

Amendment No. 1
Contract No. 06PB-11744

AMENDMENT
executed by the
BONNEVILLE POWER ADMINISTRATION
and
ALCOA INC.
and
PUBLIC UTILITY DISTRICT NO. 1 OF WHATCOM COUNTY, WASHINGTON

This AMENDMENT to the BLOCK POWER SALES AGREEMENT is executed by the UNITED STATES OF AMERICA, Department of Energy, acting by and through the BONNEVILLE POWER ADMINISTRATION (BPA), Alcoa, Inc. (Alcoa), and Public Utility District No. 1 of Whatcom County, Washington (Whatcom) (the Parties). Alcoa is a corporation organized under the laws of the State of Pennsylvania. Whatcom is a public utility district organized under the laws of the State of Washington.

This Amendment No. 1 (Amendment) suspends and replaces for the period January 1, 2009, through September 30, 2009 (Amendment Period) Block Power Sales Agreement No. 06PB-11744 (Agreement) by and between BPA, Alcoa, and Whatcom. Pursuant to this Amendment, Whatcom's obligations under the Agreement are excused during the Amendment Period, and no new or substitute obligations are imposed on or undertaken by Whatcom pursuant to this Amendment a) during the Amendment Period, or b) under the Agreement for any period prior to or after the Amendment Period.

On December 17, 2008, the United States Court of Appeals for the Ninth Circuit (Court) filed its opinion in Pacific Northwest Generating Cooperative, et al., v. Bonneville Power Administration (December Opinion) that held, among other things, that certain provisions of the Agreement are invalid. As a consequence of the December Opinion, BPA halted Monetary Benefit payments under the Agreement.

This Amendment provides for a replacement monetized power sale to Alcoa during the Amendment Period and for the month of December 2008, in a manner and amount that is consistent with the December Opinion.

In reliance on the payments to be made to it by BPA under the Agreement, Alcoa acquired power in the wholesale power market to serve its industrial load during the full term of the Agreement. The average cost of Alcoa's acquisitions exceed BPA's currently forecasted wholesale market price for the Amendment Period. BPA understands the December

Opinion to prohibit payments by BPA to Alcoa that would exceed the difference between the Industrial Firm Power (IP) rate, and BPA's forecasted wholesale market price.

In lieu of delivering firm power to Alcoa at the IP rate during the Amendment Period, BPA will monetize the value of a physically delivered firm power sale at the IP rate, with such value calculated as the difference between the IP rate applicable to the Amendment Period and BPA's forecasted wholesale market price for the Amendment Period. BPA's decision to monetize this transaction is based, in part, on a desire to avoid the risks associated with making the relatively large wholesale market power purchases BPA would be required to undertake, in a short period of time, to serve Alcoa's currently operating load, together with the uncertainty that Alcoa will continue operating at existing levels for the duration of the Amendment Period, given current uncertain economic conditions. Monetization will allow BPA to provide benefits to Alcoa (and obligate BPA to incur expenditures) only in the event Alcoa operates its smelter facility, thereby protecting BPA from making wholesale market purchases that could be both unnecessary in the event Alcoa does not operate, and more expensive than anticipated if actual market prices exceed BPA's current market forecast.

This transaction will be structured as a simultaneous purchase and sale, whereby BPA will be deemed to purchase power from Alcoa during the Amendment Period, in an amount equal to Alcoa's then operating load, at prices equivalent to BPA's currently forecasted wholesale market price for the Amendment Period, and to simultaneously sell back such power to Alcoa at the IP rate. As noted, in lieu of actual power deliveries by either party, the transaction will be monetized.

To summarize, this Amendment adjusts the rate that Alcoa shall pay for power under the Agreement during the Amendment Period to the IP rate, and adjusts the payment made under the monetized transaction to an amount equal to the difference between the IP rate and BPA's forecasted market price for the Amendment Period, which represents the forecasted price that BPA would otherwise pay to acquire power if it were to physically serve Alcoa.

In addition, this Amendment provides for a recalculation (and reduction) of benefits that would have been paid to Alcoa for smelter operation in December 2008, so that such payments will conform with the December Opinion. BPA has calculated a Monetary Benefit payment for December based on 1) BPA's forecasted wholesale market price for the month of December 2008 for purchases made by BPA prior to December 2008, 2) the IP rate in effect for December 2008, and 3) Alcoa's December 2008 operating level.

