



Department of Energy

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

POWER SERVICES

October 30, 2009

In reply refer to: A-7

To: Regional Customers, Stakeholders, and Other Interested Parties

Re: DSI Service

In an August 19 letter to the region, the Bonneville Power Administration (BPA) issued for public comment a draft long-term power sales contract with Alcoa, Inc. (Alcoa). BPA also proposed an identical draft contract for Columbia Falls Aluminum Company (CFAC).

Today, BPA is seeking public review and comment on revisions to the proposed power sale contracts with Alcoa and CFAC that were the subject of the August 19 letter. Service under those contracts was proposed to start October 1, 2009, but BPA did not make a decision because it needed time to evaluate and respond to an August 28, 2009, Ninth Circuit Court opinion, *Pacific Northwest Generating Cooperative, et al. v. BPA*, Slip OP. 09-70228 (August 28, 2009) ("PNGC II"). As seen in the public comments on BPA's proposed contract with Port Townsend Paper Corporation, views differ on what PNGC II requires to satisfy the sound business principle test, with the most conservative view being that benefits must equal or exceed costs.

BPA now believes that with modifications to the draft contract proposed August 19, 2009, the contract for service to Alcoa is consistent with sound business principles, as that standard may be described in PNGC II. This is due to the incorporation of an "Equivalent Benefits" test that requires that benefits that are forecast to accrue to BPA as a result of providing firm power service to Alcoa equal or exceed the forecast cost of providing such service at the Industrial Firm Power (IP) rate. While BPA believes the equivalent benefits test should not be required under the law, it is following its view of what PNGC II seems to require. In the event that view is mistaken or PNGC II itself is changed, the contract is written to be adaptable, without need for another contract.

BPA's goal has been, and remains, to craft a set of contracts that will strike a balance between minimizing impacts to BPA rates and providing the direct service industries (DSI) a chance to continue operating in the Pacific Northwest and, in doing so, to retain family wage jobs in these trying economic times such that there are "net" employment benefits for the region. The purpose of the Northwest Power Act is to afford the Pacific Northwest an adequate, efficient, economical and reliable power supply, and service to the DSI is consistent with that purpose.

Under the present court interpretation, we believe we are able to offer the DSI smelters a contract with an Initial Period of 19 months that meets the "Equivalent Benefits" test. The modified power sale contracts also provide for a contingent follow-on Second Period if BPA determines it is consistent with the Court's opinions and other rulings with respect to service to DSI customers.

The modifications to the contract reduce the Initial Period of the Block Contract to 19 months from December 1, 2009, through June 30, 2011. BPA will make the same contract offer to CFAC for a one and two potline operation at their smelter located in Montana.

The modified Alcoa and CFAC contract, plus a redline draft of the modifications to the August 19 draft, and a summary of Equivalent Benefits analyses for both Alcoa and CFAC are available for public review and comment until November 9, 2009, on BPA's Website at:

<http://www.bpa.gov/power/pl/regionaldialogue/implementation/documents/>

BPA staff is available to meet and discuss the BPA proposal with interested parties who need further clarification prior to finalizing their comment from November 2 through November 6.

We look forward to any comments you may have, which should be provided via BPA's electronic comment system at www.bpa.gov/comment, by 5 p.m., November 9, 2009. If you have additional questions about this issue, please call Harry Clark at (503) 230-3662 or Heidi Helwig of the Public Affairs Office at (503) 230-3458.

Sincerely,

/s/ Allen Burns

Allen L. Burns
Acting Deputy Administrator