.

## L. NO THIRD PARTY BENEFICIARIES

There are no third party beneficiaries of this Agreement, and the intent of this Agreement is to not create any third party beneficiaries.

## M. INFORMATION COORDINATION

1. Justification and explanation of this Agreement, or any Exhibit before Congress and other agencies, departments, and offices of the Federal Executive Branch shall be the responsibility of the Parties. The Parties may provide any assistance necessary to support each other's justification or explanations of the programs conducted under this Agreement. Each Party shall be responsible for its own testimony before Congress. The Parties shall coordinate public announcements related to this Agreement.

2. Each Party shall make reasonable efforts to give the other notice of any public statement regarding work contemplated, undertaken, or completed under this Agreement.

## N. MISCELLANEOUS

1. Other Relationships or Obligations. This Agreement is not intended to and does not alter or affect the statutory and other legal rights, authorities, responsibilities, and obligations of Energy Northwest and Bonneville and the right and authority of the Parties to interpret and implement any other statutory authority.

2. Survival. The provisions of this Agreement which require continued performance of the work until its completion after the expiration of this Agreement shall remain in force notwithstanding the expiration or termination of this Agreement.

3. Severability. If any provision of this Agreement is determined to be invalid or unenforceable, the remaining provisions shall remain in force and unaffected to the fullest extent permitted by law and regulation.

## O. NOTICES

Unless this Agreement requires otherwise, any notice, demand, or request provided for in this Agreement, or served, given, or made in connection with it, shall be in writing and shall be deemed properly served, given, or made if delivered in person or sent by electronic transfer, or by acknowledged delivery, or sent by registered or certified mail, postage prepaid:

If to Bonneville:

Bonneville Power Administration
Edward J. Brost, Manager
Contract Generating Resources MD 1399
PO Box 968
Richland, Washington 99352- 0968
Phone: (509) 372-5771
Facsimile: (509) 372-5766

If to Energy Northwest:

Energy Northwest
PO Box 968
Richland, Washington 99352-0968
ATTN: Gregory O. Smith, VP
Generation MD 927M
Phone: (509) 377-6042
Facsimile: (509) 377-2272

Any Party may, by written notice to the other Party, change the designation or address of the person so specified as the one to receive notices pursuant to this Agreement.

**IN WITNESS WHEREOF**, the Signatories hereto have executed this Agreement in several counterparts.

Executed this 17 day of November 1999.

