



**Bonneville Power Administration
Transmission Services**

2009 Network Open Season Petition

Posted for reference:
June 2, 2009

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

United States Department of Energy)
Bonneville Power Administration)
Transmission Service Terms)
and Conditions)

Docket No. NJ09-_____

BONNEVILLE POWER ADMINISTRATION’S PETITION FOR DECLARATORY ORDER
GRANTING RECIPROCITY APPROVAL FOR CERTAIN TERMS AND CONDITIONS OF
OPEN ACCESS TRANSMISSION SERVICE AND FOR EXEMPTION FROM FILING FEE

Pursuant to 18 C.F.R. § 35.28(e) and 18 C.F.R. § 385.207, the Bonneville Power Administration (“BPA”) hereby submits certain amendments to its Open Access Transmission Tariff (“OATT”) and petitions the Federal Energy Regulatory Commission (“Commission”) for a declaratory order accepting these revisions as satisfying the Commission’s standards for reciprocity approval. BPA acknowledges the Commission’s policy not to provide safe harbor status for a non-jurisdictional tariff until Commission approval of Order 890 revisions.¹ Approval of these provisions in advance of the Commission’s order on BPA’s Order 890 filing² will enable BPA to proceed with its 2009 Network Open Season (“NOS”) without delays in restacking the transmission service queue and commencing the NOS cluster study.

The Commission approved BPA’s 2008 Network Open Season proposal, including changes to the body of BPA’s OATT and the addition of a Precedent Transmission Service Agreement (“PTSA”) as an attachment to the OATT.³ As described below, the 2008 NOS was extremely successful. In this Petition, BPA seeks approval of: (1) changes to the PTSA that

¹ *Preventing Undue Discrimination and Preference in Transmission Service*, 118 FERC ¶ 61,119 (2007) (Order 890), at P 191.

² BPA’s Order 890 compliance filing is pending in docket No. NJ09-1-000.

³ *Bonneville Power Administration*, 123 FERC ¶ 61,264 (2008) (“2008 NOS Order”).

clarify both the language and the implementation of the PTSA; (2) changes to the timeline for BPA to conduct a NOS process reflected in changes to the PTSA and in the body of BPA's OATT; (3) the addition of an exhibit to the PTSA through which a customer will provide information related to the source and sink for each transmission service request ("TSR") so that BPA is able to conduct an accurate cluster study; (4) the addition of language addressing how PTSA customers may exercise extensions for commencement of service and how such customers must compete under OATT section 17.7; and (5) revisions that establish an additional option for customers that must provide a security deposit or other form of assurance of performance under the PTSA. These modifications are explained, in part, in the body of the Petition below and are also identified and explained in Exhibit A to this Petition. Exhibit A lists all of the proposed changes to the PTSA and OATT.

In the 2008 NOS Order, the Commission encouraged BPA to work with the Commission and stakeholders to address issues concerning renewable resources and to tailor an open season process for intertie capacity. BPA addresses those matters below, including describing how the 2008 NOS has supported development of wind generation.

Last year, BPA stated that it intended to conduct a NOS annually.⁴ BPA proposes to conduct its 2009 NOS starting June 1, 2009, and to allow customers to return signed PTSAs by August 19, 2009. Applying the same procedure followed for the 2008 NOS, BPA would then update its transmission service request queue by removing TSRs for which no PTSA was signed, and BPA would offer any freed-up available transfer capability ("ATC") in queue order to PTSA customers. BPA respectfully requests the Commission to act on this filing as soon as practicable in order to accommodate the proposed 2009 NOS timeline. BPA respectfully requests that the

⁴ Bonneville Power Administration, Docket No. NJ08-7-000, Petition for Declaratory Order, p. 5; 2008 NOS Order at P 10.

Commission approve these revisions by July 19, 2009, and no later than August 19, 2009.⁵ If Commission approval is not received by August 19, 2009, BPA may delay removing TSRs for which PTSAs were not signed from the queue.

This filing includes the following:

1. BPA's petition for declaratory order and request for exemption from filing fee.
2. Exhibit A, which includes a list of the proposed changes to the PTSA and to BPA's OATT and a brief description of the rationale for some of the changes.
3. Exhibit B, which includes redlined and clean copies of revised tariff sheets showing the revisions to the body of the OATT and the PTSA. Because BPA is proposing changes throughout the PTSA, Exhibit B includes all the pages of the PTSA for ease of review.
4. Exhibit C, which is a summary of the results of the 2008 NOS.

NOTICES AND COMMUNICATIONS

Communications concerning this proceeding should be addressed to:

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⁵ BPA requests approval by July 19 because if the Commission disapproves any PTSA provision, a party has 30 days to terminate a signed PTSA pursuant to section 10 of the agreement. In the event of Commission disapproval of a PTSA provision, a July 19 order would require parties to terminate by the time BPA would conduct the re-stack of the queue (*i.e.*, remove TSRs for which no PTSA was signed).

REQUEST FOR EXEMPTION FROM FILING FEE

Commission regulations provide that anyone engaged in the official business of the Federal Government is exempt from the fees required by 18 C.F.R. Part 381 and may petition for exemption in lieu of the applicable fee.⁶ BPA is an agency within the United States Department of Energy. It is a Federal power marketing administration with its principal place of business at 905 N.E. 11th Avenue, Portland, Oregon. BPA requests exemption from the filing fee.

PROPOSED CHANGES TO THE PTSA AND OATT

In this Petition, BPA is proposing changes to the PTSA and the OATT that: clarify existing language and procedures; make slight modifications to the timing of certain steps in the NOS process that benefit BPA and customers; require customers to submit information related to source and sink for the TSRs associated with their PTSAs so that BPA may develop useful plans of service as the result of the NOS cluster study; adapt the deferral and competition provisions of OATT section 17.7 to the NOS process; and provide an additional method for customers to provide security to accommodate consumer-owned utilities in Washington state. As explained below, these changes all substantially conform or are superior to the *pro forma* OATT and to BPA's previously-approved PTSA and NOS OATT provisions. Exhibit A to this Petition lists all of the proposed changes to the PTSA and OATT and includes a brief explanation of the changes that are not explained in detail in the sections of this Petition that follow.