In addition, the Parties have agreed to modify the provisions regarding the determination of unused benefits under the Agreement to take into account Alcoa's minimum operating level through the Amendment Period. This Amendment is intended to survive the expiration of the Amendment Period. This modification is designed to encourage operation of Alcoa's facilities through the period of increased power production due to fisheries operations on the Federal Columbia River Power System.

This Amendment allows BPA to provide service to Alcoa while it fully considers the December Opinion, including treatment of the payments made to Alcoa under the Agreement prior to the Court's ruling, and the ramifications for service to Alcoa during the final two years of the Agreement (October 1, 2009, through September 30, 2011) following the termination of this Amendment. This Amendment is not intended, and shall not be interpreted, to establish any precedent or to waive any rights or arguments by BPA, Alcoa, or Whatcom regarding the legal rights and obligations of any or all of them under the December Opinion, including but not limited to the manner or amount of service provided by BPA to Alcoa either prior to the December Opinion or after the expiration of this Amendment. The provisions are intended to provide temporary service to Alcoa on terms that BPA, Alcoa, and Whatcom believe adhere to the Court's holdings regarding BPA's authority, while affording the Parties a period of time to negotiate a long term replacement to the Agreement that also is consistent with the December Opinion.

The Parties agree:

1. EFFECTIVE DATE

This Amendment shall take effect on January 1, 2009, following execution by the Parties (Effective Date). This Agreement may be executed in counterparts, and upon execution by each Party, each executed counterpart shall have the same force and effect as an original instrument and as if each Party had signed the same instrument.

2. AMENDMENT OF AGREEMENT

Each provision of the Agreement is incorporated by reference into this Amendment, except the Parties hereby amend such provisions as follows:

- (a) Section 2 of the Agreement (Definitions) shall be inoperative for the period from the Effective Date through September 30, 2009 and replaced by the following; except that sections 2(j) and 2(n) shall be used for purposes of establishing Unused Benefit Amounts under the Agreement for the period October 1, 2009 through September 30, 2011 when calculating benefits during the period from December 1, 2008 through September 30, 2009:

“2. DEFINITIONS

Capitalized terms in this Agreement shall have the meanings defined below, in the exhibits or in context. All other capitalized terms and acronyms are defined in BPA's applicable Wholesale Power Rate Schedule(s), including the General Rate Schedule Provisions (GRSPs).

- (a) “Business Day” means any day except a Saturday, Sunday, or a Federal Reserve Bank holiday. A Business Day shall open at 8:00 a.m. and close at 5:00 p.m. local time for the relevant Party's principle place of business. The relevant Party, in each instance unless otherwise specified, shall be the Party from whom the notice, payment or delivery is being sent and by whom the notice or payment or delivery is to be received.

- (b) “Contract Year” or “CY” means the period that begins each October 1 and which ends the following September 30. For instance, CY 2007 begins October 1, 2006, and continues through September 30, 2007.
- (c) “Demand Entitlement” means during the period when this Agreement operates as a physical Industrial Firm Power sale, the megawatt (MW) amount each hour that Alcoa shall purchase from BPA, as specified in Exhibit E.
- (d) “Equivalent IP” means the applicable average Industrial Firm Power Rate at 100 percent load factor, as determined pursuant to Exhibit F.
- (e) “Escrow Account” means the specific account established pursuant to the provisions in section 9(b) below for receipt of funds from BPA and transfer of funds by Whatcom to Alcoa.
- (f) “Forecast Market Price” means the forecast market price for power at 100 percent load factor for the period from January 1, 2009 through September 30, 2009, as specified in Exhibit F.
- (g) “FY 07-09 Rate Period” means the wholesale power rate period that begins on October 1, 2006, and continues through September 30, 2009.
- (h) “FY 10-11 Rate Period” means the wholesale power rate period that begins on October 1, 2009, and continues through September 30, 2011.
- (i) “Industrial Firm Power” means electric power that PBL makes continuously available to Alcoa under this Amendment except during periods when BPA exercises its interruption rights pursuant to section 4(i) below.
- (j) “Interim Maximum MB Monthly Payment” means the Demand Entitlement times the hours in the month times the MB Rate.
- (k) “MB Monthly Payment” means the monthly Monetary Benefit payment that is available during each month, as calculated in section 6(c)(2) below.
- (l) “MB Rate” means the rate in dollars per megawatt-hour (\$/MWh) used to calculate MB Monthly Payments pursuant to section 6(c) below. The MB Rate is determined by subtracting Equivalent IP from Forecast Market Price.