**/S/ PAUL NORMAN**

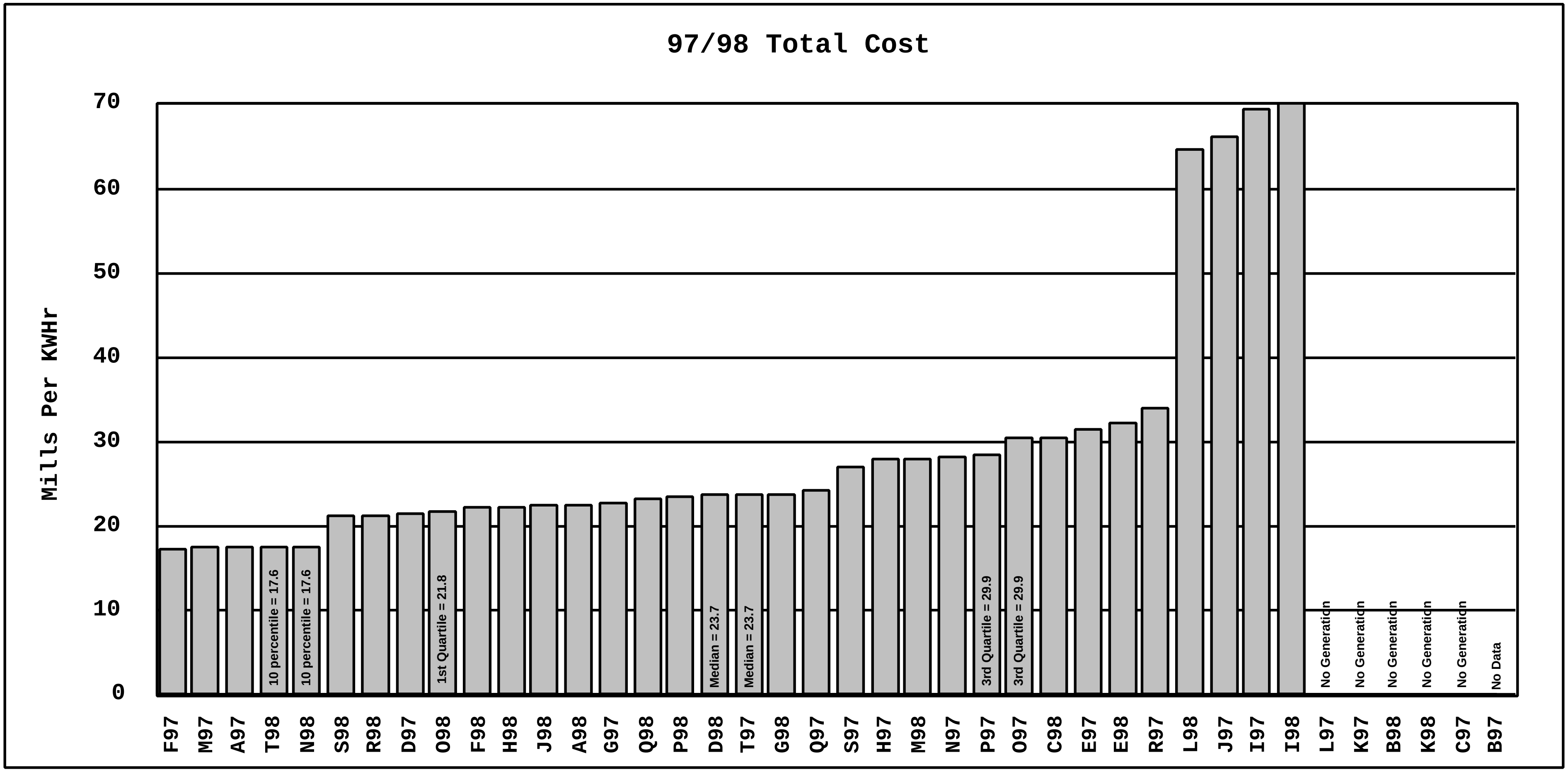
Paul Norman, Senior VP
Power Business Line
Bonneville Power Administration

