



## Department of Energy

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

POWER SERVICES

Oct. 6, 2010

In reply refer to: PT-5

### **To regional customers, stakeholders and other interested parties:**

BPA is asking for comments on its proposed response to a written request by Alcoa, Inc., to extend the Initial Period of its December 21, 2009, block power sales contract by up to 12 months.

BPA signed a power sale contract with Alcoa in December 2009. The current term of the Initial Period of the Alcoa Contract runs through May 26, 2011. Alcoa currently buys 320 average megawatts of power at the Industrial Firm (IP) power rate.

Section 5.1.1 of the Contract provides that “[u]pon written request by Alcoa, BPA will evaluate extending the Initial Period by no less than three months and no more than one year (“Extended Initial Period”), and will so extend the Initial Period for the duration requested by Alcoa if BPA determines that it will achieve Equivalent Benefits from such Firm Power sales during such Extended Initial Period.”

On September 2, 2010, BPA received a request from Alcoa, per the terms of its contract, to extend the Initial Period of the firm power sale by one year (Extended Initial Period). BPA has evaluated Alcoa’s request, in accordance with the terms of the Block Contract, by making an Equivalent Benefits determination for the extended period. The Draft Equivalent Benefits Analysis Determination for the Initial Period Extension Request will be posted at <http://www.bpa.gov/power/pl/regionaldialogue/implementation/Documents/DSI.SHTML>.

BPA is asking for comments on the Draft Equivalent Benefits Analysis Determination by 5 p.m., October 21, 2010, at [www.bpa.gov/comment](http://www.bpa.gov/comment) (click on the Draft Equivalent Benefits Analysis Determination entry).

As established in the Alcoa record of decision dated December 22, 2009, (the “Alcoa ROD”), the Equivalent Benefits Test is intended to demonstrate that the benefits to BPA of serving the DSI load would equal or exceed BPA’s cost of serving the load during the period of service. BPA is here taking comments only on its Equivalent Benefits determination for the extended period. Issues or comments pertaining to why BPA entered into the Block Contract, legal authority, or any other related threshold matters, many of which were addressed in the Alcoa ROD and are pending review in current litigation, are not within the scope of this determination and will not be addressed. BPA agrees that issues raised in the litigation, and arguments and responses thereto, apart from those involving whether BPA has properly conducted and applied its Equivalent Benefits Test, are not waived by virtue of their not being raised and addressed in this comment forum.

Prior to the execution of the Block Contract, BPA provided the draft contract for public comment. The Alcoa ROD addressed the comments received and provided the rationale supporting BPA's decision to enter into the Block Contract in light of the comments received and the opinions of the U.S. Court of Appeals for the Ninth Circuit in *Pacific Northwest Generating Coop. v. Dep't of Energy*, 580 F.3d 792 (9th Cir. 2009) ("PNGC I") and *Pacific Northwest Generating Coop. v. BPA*, 580 F.3d 828 (9th Cir. 2009) ("PNGC II").

In its notice requesting the extension of the Initial Period of the Block Contract, Alcoa further requested that BPA make a determination within 30 days in order to permit Alcoa to make operating and employment decisions on a timely basis. Absent an Extended Initial Period or a ruling by the court, the Block Contract would terminate in less than eight months on May 26, 2011. In consideration of this request, BPA plans to issue a final determination as soon as practicable, while still allowing reasonable time for public review.

We look forward to seeing your comments. If you have additional questions about this issue, please call Mark Symonds at 503-230-3027 or Heidi Helwig of the Public Affairs Office at 503-230-3458.

Sincerely,

//s// Allen L. Burns

Allen L. Burns,  
Vice President, Bulk Marketing