- (m) “Maximum Allocation” means, for the purpose of determining MB Monthly Payments, the maximum average megawatt (aMW) amount that may be used to determine a MB Monthly Payment. The Maximum Allocation is shown in Exhibit E.
- (n) “Maximum MB Monthly Payment” means the Interim Maximum MB Monthly Payment.
- (o) “Minimum Allocation” means, for the purpose of determining MB Monthly Payments, the minimum aMW amount that may be used to determine a MB Monthly Payment.
- (p) “Monetary Benefits” means monetary payments made by BPA to Alcoa under this Amendment, as determined pursuant to the provisions in section 6 below.
- (q) “Monthly Plant Load” means a monthly aMW amount equal to the Total Plant Load for each month divided by the number of hours in each such month.
- (r) “Monthly Purchase Deficiency” means the monthly amount(s) of Industrial Firm Power not purchased due to a curtailment, as such amount(s) may be adjusted pursuant to section 4(d)(1) below.
- (s) “Northwest Power Act” means the Pacific Northwest Electric Power Planning and Conservation Act of 1980, P.L. 96-501.
- (t) “Other DSIs” means aluminum smelters other than Alcoa that have executed an agreement substantially in the form of this Agreement.
- (u) “Points of Measurement” means the interconnection points between BPA, Alcoa, and other control areas, as applicable. Electric power amounts are established at these points based on metered amounts or scheduled amounts, as appropriate.
- (v) “Point of Receipt” means the points of interconnection on the transmission provider's transmission system where Industrial Firm Power shall be made available by PBL to Alcoa’s transmission provider.
- (w) “Power Business Line” or “PBL” means that portion of the BPA organization or its successor that is responsible for the management and sale of BPA’s Federal power.
- (x) “Region” means the definition established for “Region” in the Northwest Power Act.

- (y) “Total Plant Load” means the amount of electric energy in megawatt-hours (MWh) consumed during each month at Alcoa’s production facilities. A detailed description of Alcoa’s production facilities, including station service requirements and metering equipment, is described in Exhibit B.
 - (z) “Transmission Business Line” or “TBL” means that portion of the BPA organization or its successor that is responsible for the management and sale of transmission service on the Federal Columbia River Transmission System (FCRTS).
 - (aa) “Unused Benefit Amount” or “UBA” means either: (1) an aMW amount determined pursuant to section 7(a) during any period in which Monetary Benefits are provided, or (2) a MW amount determined pursuant to section 7(b) during any period in which this Agreement operates as a physical Industrial Firm Power sale.”
- (b) Section 3 of the Agreement (Applicable Rates) shall be inoperative for the period from the Effective Date through September 30, 2009 and replaced by the following:

“3. APPLICABLE RATES

Purchases by Alcoa under this Agreement are subject to the Industrial Firm Power (IP) rate schedule, IP-07R, or its successor, and the General Rate Schedule Provisions (GRSP). Billing determinants for any purchases will be included in the rate schedule. Purchases under the IP rate schedule are established as follows:

If this Amendment operates as a physically delivered Industrial Firm Power sale pursuant to section 4 below, then section 4(a) below and the Industrial Firm Power rate schedule apply. If the Industrial Firm Power sale is monetized, then the provisions of section 6 below shall establish the applicable Equivalent IP rate.”

- (c) Section 4 of the Agreement (Power Sales Provisions) shall be inoperative for the period from the Effective Date through September 30, 2009 and replaced by the following:

“4. **Power Sales Provisions**

This section 4 only applies when this Agreement operates as a physically delivered Industrial Firm Power sale. In this event, the Monetary Benefit provisions in section 6 shall not apply. All physically delivered Industrial Firm Power provided by PBL under this section 4 is solely for service to Total Plant Load.

(a) **Power Sale by PBL to Alcoa**

(1) **Hourly Amounts**

PBL shall make available and Alcoa shall purchase the Demand Entitlement each hour. The Demand Entitlement is specified in Exhibit E.

(2) **HLH and LLH Energy Entitlements and Demand Entitlement**

The Demand Entitlement multiplied by: (A) the number of HLH, and (B) the number of LLH in the applicable month establishes Alcoa’s HLH and LLH Energy Entitlements with respect to this Amendment.