1. Clarifying Changes. The clarifying changes to the PTSA draw from BPA's experience with the 2008 NOS to help clarify and enhance certain aspects of the agreement. Some proposed changes are the result of customer comment regarding how to clarify or improve the PTSA.⁷

⁶ 18 C.F.R. § 381.108.

⁷ At a public meeting on April 28, 2009, BPA requested comments on the April 23, 2009, draft of the revised PTSA. BPA received comments from 10 customers, which have been considered in developing the PTSA attached to this Petition. A summary of the comments and BPA's responses are posted at

Other proposed clarifications reflect BPA’s internal review of the agreement and efforts to more precisely describe the processes and policies that BPA will follow. These proposed revisions are consistent with the PTSA provisions that the Commission approved last year because they do not modify the agreement substantively. The proposed revisions improve upon, and are superior to, the PTSA provisions previously approved because they enhance the clarity of certain aspects of the agreement and more accurately describe BPA’s practice and policies. The sections that follow describe some of the more significant clarifying changes.

(a) Definitions – Section 2. BPA proposes to revise certain definitions in section 2 of the PTSA.

(i) Direct Assignment. BPA proposes to define “Direct Assignment” in section 2(d) and to add other provisions regarding direct assignment in PTSA sections 1 and 5. The definition in PTSA section 2(d), although not identical to the definition in OATT section 1.11, substantially conforms to that definition and is superior to it because it provides additional detail that is consistent with Commission policy. These changes reflect that BPA will make determinations regarding Direct Assignment in the NOS cluster study consistent with the timing for such a determination under the *pro forma* tariff. Under sections 19.4 and 32.4 of the *pro forma* tariff, the transmission provider determines direct assignment of facility costs as part of the facilities study. In the NOS context, BPA performs a cluster study to identify the facilities necessary to provide service rather than performing an individual facilities study. Thus, the timing of BPA’s proposed direct assignment determination under the PTSA substantially conforms to the *pro forma* OATT. BPA’s proposed addition to section 5 makes explicit that all expansion facilities identified in the NOS cluster study are subject to potential direct assignment

http://www.transmission.bpa.gov/customer_forums/open_season_2009/Response_to_Customer_Comments_05_20_09.pdf.

of costs. The proposed change in section 1 provides for the PTSA to terminate if BPA determines that facility costs should be directly assigned. Such facilities would not move forward under the NOS process at embedded cost rates, and the PTSA terminates in that event. This retains the customer's ability to choose whether or not to pay the direct assignment costs.

(ii) Eligible TSRs. BPA proposes to revise the definition of "Eligible TSRs" to exclude TSRs that are subject to PTSAs under the 2008 NOS, TSRs for which BPA has determined that it can provide service prior to the 2009 NOS, or TSRs for which customers have requested that BPA study and process the TSR individually rather than in a cluster study. On a going forward basis, certain TSRs in BPA's queue will have PTSAs from a previous NOS and will therefore be excluded from a future NOS. In addition, BPA is offering customers with TSRs that are eligible for the 2009 NOS the option to "opt out" of the NOS and have BPA study and process the TSRs individually based on the *pro forma* OATT process. TSRs for which customers elect to opt out of the 2009 NOS thus become ineligible for the 2009 NOS and are excluded from the definition of Eligible TSR.

(iii) Table. BPA proposes to add a definition of "Table" in section 2 to replace the term "Service Agreement." This proposed change better reflects how BPA and its customers use those terms in practice. In the existing PTSA, "Service Agreement" refers to Exhibit A to the PTSA, which includes the specifications for service associated with the customer's TSR. Using "Service Agreement" in this context created confusion, however, because BPA and its customers commonly use that term to refer to the "umbrella" agreement for point-to-point or network integration transmission service attached to BPA's OATT as Attachments A and F. To address this confusion, the proposed PTSA revisions add "Table" to refer to the customer's

specifications for service in Exhibit A to the PTSA and delete the definition of “Service Agreement.” BPA proposes revisions throughout the PTSA to reflect the change in terminology.

(iv) Other Changes. BPA proposes clarifying changes to the definitions of “Network Open Season” and “Open Season Deadline.” These revisions do not modify the definitions substantively. BPA also proposes to add a definition of “Performance Assurance” to replace the definition of “Security.” Section 5 of this Petition describes the reasons for this change. BPA proposes to revise the definitions of “Bridge” and “Conditional Firm Service” in PTSA section 2 to clarify the use of those terms in other provisions of the PTSA. Additional changes to the definitions, PTSA section 2, not described above are described in Exhibit A to this Petition.

(b) Providing Service without Construction of Expansion Facilities - Section 4. BPA proposes to revise PTSA section 4 to clarify that BPA will analyze its ability to provide service without new facilities, and sign PTSA Tables to provide such service, throughout the term of the agreement. In addition, BPA proposes changes to the titles and terminology in PTSA section 4 to more closely match the terminology regarding the service commencement date in PTSA section 6. The reference to the need for “Expansion Facilities” is consistent with the terminology in PTSA section 6, which distinguishes how to establish a customer’s service commencement date depending on whether expansion facilities are required.

The proposed changes do not alter how BPA evaluates its ability to provide transmission service when new facilities are not required. The change in terminology is more consistent with BPA’s current processes, and it does not change those processes.

(c) Conditional Firm. Customers with PTSAs are eligible for conditional firm service, but any such service awarded to PTSA customers will be provided under a separate

agreement.⁸ BPA proposes revisions throughout the PTSA to reflect the agency's experience with conditional firm service since the 2008 NOS filing. BPA proposes to revise the definitions of "Bridge" and "Conditional Firm Service" in PTSA section 2 to clarify the use of those terms in other provisions of the PTSA. The proposed change in PTSA section 3(d) specifies that the customer's election with respect to partial offers does not affect a conditional firm offer. Proposed changes to PTSA section 8 specify the contract and OASIS administration steps that will be taken to have the table reflect that the customer has accepted conditional firm service for a particular TSR.