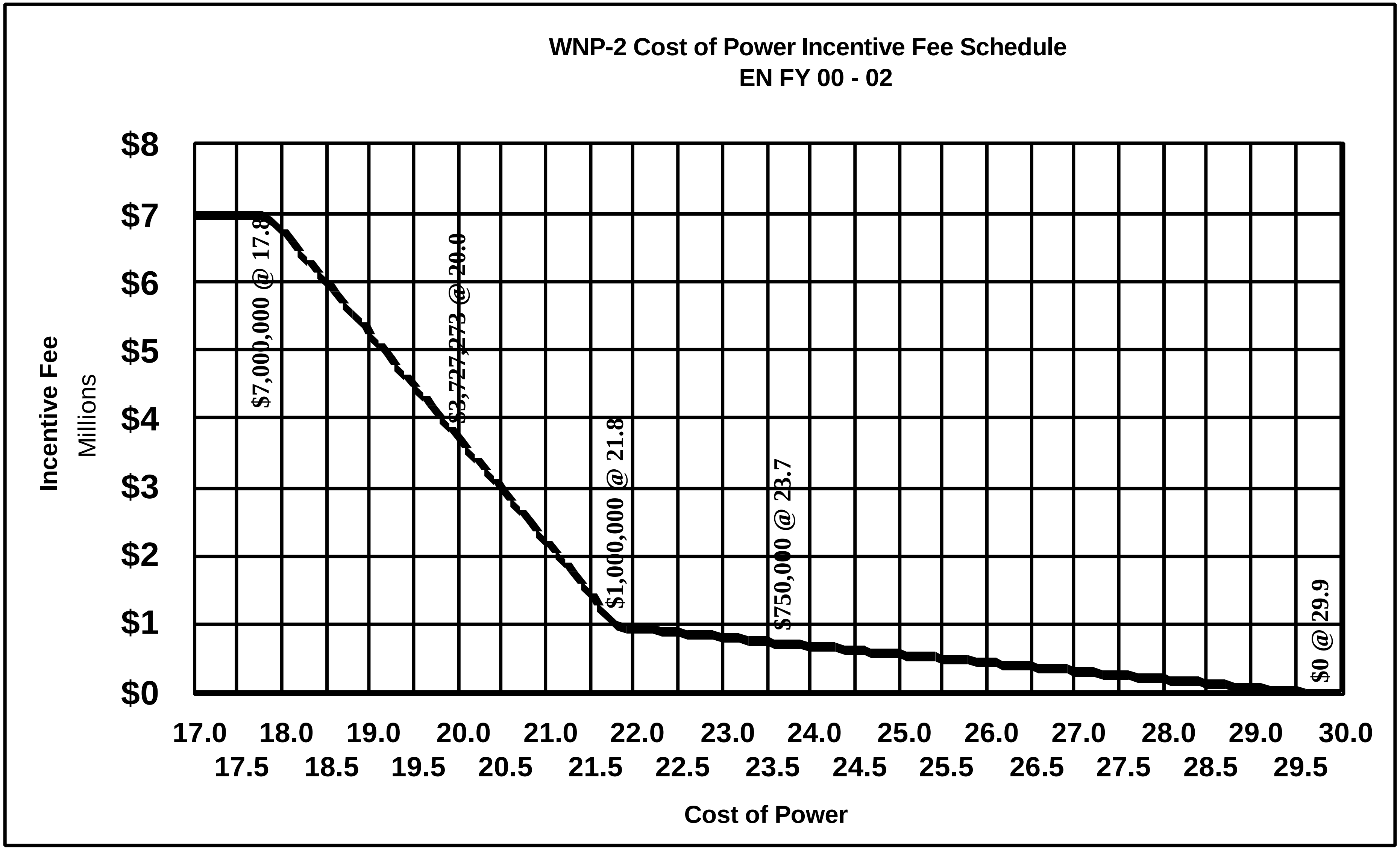
**/S/ J.V. PARRISH**

J. V. Parrish
Chief Executive Officer
Energy Northwest

Attachment 1

# EUCG Cost of Power Data




WNP-2 Cost of Power Incentive Fee Schedule
EN FY 00 - 02
Incentive Fee
Millions
$8
$7
$6
$5
$4
$3
$2
$1
$0
$7,000,000 @ 17.8
$3,727,273 @ 20.0
$1,000,000 @ 21.8
$750,000 @ 23.7
$0 @ 29.9
17.0
18.0
19.0
20.0
21.0
22.0
23.0
24.0
25.0
26.0
27.0
28.0
29.0
30.0
17.5
18.5
19.5
20.5
21.5
22.5
23.5
24.5
25.5
26.5
27.5
28.5
29.5
Cost of Power

# FY 2000 TREASURY SERVICES INCENTIVE FEE

## A. DEFINITIONS

***Purchase Yield***

The calculated yield to maturity for the Project 2 and Project 3 Senior Lien Debt retired by the annual Selective Redemption purchase transactions.

Selective Redemption

Bond Retirement Program for Projects 2 and 3. Project 2 Series 1997-2A Resolution and Project 3 Series 1998-3A Resolution bond redemption provisions allow Energy Northwest the option of retiring Project 2 and Project 3 Senior Lien Debt as a substitute for the annual sinking fund redemption of Series 1997-2A and Series 1998-3A Variable Rate Debt.

