

BPA Policy 130-3

Functional Statement for General Counsel

General Counsel

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1. Functional Statement for General Counsel

General Counsel provides legal expertise, which supports Bonneville Power Administration (BPA) programs through legal advice and representation, including but not limited to the general areas of transmission, natural resources, power, lands, federal resources and treaties, generation and finance, personnel, and ratemaking.

- A. General** provides the Administrator/Chief Executive Officer (CEO), agency Vice Presidents and agency staff in Power Services, Transmission Services, and other organizations with legal advice and risk assessment, negotiation and alternative dispute resolution, and represents the agency in all areas of litigation before the courts or administrative and regulatory proceedings covering a broad range of subject matters involving personnel, ethics, financial disclosure, finance, procurement, torts, information management, Energy Northwest, E-discovery, delegations, FOIA, and other work of a general nature. This function handles governance and delegations, contracts for and protests of the procurement of goods and services including intellectual property issues, torts claims, Freedom of Information Act/Privacy Act requests, employee property damage claims, ethics including conflicts of interests and financial disclosure, human capital issues including labor issues, both negotiations and disputes, disciplinary actions and requests for reasonable accommodations, and Equal Employment Opportunity claims, copyright and patent issues, physical and computer security processes and procedures. Additionally, the staff advises on and provides other legal representation in the review of BPA's budget, risk management, and also drafts and negotiates other financial instruments including documents related to Energy Northwest and documents in support of bonds related to debt or financing of resource acquisitions, refinancing of such bonds, letters of credit and other financial swaps and issues relating to BPA's authority to issue bonds to the U.S. Treasury (or to the general public as authorized by law), and its authority to incur obligations.
- B. Natural Resources** provides the Administrator/Chief Executive Officer (CEO), agency Vice Presidents and agency staff in Power Services, Transmission Services, and other organizations with legal advice and risk assessment, negotiation and alternative dispute resolution, and represents the agency in all areas of litigation before the courts or administrative and regulatory proceedings covering a broad range of subject matters primarily involving environment, fish & wildlife, National Environmental Policy Act, lands and realty, and the Columbia River Treaty. This function advises on and provides other legal representation concerning issues, compliance and policies under the Endangered Species Act, Pacific Northwest Electric Power Planning and Conservation Act, National Environmental Policy Act, Clean Water Act, Clean Air Act, Resource Conservation and Recovery Act and other environmental laws. This includes cultural resources obligations, and obligations arising under the Hazardous Waste Act, including Comprehensive Environmental Response, Compensation and Liability Act (CERCLA). This function also advises on and provides other legal representation concerning lands and realty issues, including land acquisition through negotiation, condemnation or otherwise, and

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thereafter lands management. This function also handles the Columbia River Treaty and agreements permitting BPA to use additional Canadian storage.

- C. Power** provides the Administrator/CEO and Power Services with legal advice and other legal representation regarding BPA's power marketing policies and power sales contracts and rates; negotiation and alternative dispute resolution services; and represents the agency and business unit in all areas of litigation and judicial appeals regarding BPA's statutory and contractual responsibilities with respect to power marketing, contracts, rates, energy efficiency, resource acquisition, renewable resource policy matters, federal projects, and nonfederal projects, including Energy Northwest. Most, if not all of these areas, are performed and controlled by the Bonneville Project Act, the Pacific Northwest Consumer Preference Act, the Federal Columbia River Transmission System Act, and the Pacific Northwest Power Planning and Conservation Act.

Power legal staff also advises on matters of acquisition of transmission services by the business unit and participation in retail distribution and wholesale transmission initiatives and activities at the state and federal levels. Staff also participates in the establishment of BPA's power rates under section 7(i) of the Northwest Power Act, and at times represents Power Services before the Federal Energy Regulatory Commission (FERC).

- D. Transmission** provides the Administrator/CEO, agency Vice-Presidents and agency staff in Transmission Services with legal advice and other legal representation regarding BPA transmission policies and transmission tariffs, contracts and rates; negotiation and alternative dispute resolution services; and represents the agency in all areas of litigation and judicial appeals regarding BPA's statutory and contractual responsibilities with regard to the provision of transmission service. Subject matter areas covered by these attorneys include the provision of non-discriminatory and open access transmission service under BPA's Open Access Transmission Tariff. Analysis includes evaluation of risk and obligation of providing such service as a non-jurisdictional entity under a safe-harbor Tariff filing.

The staff also advises the agency with regard to pre-open access transmission services and contracts. BPA rates are established pursuant to a hearing process as provided in section 7(i) of the Northwest Power Act. The attorneys represent the agency in this process, submitting testimony, responding to data requests, examining witnesses and preparing all related filings. Other subject areas of responsibility can include telecommunications (including fiber optics and wireless), land acquisition, and management issues. Attorneys also participate in administrative and regulatory proceedings and negotiations regarding the provision of transmission service, including hearings before FERC. Additionally, the staff monitors and responds to developments at FERC with respect to open access transmission, standards of conduct, and deregulation.

Attorneys also give advice with regard to participation in and issues arising out of participation in Columbia Grid, Western Electricity Coordinating Council, North

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American Energy Standards Board (NAESB) and other regional and national industry organizations. Advice is also given regarding the legal aspects of operating BPA’s Open Access Same Time Information System (OASIS), processing of requests in the queue, initiating curtailments and congestion management, offering interconnection of wind and other generators to the BPA transmission system, and preparing business practices developed to implement the Tariff.

- E. Legal Support** is a service center that supports the Executive Vice President and General Counsel, General Counsel Managers, and attorneys providing analysis, information, and assistance in planning, organizing, managing, integrating, and evaluating all legal programs and activities.

2. Review

BPA Functional Statements are reviewed and updated as required due to changes in delegations of authority, statutory changes, or organizational changes.

3. Revision History

| Version | Issue Date | Description of Change |
|---------|-----------------|---------------------------------------|
| 2 | 20 January 2014 | Reformatted into new policy template. |
| 3 | 8/31/2016 | Updated due to re-org |

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