(d) Decision to build. Section 1(b)(1) of the existing, and proposed, PTSA makes BPA's decision to build a condition of the customer's obligation. The "Decision to Build" provision is a paragraph under the heading "National Environmental Policy Act (NEPA) Compliance" in the existing PTSA, paragraph 5(d)(2). BPA proposes making it a subsection, subsection 5(d). The new proposed subsection 5(d) changes the language of previous paragraph 5(d)(2) to clarify the separation between the NEPA process and the decision to build. Although the decision to build paragraph (paragraph 5(d)(2)) is separate from the "NEPA Process" paragraph (paragraph 5(d)(1)) in the existing PTSA, the proposed changes making the decision to build a separate subsection emphasize the separation. In February 2009, BPA's Administrator decided to construct the McNary-John Day line, which is one of the projects identified by the 2008 NOS cluster study. In making that decision, the Administrator treated the NEPA analysis, which had been conducted prior to the start of the 2008 NOS, separately from the decision to build the line.⁹

⁸ See PTSA section 8.

⁹ See http://www.transmission.bpa.gov/customer_forums/open_season/docs/McNary-John_Day_Public_Letter_02_19_2009.pdf. The Administrator considered the embedded cost rate determination and the availability of additional BPA borrowing authority as well as the NEPA analysis.

Along with the separation of the decision to build language into the new subsection 5(d), BPA proposes clarifying changes to the NEPA compliance section in subsection 5(c) of the proposed PTSA. These revisions clarify that BPA will be responsible for NEPA review costs for only those facilities that move forward at embedded cost rates, and eliminate some redundancy in the existing language.

2. Modifications of the NOS Timeline. BPA proposes to modify certain aspects of the timeline related to NOS. These proposed changes are consistent with the PTSA and OATT provisions approved for the 2008 NOS because they do not alter the customer's or BPA's substantive rights. The proposed changes are superior to the 2008 NOS timelines because they provide customers additional time to decide whether to participate in NOS and provide BPA with additional time to make fully informed decisions with respect to expansion facilities identified through a NOS. Further, these timeline changes are short, as described below.

BPA required customers in the 2008 NOS to provide security under the PTSA approximately two weeks after the deadline for returning signed PTSAs. For the 2009 NOS, BPA proposes to require that customers both return signed PTSAs *and* submit a security deposit or other form of performance assurance by the same date (August 19, 2009). This proposed change in PTSA section 3(e) provides customers additional time to decide to sign a PTSA¹⁰ and eliminates uncertainty for BPA associated with customers that may return signed PTSAs but fail to provide performance assurance.

BPA proposes to extend the deadline for the rolled-in rate determination under PTSA section 5(e) from eight months to eleven months. One of the lessons that BPA learned from the 2008 NOS was how much time is required to complete the analysis, documentation, and internal

¹⁰ Under the 2009 NOS timeline, customers have approximately a month and a half to return signed PTSAs compared to one month in the 2008 NOS.

decisionmaking process to determine whether to move forward with projects identified in the cluster study at rolled-in rates. Although BPA was able to complete the necessary analysis and make this decision within the eight-month deadline in the PTSA for the 2008 NOS, neither the agency nor its customers will be served in the future if potential time pressures limit the ability to conduct the necessary analysis or gather the necessary information to make a fully informed decision on such an important issue. The results of a decision made hastily or without complete information could be detrimental to both BPA and its customers.

Proposed revisions to OATT sections 19.10 and 32.6 provide that the 120-day timeline for the cluster study would not begin until fourteen days after the deadline for returning signed PTSAs and providing performance assurance. The revised tariff sheets in Exhibit B include the proposed revisions. Sections 19.10 and 32.6 currently provide for the cluster study to begin at the later of the date for returning signed PTSAs or security, which allows no time for BPA to update the queue prior to commencing the cluster study. In the 2008 NOS, BPA anticipated that removing TSRs and otherwise updating the queue after PTSAs were due would be completed quickly, but, in reality, it took approximately two weeks. Given that the specific TSRs to include in the cluster study is one of the most fundamental pieces of information needed to conduct that study, providing two weeks to update the queue and compile accurate information for the cluster study is appropriate.

Finally, the proposed revisions in section 5(e)(1)(ii) modify the 36-month “NEPA Deadline” in the current PTSA to a 39-month deadline to complete NEPA review and decide whether to build the facilities. This revision ensures that BPA must complete NEPA review under approximately the same deadline as the current PTSA, but recognizes that the internal

process necessary to make the decision to build facilities will take some additional time after BPA completes NEPA review.

3. New Planning Information. BPA proposes to add Exhibit B (Customer Information Required for Cluster Studies) to the PTSA in order to reduce the potential for incorrectly determining the infrastructure that will be needed to accommodate the requested service. As explained below, the information requested in Exhibit B conforms to the *pro forma* tariff and, as such, should be accepted as part of the modified PTSA.

By including Exhibit B in the modified PTSA, BPA proposes to require NOS participants to provide information related to source and sink for each TSR to indicate how the requested transmission service will be used. Section 1 of Exhibit B of the proposed PTSA addresses the source and requires customers to identify the resource, including the electrical point (*i.e.*, substation) where the resource interconnects with a transmission system (BPA or other system) supplying the capacity and energy associated with the TSR. Section 2 of Exhibit B addresses the sink and requires customers to identify, to extent possible, the load to be served by the resources associated with the TSR, including the electrical point (*i.e.*, substation) on the transmission system. If the customer is unable to identify the load being served, it must indicate whether the load will be either within or outside of the Northwest. Finally, section 3 of Exhibit B asks the customer to revise the information in Exhibit B as changes are made or become known.

The information requested in the proposed Exhibit B is consistent with the information that BPA currently may require from customers pursuant to section 17.2(iv) (Completed Applications – Point-to-Point Transmission Service) and section 29.2(iii, iv, and v) (Completed Applications – Network Integration Transmission Service) of the OATT. In determining whether a customer has submitted a completed application outside of NOS, BPA does not

currently require customers to submit the source and sink information set forth in sections 17.2 and 29.2 of its OATT. BPA has made that concession to customers because, to date, it has not determined that detail to be essential outside of NOS when requests are being granted using existing infrastructure or new infrastructure paid for by the customer. That said, BPA may not be able to make that compromise for customers outside of NOS as circumstances change in the future.

