



Bonneville Power Administration

**Customer Comments on the BPA
Stakeholder Meeting addressing the
Imbalance Service public process**

April 11, 2014

Comments Received from
Public Power Council

Posted April 17, 2014



April 11, 2014

VIA EMAIL

Tech Forum
Bonneville Power Administration
911 NE 11th Avenue
Portland, Oregon 97232
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Re: Comments of Public Power Council regarding Ancillary and Control Area Services and Rates Issues that Should Be Included In the Scope of the BP-16 Rate Case

Dear Tech Forum:

At the ACS Forum on April 1, BPA staff discussed aspects of the upcoming BP-16 rate case that have been within the scope of prior rate cases but which BPA would like to consider excluding from the rate case. In particular, BPA staff asked customers to consider whether the following balancing capacity services and rates issues should be excluded from the BP-16 rate case and resolved in a process outside of the case:

- The definition of the balancing services, which we understand to mean the terms and conditions of those services, primarily Variable Energy Resource Balancing Service (VERBS);
- The quantification of reserves needed, which has been described as the need to “establish the methodology to calculate the total quantity of balancing reserve capacity needed to provide imbalance service;”¹ and
- The quantification of the amount of balancing reserve inventory, or the need for BPA to “establish the methodology to determine the quantity of balancing reserve capacity that can be provided for ancillary and control area services from the FCRPS (“physical feasibility”),” which we understand to be the amount available from the FCRPS net of firm power sales and other firm commitments.²

We understand that BPA staff proposes that decisions resolving these issues outside the rate case would be formal and final and not open to challenge in the rate case.

Removing These Issues From The Rates Case Strips BPA And Customers of Legal Protections And Is Not Acceptable

Removing these parts of the rate case from the scope of the case and resolving them in a non-rates process strips PPC’s members of the legal protections of the hearing

¹ BPA, *Generation Inputs Workshop*, slide 45 (Apr. 1, 2014).

² *Id.*; see also *id.* at slides 46-49.

process prescribed by section 7(i) of the Northwest Power Act. By definition, these issues would not be subject to review and debate in the rate case, having been already finally decided. We are not willing, and do not agree, to forego those protections for the resolution of these issues.

Nor would we suggest that BPA give up the protections that the hearing process affords it. First, FERC's authority to review issues litigated in the rate case is limited to the standards prescribed Northwest Power Act and other of BPA's organic statutes. Second, FERC must review rates issues brought to it through the BPA rates process in an appellate role, using *only* the record that BPA develops during the hearing process. Third, in the rates process BPA may define the scope of the issues and force parties to raise all of their pertinent arguments in the rate case for BPA to see and deal with. None of these holds true for issues decided by BPA in a notice and comment process, particularly if a party decide to file a 211A complaint instead of pursuing Ninth Circuit review. In short, we see this as a fundamental change in the way that BPA makes rates decisions that does not comport with the process prescribed by the Northwest Power Act.

Removing These Issues From The Rate Case Is Unlikely To Produce A Better Result

From a process standpoint, we understand BPA's desire for a more streamlined rate case. Convenience cannot justify excluding rates issues, however, and we do not agree with the idea that simply taking these issues out of the rate case will produce a faster or better result. Discussions of these issues in the past four rate cases (WI-09, BP-10, BP-12 and BP-14) have been consistently contentious, resulting in settlement or partial settlement only of results and not of fundamental issues. Also, those settlements were reached only once the litigation was well underway. We do not expect to see a change in this pattern and do not expect any material or durable progress on the issues absent decisions on fundamental principles. In the past, we have held extensive workshops on these issues without reaching agreement or wholly satisfactory results. Given this, we do not believe that working through any of these issues in a notice and comment format will yield better or more durable results than would a rate case. As this is the only material potential benefit for taking the items out of the rate case, we do not believe that that course of action would be beneficial and should be abandoned.

Nor do we believe that removing the establishment of methodologies from the BP-16 case would produce superior or more defensible methodologies. BPA must propose and defend methodologies for determining the capability of the FCRPS to produce balancing reserves and a methodology for determining the amount of capacity required to meet BPA's obligations under its long-term power contracts and other commitments. BPA must do this regardless of whether it does so in a rate case or notice-and-comment process. We can see no benefit to a notice-and-comment process rather than the rate case workshops with a decision made in the rate case hearing process. As noted above, settlement is not more likely, and may be less likely, without the "stick" of litigation and with the "lure" of taking a

more direct path to a FERC complaint, which would not be stayed pending the BPA hearing process.

Removing These Issues From The Rate Case Is Impractical And We Urge BPA To Retain Them In The Rate Case And Focus On Workshops

All of these issues are properly rates issues.³ They consist of the methodologies required for calculating the costs and charges for services that BPA will provide and all are tightly interrelated. BPA must know the terms and conditions of the balancing services in order to quantify the amount of reserves needed. BPA cannot definitively calculate the embedded and variable costs of the FCRPS attributable to providing these services without service definition, calculated need and an assessment of the amount of reserves the FCRPS can produce, net of its firm power commitments. Moreover, in the past we have seen that VERBS customers wish to know the rate and costs before they commit to a service definition because changes to the service definition in turn raise or lower the costs and rate. For these reasons alone we do not agree that it is pragmatic to separate all of these rate components or to take them out of the rate case.

Of the three rates issues, only service definition is susceptible to being considered outside of the rate case. There is precedent for doing so, but with five months separating us from the start of the run-time for initial studies, we do not agree that the issue should be removed from the scope of the BP-16 case. BPA will have to have the issue resolved, or very nearly so, by the start of the BP-16 case in order to avoid the parallel process that made the BP-14 case difficult.⁴ At that point, the more prudent course would be to include those definitions in the initial proposal, both as support for the other rates decisions and in order to conclude the resolution of the service definition in a timely fashion.

To that end we would support Alternative 1 (all three issues are litigated in the section 7(i) process). We could consider Alternative 2 (resolution of the service definitions outside of the rate case) only with qualifications regarding the sequence and content of the process. Our very strong preference is that BPA take the following steps –

- BPA should establish at the start of workshops that the default for balancing services is either (1) full service that covers all, or nearly all, of the forecasted potential variability or (2) self-service.⁵
- Hold workshops for the next five months to develop discounted, lower-quality of service for those customers that might wish to purchase it and that provides BPA the ability to curtail, and limit to, schedules as the *quid pro quo* for the discount (discount priced at the value of the balancing capacity reduction). It is neither

³ The issues have all previously been litigated in BPA rate cases as rates issues..

⁴ In this regard the difficulty stems from the interrelated nature of the issues, which is an attribute of the issues regardless of whether or not a separate process is provided for service definition.

necessary nor desirable for BPA to offer multiple or customized options. BPA will have to offer each of these services to all customers in the class. This increases the complexity of managing the services and the risk of disputes, increases the costs of offering the services, and diverts the attention of BPA staff from higher value work, among other things.

- Because the rates and rate design for the full-service and discounted-service option (if any) must be established in the rate case, service definitions must be concluded prior to the start of the rate case.
- The terms and conditions of the full service and discounted-service options (if any) would be within the scope of the rate case. BPA should not propose discounted services, however, without customer consensus.
- BPA should hold workshops regarding, and develop methodologies to forecast, the FCRPS balancing capacity capability and determine the amount of capacity required to meet long-term power commitments; it should propose both methodologies in the initial proposal so that these issues can be litigated in the rate case.

We appreciate your willingness to take comment on these issues and consider our views. We look forward to further discussions of these issues in the near future.

Sincerely,

/s/

Nancy Baker
Senior Policy Analyst

cc: R. Scott Corwin, Executive Director