(b) **Unauthorized Increase Charge**

Alcoa shall not intentionally schedule in excess of the amount specified in section 4(a)(1) above. However, in the event that an excess amount is scheduled due to error, then such amounts taken by Alcoa at the Points of Receipt in excess of the amounts specified in section 4(a) above shall be subject to the Unauthorized Increase Charge for demand and energy consistent with the applicable BPA Wholesale Power Rate Schedules and GRSPs, unless such power is provided under another contract with PBL. Power that has been provided for energy imbalance service pursuant to an agreement between TBL and Alcoa shall not be subject to an Unauthorized Increase Charge for Demand and Energy under this Agreement. Any Unauthorized Increase Charge shall be billed by BPA in accordance with the billing procedures described in section 9(a) below. Any Industrial Firm Power used by Alcoa for any other purpose shall be subject to the Unauthorized Increase Charge.

(c) **Curtailement**

If Alcoa curtails Total Plant Load in whole or in part, then Alcoa may request take-or-pay mitigation for purchases under section 4(a) above pursuant to section 4(d) below.

(d) **Take-or-Pay Mitigation for Curtailments**

If Alcoa chooses to curtail its purchase obligation, then the following terms and conditions shall apply:

(1) **Notice of Curtailement**

Alcoa shall provide written notice to PBL at least three (3) Business

Days in advance of a curtailment. Such notice shall specify the monthly amounts of power to be curtailed and the duration of the curtailment. The election to curtail such power, and the amount and duration of such curtailment, may not be changed without PBL's consent. PBL's sale shall be reduced by the amount of power curtailed. The Monthly Purchase Deficiency will be reduced by any reduction to the Demand Entitlement pursuant to section 7(b)(2) below.

(2) Calculation of Damages

Alcoa shall pay directly to BPA damages for each Monthly Purchase Deficiency equal to the amount by which the reasonable market value of such Monthly Purchase Deficiency is less than the price of the applicable rate specified in Exhibit A. For purposes of calculating damages under this section 4(d)(2), the Monthly Purchase Deficiency(s) shall be reduced by any reduction of Demand Entitlement under section 7(b)(3), effective on the date any such reduction becomes effective. No later than 60 days following September 30, 2009, PBL shall, for each month of the previous Contract Year, calculate the reasonable market value for each Monthly Purchase Deficiency during such period. Reasonable market value and calculation of damages shall be determined as follows.

(A) No later than 3 Business Days prior to the commencement of a curtailment under this section 4(d), Alcoa may obtain one or more transactable quotes for all or a portion of such power from a third party. The transactable quote may be for any length of time and curtailment amount. Each quote shall be deemed equal to the reasonable market value of such power to which the quote applies for the purpose of calculating damages under this section 4(d)(2). BPA may, but shall not be obligated to, resell the curtailed power to the third party, retain the power, or dispose of the power as it chooses. Alcoa shall allow PBL at least 4 hours during normal business hours to decide whether or not to transact under such quote.

(B) BPA shall determine, by any reasonable method, the reasonable market value of the portion of each Monthly Purchase Deficiency for which Alcoa has not obtained a transactable quote. The reasonable market value shall be adjusted to reflect volume and BPA transmission costs associated with remarketing each such portion of the Monthly Purchase Deficiency, regardless of whether each such portion is actually remarketed.

(C) BPA shall bill Alcoa and Alcoa shall directly pay BPA damages for such period equal to the amount by which the sum of the product of (1) each Monthly Purchase Deficiency and

(2) the applicable rate specified in Exhibit A that BPA would have charged each month if the power had been taken under this Agreement, exceeds the sum of the product of (1) each Monthly Purchase Deficiency and (2) the reasonable market value in each month. Amounts for damages under section 4(d)(2)(A) and section 4(d)(2)(B) may only be netted within a Contract Year. BPA is not obligated to pay Alcoa the difference when the reasonable market value exceeds the applicable Industrial Firm Power rate.

It is expressly agreed to by the Parties that BPA shall not be obligated to enter into replacement transactions to determine or collect damages under this section 4(d)(2).

It is also expressly agreed that BPA will apply its then-current applicable credit policies if damages are due under this section 4(d)(2), and such policies may include an obligation to prepay for damages.

(e) **Scheduling**

All Industrial Firm Power transactions under this Agreement shall be scheduled and implemented consistent with Exhibit C, BPA Power Business Line Scheduling Provisions. The procedures for scheduling described in Exhibit C are the standard utility procedures followed by BPA for power transactions between PBL and other utilities or entities in the Region that require scheduling.