**Budget**
Represents the current fiscal year Project 1, 2, and 3 original investment income cost budgets for Energy Northwest. It includes income on investment of monies held in the Bond Fund Reserve, Interest and Principal accounts, and the Reserve and Contingency Fund.

**7-Year and 30-Year Index**
These are Merrill Lynch synthetic bond performance indices (Index), which are calculated and tracked on the Bloomberg Market System. (Measured at Fiscal Year end)

## D. KEY UNDERSTANDINGS

- Maximum incentive payment of $300,000 for all three goals combined.
- All incentive payments will be made from Debt Service accounts.
- Any one or all of goals can be achieved independently.
- 100% goals are established as stretch goals.
- Incentive payment levels are reflected on Charts 1, 2 and 3.
- Criteria will be established to allocate the Incentive among Projects 1, 2, and 3.
- Within 90 days of the end of Energy Northwest's fiscal year, Bonneville and Energy Northwest will review actual performance against the goals and agree on the amount of performance fee earned.
- Examples of performance incentive fee calculations are attached.
- This Agreement will be reviewed annually to ensure that it is accomplishing its purpose and is consistent with Energy Northwest and Bonneville debt service goals. The targets will be reviewed for appropriateness.

## E. TREASURY SERVICES INCENTIVE PROGRAM

Bonneville's payment of the fees to Energy Northwest is to incentivize the optimization of investment income earnings and the Selective Redemption Program. Incentives will be paid on three specific goals:

**Goal 1 Exceed the FY 2000 Investment Income Budget of $29,000,000**

- Maximum incentive payment of $200,000.00.
- See Chart 1 for incentive payment levels.
- Payment examples:
  - For each $1,000.00 of investment income earned over $29,000,000.00 and up to and including $30,700,000.00, $17.65 of incentive fee will be earned. For exceeding the Budget by $1,500,000.00; $30,000.00 is earned.
  - For each $1,000.00 of investment income earned over $30,700,000.00 up to and including $32,000,000.00, $130.77 of incentive fee will be earned. For exceeding the Budget by $3,000,000.00; $200,000.00 is earned.

**Goal 2 Outperform the Weighted Average of the 7-Year and 30-Year Index**

- Maximum incentive fee available is $100,000.00.
- See Chart 2 for incentive payment levels.
- Payment examples:
  - For each weighted average basis point above the Index from 1 up to and including 100, $150.00 of incentive fee will be earned. For outperforming the Index by 100 basis points; $15,000.00 is earned.
  - For each weighted average basis point above the Index over 100 up to and including 200, $850.00 of incentive fee will be earned. For outperforming the Index by 200 basis points; $100,000.00 is earned.

**Goal 3 Exceed the Weighted Average Purchase Yield of 3.25% for Selective Redemption Program**

- Maximum incentive fee available is $200,000.00.
- See Chart 3 for incentive payment levels.
- Payment examples:
  - For each weighted average basis point above 3.25 up to and including 5.15, $157.90 of incentive fee will be earned. For achieving the weighted average purchase yield of 5.15% $30,000.00 is earned.
  - For each weighted average basis point above 5.15 up to and including 7.15, $850.00 of incentive fee will be earned. For achieving the weighted average purchase yield of 7.15%; $200,000.00 is earned.

| | |
|---|---|
| **/S/ EDWARD J. BROST** | **/S/ G.J. KUCERA** |
| Edward J. Brost | Gerald J. Kucera |
| Manager, Contract Generating Resources | Vice President, Administration/CFO |
| Bonneville Power Administration | Energy Northwest |