BPA has determined that a greater amount of specificity is needed to develop the plan(s) of service under NOS because it is analyzing whether and to what extent it can make the necessary upgrades to its transmission system to accommodate the requests at issue. The NOS cluster study includes analyses such as powerflow, voltage stability, and transient stability. To conduct those studies, imports and generation must balance with loads and exports. The NOS cluster study requires a variety of assumptions about what generation should be decremented and what loads and load growth served in order to accommodate the increased generation associated with the requested service. The information requested in Exhibit B is needed to guide and direct the 2009 NOS cluster study so that BPA can better identify the system reinforcements that are necessary to support the service requested by NOS participants.

Inaccurate or incomplete information could lead to incorrect study assumptions. Incorrect assumptions present two major risks to BPA and its rate-paying customers. First, the plans of service that result from the cluster study could cause BPA to build infrastructure that is not actually needed in order to provide the requested service. Because BPA is supplying the capital for constructing the new infrastructure, BPA and its rate-paying customers bear the principal financial risk associated with incorrect planning assumptions. Second, the cluster study could fail to identify needed infrastructure to support the requested service. That outcome could

result in increased curtailments until the infrastructure that is needed is appropriately identified and ultimately constructed. By requiring customers to provide the requested information in Exhibit B, BPA is seeking to reduce its potential to incorrectly assess what infrastructure is needed.

BPA used assumptions regarding load growth and generation in the 2008 NOS cluster study to balance the inputs for the cluster study and, having done so, significantly decreased the ability to further modify of those assumptions for the 2009 NOS cluster study. Therefore, for the 2009 cluster study, BPA has included the planning information requirements in PTSA Exhibit B to refine assumptions about what resources in the region are being decremented to allow additional new generation or imports reflected in the new TSRs to be absorbed by forecasted load and exports. Because of the limits to these assumptions, it is possible that in future open seasons additional detail will be necessary in order to complete the cluster study. BPA will continue to learn from the NOS cluster study process and will work with stakeholders in developing additional planning information requirements if such modifications are determined to be necessary.

The requested information is consistent with what a transmission provider may already require under the OATT and should, thus, be accepted as part of the modified PTSA. Further, because NOS is an enhanced process under which BPA, rather than customers, bears the up-front costs, the more specific information requirements in the modified PTSA are justified due to the benefits afforded to the participating customers.

4. Competitions under OATT Section 17.7 as Applied to NOS. Under OATT section 17.7, a customer may obtain up to five one-year extensions for commencement of service, subject to the existence of a competition, by paying a non-refundable reservation fee equal to one-month's

charge for transmission service for each one-year extension. A “deferral competition” exists under OATT section 17.7 if the transmission provider identifies a competing request that can be satisfied only by releasing all or part of the deferring customer’s reserved capacity.¹¹ If a competing request is identified, the customer with the competing request must decide whether to “compete” for the service by signing a contingent service agreement or else refuse to sign the contingent agreement and be removed from the transmission service queue. That customer’s service agreement is contingent upon the deferring customer releasing its reserved capacity as part of the deferral competition. Outside of NOS, there are two possible outcomes of a deferral competition.¹² First, the deferring customer can choose to release its reserved capacity that is needed to fulfill a competing request. In that situation, the customer with the competing request commences service without the opportunity to extend its service commencement date, and the deferring customer’s TSR is removed from the queue. Alternatively, the deferring customer can commence service and pay for the firm point-to-point transmission rate concurrent with the service commencement date of the competing request.

BPA proposes to add section 4(e) to the PTSA to adjust the procedures for competitions resulting from requests to extend commencement of service under OATT section 17.7 to better fit with a PTSA customer’s commitment to take service. While the proposed section 4(e) of the PTSA maintains the customer’s ability to obtain extensions for commencement of service, the proposed provisions modify how deferral competitions operate for NOS participants in the event that competing requests are identified. As described below, because proposed section 4(e) of the

¹¹ The deferring customer’s reserved capacity is associated with a confirmed TSR at this point. To the extent that this Petition discusses the deferring customer’s TSR being removed from the queue, it is referring to the possible termination of a confirmed TSR.

¹² BPA’s deferral competition procedures are set forth in its Deferral (Extension of Commencement of Service) Business Practice, Version 7 (Sept. 12, 2008) available at <http://www.transmission.bpa.gov/includes/get.cfm?ID=1436>.

PTSA supports the financial analysis and principles underlying the enhanced process offered to customers through NOS, the modification to the PTSA substantially conforms or is superior to the *pro forma* OATT.

(a) Section 4(e)(1). Section 4(e)(1) of the modified PTSA applies when BPA determines that a competing request, which is subject to a PTSA, is eligible for reserved capacity through a deferral competition under OATT section 17.7. The new provision of the PTSA prevents the customer with the competing request from choosing not to participate in a deferral competition. Under proposed section 4(e)(1), if a non-PTSA deferring customer releases its reserved capacity to the competing request of a PTSA customer, BPA will sign the PTSA customer's Table and the PTSA customer will commence service on its service commencement date. The PTSA customer is then unable to extend its commencement of service date because such result would be inconsistent with the purpose of the competition.¹³ Further, without such a limitation, successive customers could defer-compete-defer indefinitely, thereby shifting cost risk disproportionately to the transmission provider and allowing the customers acting under OATT section 17.7 to avoid risk.

By signing the PTSA, the customer already has committed to take service apart from any deferral competition. Therefore, it is inconsistent with the PTSA to allow PTSA-holders to (1) decide not to compete, and (2) if they prevail in the deferral competition, decide not to commence service.

(b) Section 4(e)(2). Section 4(e)(2) of the modified PTSA applies when a customer that has signed a PTSA extends the commencement of service date and, subsequently, a competing request is identified. The proposed section 4(e)(2) requires a deferring customer with a PTSA to participate in a deferral competition (*i.e.*, to commence service and pay for the firm

¹³ This limitation is consistent with BPA's existing Deferral Business Practice, section 4.18.

point-to-point transmission rate in the event that a competing request is identified during the deferral period).