(f) **Delivery**

(1) **Transmission Service for Industrial Firm Power**

This Agreement does not provide transmission services for, or include the delivery of, Industrial Firm Power by BPA to Alcoa. Alcoa shall be responsible for executing one or more wheeling agreements with a transmission supplier for the delivery of Industrial Firm Power (Wheeling Agreement). PBL and Alcoa agree to take such actions as may be necessary to facilitate the delivery of Industrial Firm Power to Alcoa, consistent with the terms, notice, and the time limits contained in the Wheeling Agreement.

(2) **Liability for Delivery**

Alcoa waives any claims against PBL arising under this Amendment for nondelivery of power to any points beyond the applicable Points of Receipt. PBL shall not be liable for any third-party claims related to the delivery of power after it leaves the Points of Receipt. In no event shall any Party be liable under this Agreement to any other Party for damage that results from any sudden, unexpected, changed, or abnormal electrical condition occurring in or on any electric system, regardless of ownership. These limitations on liability apply

regardless of whether or not this Amendment provides for transfer service.

(3) Points of Receipt

PBL shall make Industrial Firm Power available to Alcoa under this Amendment at Points of Receipt solely for the purpose of Alcoa scheduling transmission to points of delivery for service to Alcoa's Total Plant Load. Alcoa shall schedule, if scheduling is necessary, such Industrial Firm Power solely for use by its Total Plant Load. PBL, for purposes of scheduling transmission for delivery under this Agreement, shall specify Points of Receipt in a written notice to Alcoa no later than January 1, 2009.

If required by the Wheeling Agreement, when PBL designates such Points of Receipt, PBL shall provide capacity amounts for transmission under the Wheeling Agreement associated with the initial Points of Receipt that can be accepted as firm Points of Receipt under Alcoa's Wheeling Agreement (except in the event that all Points of Receipt on the Federal Columbia River Power System (FCRPS) would be considered nonfirm). The sum of capacity amounts requested by PBL shall not exceed the amount of Industrial Firm Power specified in sections 4(a) above. Such Points of Receipt and their capacity amounts may only be changed through mutual agreement. However, at any time PBL may request the use of a nonfirm Point of Receipt to provide Industrial Firm Power to Alcoa, but notwithstanding section 4(f)(2) above, PBL shall reimburse Alcoa for any additional costs or production losses incurred by Alcoa due to its compliance with such request.

(4) Transmission Losses

PBL shall provide Alcoa the transmission losses between the Points of Receipt and Alcoa's points of delivery for Industrial Firm Power, at no additional charge. Such losses shall be provided at Points of Receipt as established under section 4(f)(3) above, and under the terms and conditions as defined in the transmission provider's tariff.

(g) Measurement

(1) Amounts of Industrial Firm Power taken are deemed equal to the amount scheduled by Alcoa under section 4(e) above or an amount of power as measured at Points of Measurement, as appropriate.

(2) Alcoa shall provide reasonable notice to PBL prior to changing control areas.

(h) Interruption Rights

PBL shall have a one-time right during the term of this Amendment to interrupt deliveries of a portion of the Industrial Firm Power

hereunder pursuant to the following provisions. PBL may interrupt a portion of Industrial Firm Power deliveries if PBL anticipates, in its sole and exclusive discretion, that average forward market prices for a flat block of power will exceed \$125/MWh during an interruption period to be specified by PBL in a written notice. In this event, PBL shall consult with Alcoa prior to providing such written notice. If PBL decides to interrupt, then it will provide 30 days advance written notice to Alcoa that specifies the amount of Industrial Firm Power to be interrupted and the associated interruption period; *provided, however,* that a minimum of 6 aMW will not be subject to any such interruption. Unless the Parties mutually agree otherwise, such interruption period shall extend for a minimum of 6 months and for a maximum of the duration of this Amendment, regardless of the level of actual market prices during an interruption period. In the event of an interruption, BPA shall pay Alcoa, \$24/MWh for amounts interrupted. Payments shall be made pursuant to section 9(b) below. Payments to Alcoa under this section 4(h) shall be used first by Alcoa to compensate Alcoa's employees employed at the time of an interruption under this section 4(h) by providing each such employee, at the election of Alcoa, either (1) the opportunity to work a regular work week (40 hours) at regular wage and benefit rates, or (2) special supplemental benefits such that the employee's effective after-tax income (including any available unemployment income) will be equal to what the employee's income would have been working a regular work week, plus all benefits the employee would have received, had the employee been working a regular 40-hour work week. BPA shall have the right to conduct an audit to verify compliance with this section 4(h). If there is an interruption under this section 4(h), then the portion of Demand Entitlement interrupted shall be treated as if taken for purposes of section 7(b)(1)(A) and shall not be subject to the take-or-pay provisions in sections 4(a).

