



## Department of Energy

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

FREEDOM OF INFORMATION ACT/PRIVACY PROGRAM

February 17, 2017

In reply refer to: FOIA #BPA-2016-01596-F

Adrienne Thompson  
Troutman Sanders LLP  
100 SW Main Street  
Portland, Oregon 97204

Dear Ms. Thompson:

This communication is Bonneville Power Administration's (BPA) response to your BPA-2016-01596-F request for agency records made under the Freedom of Information Act (FOIA). It was received in this office on September 29, 2016 and acknowledged on October 11, 2016.

### Request

"...a copy of the 'Retroactive Billing Adjustment Six Year Limit,' Memorandum from Charles Maichel, dated March 25, 2008, which is referenced on page 6 of the document noted in BPA's online Internal Policy Library as 'CSS 02 Restructuring Payment Terms Policy' (aka 'Restructuring Payment Terms Policy: Collection of a Billing Adjustment Claim against a Customer' (Effective Date: December 22, 2011))."

BPA's FOIA response efforts have included records searches in the following agency offices:  
Customer Billing  
Transmission Sales

### Response

The agency record responsive to your request was located, reviewed for the application of statutorily required exemptions and processed for release. That record accompanies this communication.

### Records Release and Certification

BPA is herein releasing 2 pages of responsive agency records to you with no redactions made. Pursuant to 10 C.F.R. § 1004.7(b)(2), I am the individual responsible for the release and exemption determinations as described above.

### FOIA Fee

You have agreed to pay up to \$ 100.00 in FOIA fees. These fees will be itemized and billed to you under separate cover.

**FOIA Appeal**

This decision, as well as the adequacy of the search, may be appealed within 90 calendar days from your receipt of this letter pursuant to 10 C.F.R. § 1004.8. Appeals should be addressed to:

Director, Office of Hearings and Appeals,  
HG-1, L'Enfant Plaza  
U.S. Department of Energy  
1000 Independence Avenue, S.W.  
Washington, D.C. 20585-1615

The written appeal, including the envelope, must clearly indicate that a FOIA appeal is being made. You may also submit your appeal to [OHA.filings@hq.doe.gov](mailto:OHA.filings@hq.doe.gov), including the phrase "Freedom of Information Appeal" in the subject line. The appeal must contain all of the elements required by 10 C.F.R. § 1004.8, including a copy of the determination letter. Thereafter, judicial review will be available to you in the Federal District Court either: 1) in the district where you reside; 2) where you have your principal place of business; 3) where DOE's records are situated; or 4) in the District of Columbia.

You may contact BPA's FOIA Public Liaison, Sarah Westenberg, at the address at the letter header for any further assistance and to discuss any aspect of your request. Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows:

Office of Government Information Services  
National Archives and Records Administration  
8601 Adelphi Road-OGIS  
College Park, Maryland 20740-6001  
E-mail: [ogis@nara.gov](mailto:ogis@nara.gov)  
Phone: 202-741-5770; Toll-free: 1-877-684-6448; Fax: 202-741-5769

Questions about this communication may be directed to James King (CorSource Technology Group, Inc.), assigned to the BPA FOIA office, at [jjking@bpa.gov](mailto:jjking@bpa.gov) and 503.230.7621.

Sincerely,



C. M. Frost  
Freedom of Information/Privacy Act Officer

Attachment: responsive agency record

United States Government

Department of Energy  
Bonneville Power Administration

# memorandum

DATE: March 25, 2008

REPLY TO  
ATTN OF: KS-4

SUBJECT: Retroactive Billing Adjustment Six Year Limit

## Policy

Retroactive billing adjustments processed by Customer Billing are limited to six years. This internal policy was approved by Steve Wright, BPA's Administrator, at the September 25, 2007 Finance Management Committee meeting.

## Scope

This six year limitation will apply to all billing adjustments that are a result of incorrect billing calculations, or updated/revised contracts, rates, meter data, and scheduling data. The six year limit is measured from when the issue is first identified by a Bonneville employee or when the issue is brought to Bonneville's attention by an outside source (i.e., the customer).

## Authority

In accordance with BPA Manual Chapters 20 and 21, the Customer Support Services manager has established this policy to ensure standard procedures and internal controls for limiting the time period of retroactive billing adjustments.

This policy will expire February 28, 2013 unless extended by the Customer Support Services manager, or amended or terminated earlier due to the issuance of a new and/or revised policy. All representatives (internal stakeholders) will be provided draft language, four weeks prior to close of comment to allow the opportunity to comment on revisions to this policy.

## Purpose

Currently BPA determines the duration of retroactive billing adjustments on a case-by-case basis. The current case-by-case approach requires staff to expend valuable time "re-creating the wheel" to determine the appropriate time limitation for the particular situation. To promote operational excellence and equitable treatment of all customers, a standard, repeatable practice for settling customer billing issues is needed.

In the absence of a more restrictive retroactive billing adjustment policy, the policy is similar to what the statute of limitations would allow.

## Rationale

Office of General Counsel has advised that there is a six year statute of limitations on contract claims (except for latent claims that were not and could not be discovered within the six year period). In creating this internal policy, BPA did not limit retroactive billing adjustments to a period shorter than six years.

BPA did not adopt the retroactive billing adjustment policy as part of a rate case because the policy would only be effective for that particular rate period. Each rate period, BPA would have

to invest valuable staff time re-evaluating the policy decision. Nor did BPA explicitly include the six year limitation in customer contracts because such a contract provision may unnecessarily limit BPA's ability to seek legal recourse on certain issues.

BPA is able to achieve its business objectives with an internal retroactive billing adjustment policy without diminishing any legal rights. This policy promotes operational excellence and equitable treatment of all customers and provides BPA staff with a consistent decision making framework for Transmission and Power customer contracts.

### **Roles and Responsibilities**

The Customer Support Services manager is responsible for periodic review of this policy to ensure it continues to meet agency business needs and internal control objectives.

When a retroactive billing adjustment has been identified the Customer Billing group will make the adjustment for the entire time period involved, or six years, which ever is less. The time period may be further limited due to the non-existence of accurate, reliable billing data. The maximum extent of the adjustment is six years.

If a request is made by the Account Executive to shorten the time period involved then the issue will be viewed as either a Settlement or Waiver and must be handled according to the Settlement and Waiver policy.

For retroactive billing adjustments that are not an exception to the six-year limit, communication of the adjustment is to be made via the Customer Account Team, and documentation of the adjustment will be maintained in Customer Billing. The Account Executive and Revenue Analyst will decide who should communicate the adjustment to the customer.

### **Exceptions**

If a billing issue arises where a customer seeks an adjustment on a bill in excess of six years, the Revenue Analyst shall immediately alert the Customer Billing manager. The Customer Billing manager will address and resolve the issue in collaboration with Legal, Transmission Services or Power Services, Risk, and Finance. Claims covered by tolling agreements that prevent claims within the six year period from being timed out while negotiations proceed are not governed by this policy.



Charles V. Maichel, Manager  
Customer Support Services