



## Department of Energy

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

POWER SERVICES

December 31, 2008

In reply refer to: PT-5

To Regional Customers and other Stakeholders:

The Bonneville Power Administration has reviewed its FY 2007-2011 block power sales contracts (2007 Block Contracts) with its direct-service industry smelter customers in light of the December 17, 2008, decision by the United States Court of Appeals for the Ninth Circuit in Pacific Northwest Generating Cooperative, et al., v. Bonneville Power Administration (Opinion).

We believe the Opinion supports the agency's authority to enter into power sales agreements with the direct-service industries and, consistent with its other statutory requirements, to monetize such sales. However, the Opinion also invalidated BPA's monetization of the sale under the 2007 Block Contracts inasmuch as BPA failed to base the monetization on the Industrial Firm (IP) power rate. In light of the Opinion, BPA will not make the next scheduled payment in the amount provided by the 2007 Block Contract. That payment for December 2008 operations at the smelters would have been due January 13, 2009.

BPA is working to amend the 2007 Block Contract for the remainder of FY 2009 (January 1, 2009, through September 30, 2009) so that service thereunder will conform to the Opinion. In addition, the amendment provides for a recalculation of the above referenced January 13 payment that will result in an amount consistent with the Opinion.

Accordingly, we are proposing to amend the 2007 Block Contract to use the IP rate as the basis for the monetized arrangement with Alcoa. BPA is continuing to work with Columbia Falls Aluminum Company on a similar deal. As noted, this arrangement is for FY 2009 only. BPA will separately evaluate what further actions should be taken with respect to the 2007 Block Contract in light of the Opinion. In addition, please note that the amendment to the 2007 Block Contract for FY 2009 is separate from the long-term (FY 2012 and beyond) arrangement BPA is also currently developing and that has been the subject of separate public comment.

BPA wants to provide an opportunity for public comment on the proposed amendment. We regret that the issue has come up during the holidays, which has resulted in a limited time to comment on the proposed amendment. BPA believes that it is important to implement this amendment in a timely manner to avoid, if possible, any unnecessary interruption of smelter operations, especially given the difficult economic times and potential loss of additional jobs in the region.

The contract amendment is available for review on BPA's Web site at [www.bpa.gov/power/pl/regionaldialogue/implementation/documents/](http://www.bpa.gov/power/pl/regionaldialogue/implementation/documents/). We look forward to any comments you may have, which should be provided via BPA's electronic comment system at [www.bpa.gov/comment](http://www.bpa.gov/comment) , by 5:00 p.m. January 6, 2009.

Sincerely,

*//s// Allen L. Burns*

Allen L. Burns,  
Vice President, Bulk Marketing