(i) **Modification of Whatcom's Obligations**

The Parties agree Whatcom shall have no obligation to purchase any power from BPA under this Amendment. The Parties agree Whatcom shall have no obligation to make available to Alcoa any power under this Amendment."

- (d) Section 5 of the Agreement (BPA and Alcoa Options) shall be inoperative for the period from the Effective Date through September 30, 2009 and replaced by the following:

"5. BPA Monetary Benefit Option

BPA has determined that, during the period of this Amendment, in order to minimize the cost risks of supplying Industrial Firm Power, the Parties will monetize the physically delivered Industrial Firm Power sale obligation. As such, BPA will make any MB Monthly

Payments during the period of this Amendment, subject to the provisions of section 6 below.”

- (e) Section 6 of the Agreement (Monetary Benefit Provisions) shall be inoperative for the period from the Effective Date through September 30, 2009 and replaced by the following:

“6. MONETARY BENEFIT PROVISIONS

This section 6 only applies when the physically delivered Industrial Firm Power sale is monetized. The provisions in section 4 shall not apply to Monetary Benefits.

(a) **Determination of Forecast Market Price and Equivalent IP**

PBL has determined the Forecast Market Price and Equivalent IP for the period of this Amendment as specified in Exhibit F.

(b) **Determination of Monthly Plant Load**

No later than five (5) Business Days following the end of each month, PBL shall determine the Monthly Plant Load for each such month.

(c) **Determination of MB Monthly Payments**

The determinations described in Exhibit F and the following procedure as described in section 6(c)(1) through section 6(c)(3) shall be used to determine the MB Monthly Payment for each month.

(1) The Minimum Allocation shall not affect payment of the MB Monthly Payment.

(2) The MB Monthly Payment for each month shall be the amount determined by the following equation:

$$\text{MB Monthly Payment} = ((\text{Monthly Plant Load}) \times (\text{number of hours in the month})) \times (\text{MB Rate}).$$

(3) Notwithstanding anything to the contrary in this Amendment, in no case shall the Monetary Benefits accrued during the period from December 1, 2008 through September 30, 2009, exceed the Monetary Benefit Limit specified in Exhibit E of this Amendment.

(d) **Recalculated Monetary Benefits Payment**

BPA shall pay Alcoa a Monetary Benefit equal to the Monthly Plant Load times the number of hours in the month times \$14.26/MWh to monetize deliveries of Industrial Firm Power

for the Monthly Plant Load during the month of December 2008.

- (f) Section 7(a)(2) and section 7(a)(3) of the Agreement shall be replaced by the following when calculating benefits accessed under section 7(a)(3) for the period from December 1, 2008, through September 30, 2009 and such benefits accessed, or deemed to be accessed, shall be used for purposes of establishing Unused Benefit Amounts under the Agreement for the period October 1, 2009, through September 30, 2011:

“(2) In order to retain its Maximum Allocation, Alcoa must, for at least one month during the preceding 12 months, have received the Maximum MB Monthly Payment. If this condition is not satisfied, then the Maximum Allocation shall be reduced; provided however, if the Monthly Plant Load is either equal to or greater than 160 aMW for all months through June 30, 2009, or equal to or greater than 80 aMW for all months during the term of this Amendment, Alcoa shall be deemed to have received the Maximum MB Monthly Payment for each month of the period from January 1, 2009, through September 30, 2009.

(3) Alcoa shall retain the highest monthly percentage of the available benefits that it accessed during the previous 12 months. As such, Alcoa’s Maximum Allocation shall be reduced by the percentage of the available benefits, rounded to the nearest aMW, that were not accessed during the month that set the highest monthly percentage of benefits accessed. The amount of aMW from this calculation becomes an Unused Benefit Amount or UBA.”

- (g) Section 9(b) of the Agreement (Billing and Payment When Monetary Benefit Payments Provided) shall be inoperative for the period from the Effective Date through September 30, 2009 and replaced by the following:

“(b) **Payment of Interim Monetary Benefits Provided**

Within five Business Days after the end of each month, BPA will review Alcoa’s metered load measurements to determine the Monthly Plant Load for the month.

Within eight Business Days following the end of the month, BPA shall transfer an amount to Alcoa to pay the MB Monthly Payment, except that the payment under section 6(d) above shall be made on the later of eight Business Days following the end of the month or eight Business Days following execution of this Amendment by both Parties.”