**Chart 1**
**Energy Northwest Treasury Incentive Program**
**Investment Income**

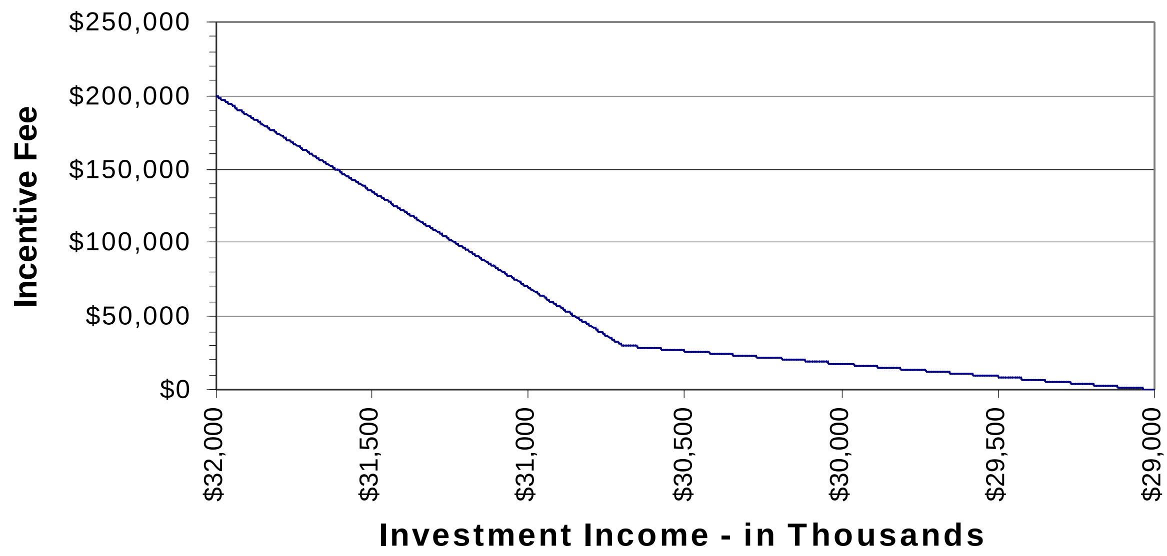
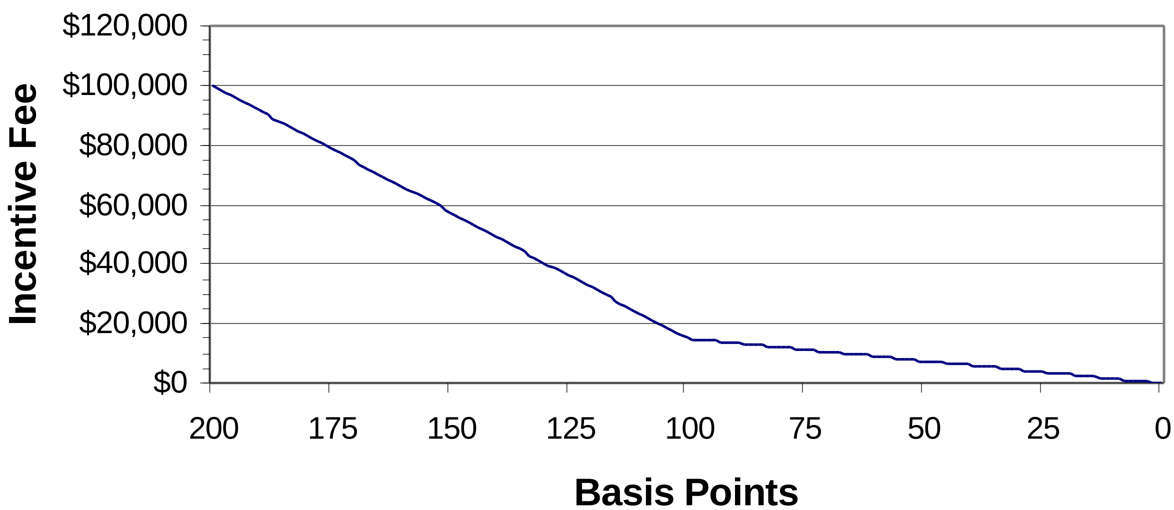