Outside of NOS, a deferring customer may elect to release the reserved capacity that is subject to a deferral competition and forfeit its reservation fees. As a result, the deferring customer's reserved capacity is decremented by an amount equal to that allocated to the customer with the competing request, which creates the potential for the deferring customer to essentially walk away from its confirmed TSR. Allowing a customer with a PTSA to release its reserved capacity pursuant to a deferral competition would be inconsistent with the customer's obligations under the PTSA. The costs that BPA had planned to recover from that PTSA customer would potentially be shifted to other customers.

(c) Section 4(e) Substantially Conforms or is Superior to the *Pro Forma* OATT.

Section 4(e) of the modified PTSA substantially conforms or is superior to the *pro forma* OATT. By adding section 4(e) to the PTSA, BPA is attempting to reconcile OATT section 17.7 with the principles underlying NOS. A principal purpose of OATT section 17.7 is to allow customers flexibility in determining the initial date for bringing new generation online while at the same time providing transmission providers with the opportunity to mitigate costs of deferrals through reservation fees and competitions. However, the Commission has determined that alternative solutions to the OATT section 17.7 procedures may be appropriate when extensions for commencement of service are associated with new facilities.¹⁴

Section 4(e) of the modified PTSA is consistent with Commission policy because it reflects the financial realities and principles underlying NOS. NOS affords considerable benefits

¹⁴ See, e.g., *Sierra Pacific Power Co*, 108 FERC ¶61,005 (2004) (Commission approved additional section 17.7 procedures to address cost responsibility for deferrals of service relating to new facilities); Order No. 888-A, FERC Stats. & Regs. ¶ 31,048, at 30,322 (1997) (discussing appropriateness of alternative procedures for addressing requests for delays in commencing service on new transmission facilities).

to customers. It is an enhanced process for obtaining transmission service at embedded cost rates despite the need for new facilities to accommodate requests for service. By consenting to participate in NOS and become eligible for the benefits of that enhanced process, customers must forgo some flexibility and commit to commence service in the event that BPA determines that it can provide the customer with its requested service.

The proposed PTSA changes are necessary to mitigate the potential for costs to be shifted inequitably to other customers by allowing the PTSA customer to leave the queue due to deferral competitions. By proposing section 4(e), BPA is attempting to reduce the risk to BPA and its other customers in two ways: (1) reducing BPA's overall exposure to deferrals and the associated carrying costs; and (2) eliminating the possibility that PTSA customers could be removed from the queue pursuant to a deferral competition.

BPA incurs substantial debt service for new infrastructure. That debt service creates the potential for significant financial impact to BPA if OATT section 17.7 is applied without modification within the context of NOS. Although mitigating factors exist under OATT section 17.7, the cost of debt service related to construction of new infrastructure is principally borne by the remainder of BPA's existing customers, some of whom may have neither directly benefitted from deferring commencement of service nor created the impetus for constructing the new infrastructure. The carrying costs resulting from delayed service associated with PTSAs could be well in excess of BPA's ability to mitigate its costs under the existing terms of OATT section 17.7.

As described above, in the event of a deferral competition, section 4(e)(1) of the PTSA eliminates the potential for the customer to be removed from the queue and requires the customer with a competing request to commence service without the opportunity for commencement of

service extensions. Similarly, section 4(e)(2) eliminates the potential for the deferring customer to be removed from the queue and requires that customer to commence service concurrent with the start date of the competing request in the event of a deferral competition. The requests for service associated with PTSAs serve as the basis of BPA's analysis for providing service at the embedded cost rate. Therefore, section 4(e) eliminates the possibility that those requests could be removed from the queue as a result of a deferral competition under OATT section 17.7.

In the absence of the proposed changes to the PTSA, BPA and its customers bear the principal financial risk associated with extensions for commencement of service that occur within the context of NOS. Under proposed section 4(e) of the modified PTSA, BPA and its ratepayers remain exposed to the financial impact associated with delayed service under OATT section 17.7 in the absence of a deferral competition. However, by requiring customers who have signed a PTSA to commence service at the point at which there is competition for that service, the financial risk exposure to BPA and other customers is reduced.

5. Performance Assurance. As part of the 2008 NOS, BPA required customers to provide security equal to the charges for one year of the requested transmission service. The security helps provide BPA assurance that the customer will carry out its obligations under the PTSA and, in case of default by the customer, partially mitigate BPA's costs and risks in financing the costs of studying the requests, conducting environmental review and analysis, and building the necessary facilities. Under the existing PTSA, the security could be provided in the form of a letter of credit, a non-interest bearing cash deposit directly with BPA, or a deposit into an escrow account.

BPA has elected to continue with this model for the 2009 NOS with a slight modification. Due to certain state statutory restrictions and bond covenant provisions, certain governmental

customers, *e.g.*, municipal utilities, could not avail themselves of the escrow account option. Those customers expressed concern over having more limited security options, especially in light of the increasing costs of letters of credit.

In response, BPA proposes to revise the options to add prepayment and to recharacterize the funds required to secure the PTSA obligations as “performance assurance.” The basic construct remains the same. As under the 2008 NOS, customers choosing to participate in the 2009 NOS must provide funds, now known as performance assurance, in an amount equal to one year’s charge for requested transmission service. Network integration transmission service customers can still opt out of this requirement by providing a statement attesting to the resource and generation conditions specified in section 29.2(viii) of the OATT.

Under the new provisions, performance assurance may be provided either as a security deposit or prepayment. As with the 2008 NOS, security deposits can be made in the form of a letter of credit, deposit with BPA, or deposit into an escrow account. Additionally, pursuant to the modified PTSA, prepayments can take the form of a non-interest bearing prepayment directly with Bonneville or a prepayment for the account of BPA into an escrow account. Customers will identify which form of performance assurance they are providing – security deposit or prepayment. Governmental customers providing performance assurance via any method other than a letter of credit must also provide BPA with a legal opinion stipulating that BPA’s rights to the prepaid funds are valid and enforceable.

The release of the performance assurance works differently depending upon whether the funds are provided as a security deposit or as a prepayment. Security deposit funds are refunded the same as in the existing PTSA, either upon termination of the agreement or within 180 days of the service commencement date. Prepayments are treated slightly differently. As with security

deposits, prepayments are refunded upon termination of the PTSA, except that if service commences, then the prepaid funds are applied to the customer's transmission service bill until the prepayment balance is exhausted.