- (h) Section 11 of the Agreement (Uncontrollable Forces) shall be inoperative for the period from the Effective Date through September 30, 2009 and replaced by the following:

“11. UNCONTROLLABLE FORCES

(a) **Uncontrollable Forces Provisions During Industrial Firm Power Sale**

If this Agreement operates as a physical Industrial Firm Power Sale, then the following provisions shall apply; *provided however*, that UBA determinations pursuant to section 7 and acquisitions of UBA pursuant to section 8 shall not be subject to Uncontrollable Forces under this section 11(a).

“Uncontrollable Force” means an event beyond the reasonable control of, and without the fault or negligence of, the Party claiming the Uncontrollable Force that prevents that Party from performing its obligations under this Agreement and which, by exercise of that Party’s reasonable diligence and foresight, such Party could not be expected to avoid and was unable to avoid. Uncontrollable Forces include, but are not limited to:

- (1) any unplanned curtailment or interruption for any reason of firm transmission used to deliver Industrial Firm Power to Alcoa’s facilities, including but not limited to unplanned maintenance outages;
- (2) any unplanned curtailment or interruption, failure or imminent failure of Alcoa’s production or transmission facilities, including but not limited to unplanned maintenance outages;
- (3) any planned transmission or distribution outage that affects either Alcoa or PBL which was provided by a third-party transmission or distribution owner, or by a transmission provider, including TBL, that is functionally separated from the generation provider in conformance with Federal Energy Regulatory Commission (FERC) Orders 888 and 889 or its successors;
- (4) strikes or work stoppage, including the threat of imminent strikes or work stoppage; *provided, however*, that nothing contained in this provision shall be construed to require any Party to settle any strike or labor dispute in which it may be involved.
- (5) floods, earthquakes, or other natural disasters; and

(6) orders or injunctions issued by any court having competent subject matter jurisdiction, or any order of an administrative officer which the Party claiming the Uncontrollable Force, after diligent efforts, was unable to have stayed, suspended, or set aside pending review by a court of competent subject matter jurisdiction.

Neither the unavailability of funds or financing, nor conditions of national or local economies or markets shall be considered an Uncontrollable Force. The economic hardship of any Party shall not constitute an Uncontrollable Force. The Party claiming the Uncontrollable Force shall notify the other Party as soon as practicable of that Party's inability to meet its obligations under this Agreement due to an Uncontrollable Force. The Party claiming the Uncontrollable Force shall notify any control area involved in the scheduling of a transaction which may be curtailed due to an Uncontrollable Force.

All Parties shall be excused from their respective obligations, other than from payment obligations incurred prior to the Uncontrollable Force, without liability to the other, for the duration of the Uncontrollable Force and the period reasonably required for the Party claiming the Uncontrollable Force, using due diligence, to restore its operations to conditions existing prior to the occurrence of the Uncontrollable Force.

(b) **Uncontrollable Forces Provisions During Periods When A Monetary Benefit is Provided**

During periods when the Industrial Firm Power sale is monetized, Alcoa understands and agrees that there are no events that will be considered Uncontrollable Forces under this Agreement.”

(i) Section 13(b) of the Agreement (Limitation on Resale) shall be inoperative for the period from the Effective Date through September 30, 2009 and replaced by the following:

“(b) **Limitation on Resale**
Alcoa shall not resell Industrial Firm Power.”

(j) Section 16(c) of the Agreement is deleted for the period from the December 1, 2008 through September 30, 2009.

(k) Exhibit A of the Agreement (Surplus firm Power Rate) shall be inoperative for the period from the Effective Date through September 30, 2009.

(l) Exhibit B of the Agreement (Additional Products, Services, and Special Provisions) shall be inoperative for the period from the Effective Date

through September 30, 2009 and replaced by the attached Revision No. 1 of Exhibit B.

- (m) Revision No. 1 of Exhibit E of the Agreement (Maximum Allocation, Minimum allocation, and Demand Entitlement) shall be inoperative for the period from the Effective Date through September 30, 2009 and replaced by the attached Revision No. 2 of Exhibit E.
- (n) Exhibit F of the Agreement (Determination of Forecast Market Price and Equivalent PF) shall be inoperative for the period from the Effective Date through September 30, 2009 and replaced by the attached Revision No. 1 of Exhibit F.

3. SIGNATURES

The signatories represent that they are authorized to enter into this Amendment on behalf of the Party for whom they sign.

ALCOA, INC.