**Chart 2**
**Energy Northwest Treasury Incentive Program**
**Index Performance**



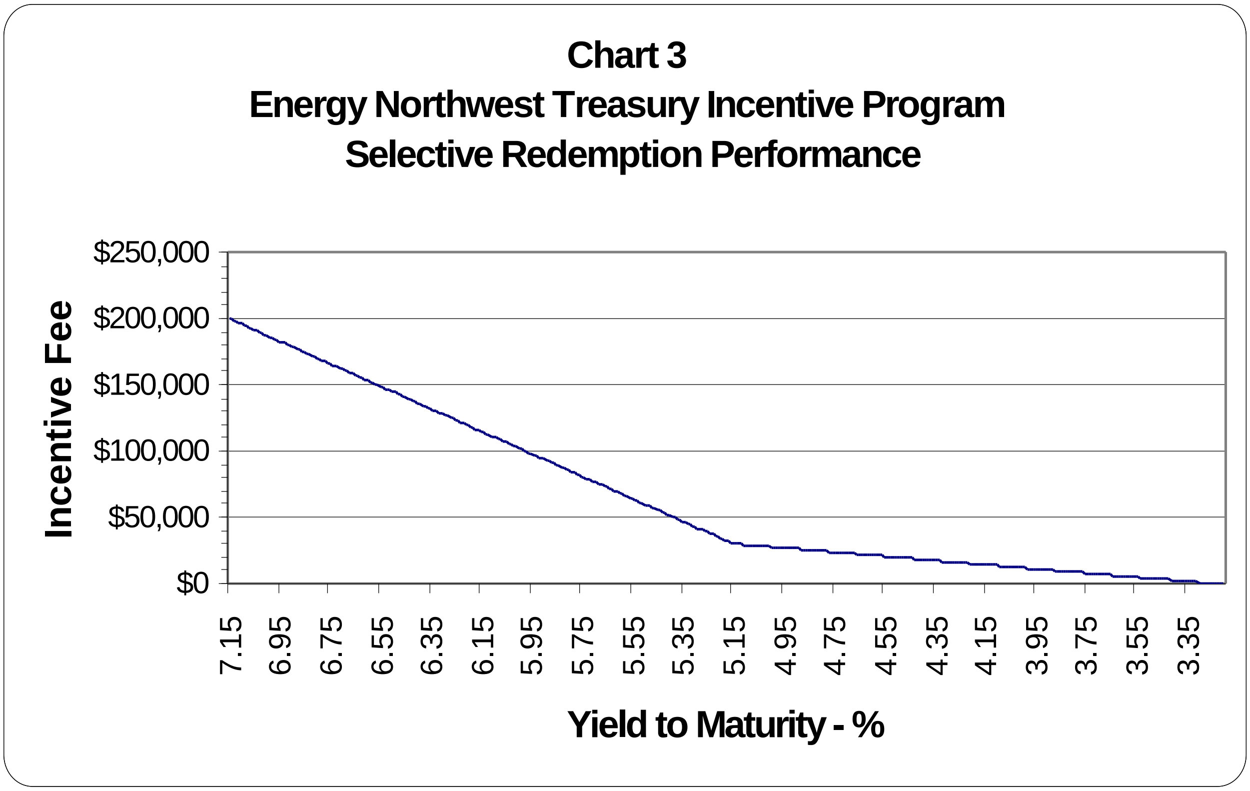


Chart 3
Energy Northwest Treasury Incentive Program
Selective Redemption Performance
Incentive Fee
$250,000
$200,000
$150,000
$100,000
$50,000
$0
7.15
6.95
6.75
6.55
6.35
6.15
5.95
5.75
5.55
5.35
5.15
4.95
4.75
4.55
4.35
4.15
3.95
3.75
3.55
3.35
Yield to Maturity - %