ISSUES RAISED IN THE 2008 NOS ORDER

In the 2008 NOS Order, the Commission encouraged BPA to work with the Commission and stakeholders to address issues concerning renewable resources and to tailor an open season process for intertie capacity. The following sections provide an update and other information on those issues.

1. Integration of New Renewable Resources. The results of the 2008 NOS demonstrate that the design of the NOS process encourages the integration of new renewable resources. Exhibit C summarizes results of the 2008 NOS. As a result of the update of BPA's transmission service queue during the 2008 NOS, as of May 15, 2009, BPA was able to offer 1,089 megawatts (MW) of transmission service associated with new wind generation. In addition, BPA decided to move ahead with construction or NEPA review of proposed new transmission facilities that would allow BPA to provide an additional 2,575 MW of service at embedded cost rates to TSRs associated with new wind generation. In other words, if BPA decides to build all the proposed facilities after completing NEPA review, the 2008 NOS could result in transmission service for 3,664 MW of new wind generation. In addition, BPA expects to offer a total of approximately 1,010 MW of conditional firm service (as a bridge to firm service) to wind generation-related TSRs in the 2008 NOS once all the offers are complete. BPA already has offered or authorized 605 MW of conditional firm service offers and is continuing to work through the queue to identify conditional firm service offers it can make.

The NOS framework works well to support integration of new wind generation because it allows BPA to consider all requests for service in areas of significant wind development potential to determine whether to move ahead with service at embedded cost rates. Under the NOS process, the availability of and market for wind generation in a given area, the cost of required new facilities to bring the generation to market, reliability benefits to the network of such facilities, the commitment of new generation to take transmission service, the availability of capital, regional benefits, siting issues, state renewable portfolio standards, and other factors all help determine the feasibility of new service. The ability of the NOS process to consider all of these factors in a comprehensive and timely manner helps promote the integration of new renewable resources and the efficient siting of new transmission infrastructure in general.

Although not all TSRs in the 2008 NOS made it past the embedded cost rate determination step in the process, the large majority of the wind generation-related TSRs did.¹⁵ For example, BPA decided that a new 40 mile 500 kV line (Central Ferry – Lower Monumental, or Little Goose reinforcements) to allow integration of a newly developing area of wind generation satisfied the embedded cost rate determination. That project, which must go through NEPA review and, subsequently, a decision whether to build, would provide 1,100 MW of service for NOS participating requests. Another factor supporting the decision on this project was that BPA has 2,200 MW of interconnection requests in the area. In February 2009, BPA issued a decision document reflecting the embedded cost rate determination for the 2008 NOS.¹⁶

The 2008 NOS results demonstrate that the NOS process strikes a reasonable balance of risk between the transmission provider, existing ratepayers, and the customer requesting

¹⁵ Those TSRs that did not make it through the embedded rate cost determination in 2008 are eligible for inclusion in the 2009 NOS, with the possibility that a new set of TSRs may alter the determination of needed infrastructure.

¹⁶ A copy of the decision document is posted on BPA's website at:
http://www.transmission.bpa.gov/customer_forums/open_season/docs/Decision_Letter_02_16_2009.pdf.

transmission service. BPA is able to make prudent decisions whether to move forward with projects at embedded cost rates based on secured commitments to take service, and customers have the opportunity to receive transmission service at low cost and without being required to provide the capital for the project.

2. Intertie Open Season. BPA appreciates the Commission's recognition in the 2008 NOS Order of the benefits that the open season framework could bring to address the requests for intertie capacity in BPA's transmission queue. BPA shares that perspective and has begun to scope the process it might use to conduct an open season for intertie capacity. An intertie open season requires significantly more coordination with other entities than NOS. This is because existing interties often are jointly owned and because an intertie connects different transmission providers' systems. Whether the best plan of service would be to upgrade an existing intertie or to build a new intertie may be affected by the level of cooperation among intertie owners and between systems. As with NOS, it may also depend on the location of the source and sink, for service in either direction. Each involved system must consider its own planning, financing, and siting issues. While BPA is in the early stages of its scoping effort, BPA hopes to conduct an intertie open season in 2010.

CONCLUSION

The use of cluster studies and the PTSA in the 2008 NOS has benefitted BPA and its customers in terms of timely processing and study of TSRs, identification of new facilities necessary to provide service, and moving forward with review of the facilities that BPA could construct and still maintain an acceptable impact on embedded cost rates. The changes to the PTSA and body of the OATT that BPA submits with this Petition enhance the NOS process by

clarifying the agreement and helping to ensure that BPA makes its decisions based on the most well-developed information possible.

BPA respectfully requests that the Commission approve the proposed revisions to the body of the OATT and PTSA as substantially conforming or superior to the *pro forma* OATT. BPA respectfully requests the Commission to approve these revisions by July 19, 2009, and by not later than August 19, 2009. BPA also requests exemption from the filing fee.

DATED May 29, 2009.

Respectfully submitted,

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Exhibit A

Description of Proposed Changes to the PTSA and OATT

Exhibit A

Description of Proposed Changes to the PTSA and OATT

Proposed Changes in the Index of the PTSA

- a. The date of the NOS in the title of the PTSA is left blank to allow for use in future Network Open Seasons.
- b. The title of section 4 is modified to reflect BPA's ongoing evaluation of its ability to provide service without constructing new facilities.
- c. The title of section 7 is revised to reflect the change in terminology from "Security" to "Performance Assurance." This terminology is changed throughout the PTSA.
- c. The title of section 16 is changed to reflect the addition of Exhibit B, which specifies information BPA needs regarding each TSR to perform the cluster study.
- d. The title of Exhibit A is changed from "Service Agreement" to "Table" to more accurately reflect that the Exhibit contains provisions that are in tables to Exhibit A to the *pro forma* point-to-point and network integration service agreements. When referring to PTSA Exhibit A, the term "Service Agreement" has been replaced with "Table" throughout the PTSA.
- e. A title is added for new Exhibit B.

Proposed Changes in Preamble and Recitals of the PTSA

- a. "PTSA" is added as an acronym to replace "Precedent Transmission Service Agreement" throughout the agreement.