UNITED STATES OF AMERICA
Department of Energy
Bonneville Power Administration

By _____

By _____
Administrator

Name _____
(Print/Type)

Name _____
(Print/Type)

Title _____

Date _____

Date _____

PUBLIC UTILITY DISTRICT NO. 1 OF
WHATCOM COUNTY, WASHINGTON

By _____

Name _____

Title _____

Date _____

Revision No. 1 of Exhibit B
ADDITIONAL PRODUCTS, SERVICES, AND SPECIAL PROVISIONS
(Amendment No.1 of Contract No. 06PB-11744)
Effective on the Effective Date

1. DESCRIPTION OF ALCOA'S PRODUCTION FACILITIES, STATION SERVICE REQUIREMENTS, AND METERING EQUIPMENT

Production Facilities: are Alcoa's aluminum smelting facilities served from the Government's Intalco Substation, where the 13.8 kilovolt (kV) facilities of BPA and Alcoa are connected.

Metering Equipment: used to measure energy usage of Alcoa's facilities at the Government's Intalco Substation in the 13.8 kV circuits over which such electric power and energy flows.

Alcoa agrees to allow PBL access to all hourly load measurements of its Production Facilities necessary to administer this Agreement.

Revision No. 2, Exhibit E
MAXIMUM ALLOCATION, MINIMUM ALLOCATION, AND DEMAND
ENTITLEMENT

(Amendment No.1 of Contract No. 06PB-11744)
Effective on the Effective Date

1. MAXIMUM AND MINIMUM ALLOCATIONS

During periods when Monetary Benefits payments are provided pursuant to section 6 of the body of this Agreement, the Maximum Allocation, Minimum Allocation, and Monetary Benefits Limit amounts are as follows:

Maximum Allocation:	Demand Entitlement
Minimum Allocation:	0 aMW
Monetary Benefits Limit:	\$31,899,596

2. DEMAND ENTITLEMENT

The Demand Entitlement shall be as follows:

- Demand Entitlement: The average Total Plant Load from December 1, 2008, through December 17, 2008.

3. REVISIONS

BPA shall not revise this Revision No. 2 of Exhibit E to reflect changes to Maximum Allocation, Minimum Allocation, Monetary Benefits Limit, and/or Demand Entitlement for the period it is in effect.

Revision No.1 of Exhibit F
DETERMINATION OF FORECAST MARKET PRICE AND EQUIVALENT IP
(Amendment No.1 of Contract No. 06PB-11744)
Effective on the Effective Date

1. DETERMINATION OF FORECAST MARKET PRICE

The Forecast Market Price for the period from January 1, 2009 through September 30, 2009 shall be \$48.05/ MWh.

2. DETERMINATION OF EQUIVALENT IP

The initial Equivalent IP for the period from January 1, 2009 through September 30, 2009 shall be \$32.70/MWh.

- (a) Each time any adjustment, surcharge, dividend or true-up to the IP Rate is proposed by BPA in writing (which may be before the date such change will actually be applied to the PF Rate), BPA will adjust the Equivalent IP and the MB Rate and MB Monthly Payments for the remaining months of such CY. Such adjustment will take into consideration the Monetary Benefits provided to date and the IP Rate adjustment to provide an end-of-CY total Monetary Benefit to which Alcoa is entitled. If such recalculation indicates that BPA has paid Alcoa more in Monetary Benefits than the amount to which Alcoa is entitled, then BPA will reduce the MB Monthly Payments to Alcoa over the next following three months (if full recovery of the amount is not possible in the 3-month period BPA may invoice Alcoa for the remaining amount), by the amount needed to recover the overpayment. If adjustments, surcharges, and true-ups are established after the CY, then BPA will calculate the final Equivalent IP rate for such portion of the CY and adjustments to Monetary Benefit will be applied in the following CY.
- (b) If, upon termination of this Agreement, a true-up or other adjustment following the end of the final CY results in a payment owed by Alcoa to BPA, then BPA shall invoice Alcoa for such payment within 90 days following the end of such final CY. Such payment shall be made by Alcoa within 20 days following the receipt of such invoice. If, upon termination of this Agreement, a true-up or other adjustment following the end of the final CY results in a payment owed by BPA to Alcoa, then BPA shall pay Alcoa no later than 90 days following the end of such final CY.

3. REVISIONS

BPA shall have the unilateral right to revise this Exhibit F to reflect changes in Equivalent IP for CY 2009 calculated pursuant to this Exhibit F. Any changes to the procedure used to determine Equivalent IP may only be made upon mutual agreement of the Parties.