Proposed Changes in Section 1

- a. BPA added language to section 1 to make clear that the PTSA does not take effect unless the customer provides the information specified in Exhibit B consistent with terms of the Exhibit.
- b. Section 1(a)(1) is changed to provide for release of the added type of performance assurance in section 7(b).
- c. Section 1(b)(1) changes references to reflect changes in section 5.
- d. Section 1(b)(3) is added to clarify that the PTSA terminates if BPA determines that facility costs should be directly assigned.

Proposed Changes in the Definitions, Section 2

- a. The definition of "Bridge" is modified to clarify the nature of bridge service.
- b. The definition of "Conditional Firm" is changed to shorten the definition and more precisely reflect the product.
- c. A definition of "Direct Assignment" or "Direct Assignment Facilities" is added to correspond with new sections 1(b)(3) and 5(a)(3).

- d. The definition of “Eligible TSR” is changed to exclude TSRs associated with existing PTSAs, TSRs that have opted out of the NOS, and TSRs for which BPA can provide service prior to the NOS.
- e. The definition of “Network Open Season” has been clarified.
- f. The definition of “Open Season Deadline” is made more specific and reflects that a customer must provide performance assurance under section 3(e) at the same time it returns the signed PTSA.
- g. “Security” is changed to “Performance Assurance” consistent with the change to provide customers with a prepayment option.
- h. The definition of “Service Duration” is clarified and simplified.
- h. The definition of “Table” is added to replace “Service Agreement.”
- i. The definition of “Tariff” or “OATT” is changed to refer to BPA’s Order 890 OATT.

Proposed Changes in Section 3

- a. Revisions to sections 3(a) and 3(b) remove a clause that addressed an issue in the 2008 NOS. No TSRs in the 2009 NOS, and probably in future Network Open Seasons as well, will expire during the time period that customers will have to return signed agreements.
- b. Additional revisions shorten section 3(b) by removing language regarding ‘conformance’ of the TSR when BPA signs the table. Section 6 of the PTSA and provisions in the table address these requirements. Section 3(b) also has been revised to include “Service Duration” in place of “contract term.” This makes the language in this section more consistent with the language in the rest of the agreement.
- c. The change to section 3(d) clarifies that the customer election for partial service does not apply to conditional firm service.
- d. A clarifying change to section 3(e) removes the June 27, 2008 date, so that this provision can apply generally to any future NOS. The additional changes in this section are described in detail in the Petition.

Proposed Changes in Section 4

- a. Changes to the headings clarify the purpose of the section and reflect the changes in the text. The Petition explains the reasons for these changes in detail.
- c. Inserting the phrase “consistent with queue priority” in sections 4(b) and 4(c) makes clear that BPA will offer service consistent with queue order and allows deletion of the provision in the existing section 4(e), which states the same concept.
- d. The changes to section 4(d) reflect the new terminology used in this section and clarify the provision.
- e. New language is added in section 4(e) to clarify how competitions under OATT section 17.7 apply. The Petition describes these provisions in detail.

Proposed Changes in Section 5

- a. The language in section 5(a) related to suspension of existing studies is deleted. This provision addressed that many TSRs eligible for the 2008 NOS were subject to existing study agreements, and the 2008 NOS cluster study effectively superseded those studies. BPA does

not face the same situation in 2009, because BPA has no executed study agreements for TSRs that are eligible for the 2009 NOS.

- b. Language is added to section 5(a) requiring the customer to provide planning information for the cluster study, 5(a)(2), and explaining the timing of determination of Direct Assignment facilities, 5(a)(3). The Petition addresses the basis for these changes in further detail.
- c. Changes in Section 5(b) add a general reference to BPA's website and remove the specific URL at which BPA's Commercial Infrastructure Financing Policy is posted. BPA's website changes regularly, and ensuring that this document remains posted at same location has proven unworkable.
- d. Changes in subsections 5(c) clarify that BPA's responsibility for NEPA review and documentation is separate from BPA's decision to build following the NEPA process.
- e. Subsection 5(d) is added to address the decision to build. The Petition addresses these changes in further detail.
- f. Revisions in subsection 5(e) reflect the changes in the timeline for the NOS process and clarify the reference to the decision to build. The Petition addresses these changes in further detail.

Proposed Changes in Section 6

- a. Modifications in paragraph 6(a)(1) specify that the customer's service duration will be shortened by any period for which the customer takes conditional firm service as a bridge to long-term firm service. The existing PTSA provides that the customer "may" notify BPA that it elected to shorten its service duration. Giving customers the option to provide this notice creates unacceptable uncertainty, because a customer may or may not make this election, and BPA may or may not receive notice of the customer's election. BPA intends that the service duration for all customers will be shortened by the period in which the customer takes bridge service. The customer's bridge service may convert to long-term firm service at some point during the term of the PTSA, and customers retain any rollover rights that will apply at the end of that long-term firm reservation. This change does not affect the ability to exercise those rights.
- b. Changes in paragraph 6(a)(2) clarify that the customer may elect to shorten its service duration based on postponement of the actual service commencement date due to delays in construction, but that the customer must provide notice of that election prior to the Service Commencement Date.
- c. Clarifying revisions in section 6(b) reflect the terminology changes in the agreement.
- d. Changes in section 6(c) clarify that BPA will provide notice of updates to the service commencement date but will not revise the Table based on these updates.
- e. Changes in subsection 6(d) clarify the process that BPA and the customer will follow to conform the TSR on OASIS and in the Table and sign the Table once BPA has determined that it can provide service or in the event of a competition under section 4(e).

Proposed Changes in Section 7

- a. Subsection 7(a) is modified to reflect the change in terminology to "Performance Assurance" and clarifies the timing of the release of performance assurance. The last sentence is deleted, because BPA will release the customer's entire performance assurance if the customer

accepts partial term transmission service for the customer's entire requested transmission demand.

Proposed Changes in Section 8

- a. Proposed changes to section 8 specify the contract and OASIS administration steps that will be taken to reflect that the customer has accepted conditional firm service for the particular TSR subject to the PTSA.

Proposed Changes in Section 10

- a. Section 10 is modified to provide that each Party has 30 days from the date of a final order issued by FERC to provide notice of termination based on modifications to the PTSA or OATT in the FERC order.

Proposed Changes in Section 16

- a. Section 16 incorporates Exhibits A and B as part of the PTSA and replaces the existing language in this section.

Proposed Changes to Section 18

- a. Section 18 is revised in response to customer concerns that the Party should provide the authorization warranty rather than the signatory.

Proposed Changes to Exhibit A

- a. Exhibit A has been separated into two forms of the table—one for point-to-point service and one for network integration service.
- b. TSR conformance is made a separate section of the table for clarity (section 2).
- c. Reservation priority language is removed because the minimum term of 5 years to be eligible for priority applies to all PTSA customers in the 2009 NOS under section 2.2 of the OATT.
- d. A provision is included in section 9(c) of the point-to-point table and 11(b) of the network integration table to specify that customers with TSRs subject to BPA's "Newpoint" policy must comply with the business practice provisions regarding that policy. This policy was in effect during the 2008 NOS, and a similar provision requiring customers to comply with the policy was included in the relevant 2008 PTSAs under section 8(d) ("[Other]") of the existing table. Generators seeking to interconnect a new facility to an existing BPA line at a point where no valid scheduling point currently exists typically submit the TSRs that are subject to the newpoint policy. BPA allows such generators to submit such TSRs with a POR of "Newpoint" in anticipation that a substation at that point will be required as part of the interconnection process. Under the newpoint policy, if a customer submits a TSR with a Newpoint POR, BPA substitutes a valid scheduling point for purposes of offering the Table. The PTSA and Table are an offer of transmission service, and BPA does not offer service to invalid scheduling points. Once the customer's desired POR becomes a valid scheduling

- point (*e.g.*, a substation is built and included as a scheduling point in OASIS), the customer must submit a redirect request to conform the reservation POR to the new scheduling point.
- e. A specific provision regarding third-party transmission arrangements is added (section 9(e) for point-to-point and 11(c) for network integration). This provision addresses specific issues related to particular scheduling points on the BPA network. This was an issue for certain TSRs in the 2008 NOS, and this provision was included in section 8(d) (“[Other]”) of the existing table of the PTSAs to which it applied.

Addition of Exhibit B

- a. Exhibit B is added to require the customer to provide details concerning its TSR that will allow BPA transmission planning to perform the cluster study accurately. For the 2008 NOS, BPA did not seek this information and transmission planning made assumptions without the detailed information for the TSRs. Because BPA applied those assumptions to the 2008 NOS, their availability is greatly reduced. Rather than BPA speculating about where and what new transmission facilities might be needed for the 2009 NOS cluster study, it is important that risk be appropriately shared by customers with TSRs by requiring the customers to provide the information to which BPA is already entitled under the OATT.

Changes to sections 19.10 and 32.6 of the OATT

- a. Revisions to these sections of the OATT provide an additional fourteen days after the deadline for returning signed PTSAs and Performance Assurance before the timeline for the NOS cluster study to begin. This will provide additional time for BPA to update the queue by removing the TSRs for which customers did not sign PTSAs and provide performance assurance.

Exhibit B

Revised Tariff Sheets in Clean and Redline Versions

Exhibit C

2008 Network Open Season Results

Exhibit C

2008 Network Open Season Results

Results to date for BPA's 2008 Network Open Season are as follows:

Offers made without requiring new infrastructure as of May 15, 2009:

- BPA has offered LTF service to 53 PTSAs for a total of 2,059¹⁷ MW
 - Includes 1,089 MW for wind.
 - Includes network integration service for a total of 237 MW.
- BPA has offered conditional firm service to twelve PTSAs for a total of 495 MW.
 - Of those offers, 150 MW have been accepted and BPA is awaiting customer acceptance or refusal on the remainder.
 - BPA is in the process of making conditional firm service offers to seven PTSAs for an additional 650 MW.

As a result of the NOS process, BPA has determined that it can reasonably provide Long-Term Firm service to 66 PTSAs for a total of 3,360 MW (including 2,575 MW for wind) at embedded cost rates with the addition of the following projects:

- McNary-John Day 500-kV transmission line: A 79 mile transmission line to provide transmission service to multiple proposed wind projects in eastern Oregon and Washington for delivery of power to load centers west of the Cascades and California. (Project estimated direct cost: \$247 million)
- Big Eddy-Knight 500-kV transmission line and substation: A substation and 28 mile transmission line to provide transmission service to multiple proposed wind projects in eastern Oregon and Washington for delivery of power to load centers west of the Cascades and California. (Project estimated direct cost: \$115 million)
- Central Ferry-Lower Monumental 500-kV transmission line: A 40 mile transmission line to provide transmission service to multiple proposed wind projects in eastern Washington for delivery of power to load centers west of the Cascades and in California. (Project estimated direct cost: \$99 million)
- I-5 Reinforcement 500-kV transmission line and substation: A substation and 70- to 90 mile transmission line that would relieve congestion in the southwest Washington and northwest Oregon load center, the portion of our transmission system that most frequently requires curtailment, while providing additional capacity for load growth and new generation. (Project estimated direct cost: \$342 million)
- West of Garrison Remedial Action Scheme: Installation of equipment to ensure compliance with WECC reliability criteria while providing transmission service to new wind generation. (Project estimated direct cost: \$2.3 million)

¹⁷ At the time of the BPA decision regarding which projects resulting from the NOS cluster study could move forward to provide service at embedded cost rates (Feb. 16, 2009), BPA had authorized 1,782 MW without requiring a build. Since that time, additional offers have been made and these numbers reflect the latest level of transmission offers (May 15, 2009).

Because National Environmental Policy Act (“NEPA”) work has been completed for the McNary-John Day project and with the announcement of the American Recovery and Reinvestment Act, which increased BPA’s borrowing authority, BPA has determined to move forward with the project. The construction for McNary-John Day commenced in May 2009.

For the remaining projects, BPA will conduct NEPA reviews before deciding whether to build.

All documentation related to the NOS process and decision is posted to the BPA web site at http://www.transmission.bpa.gov/customer_forums/open_season/default.cfm.