



January 12, 2017

**Public Power Council's Comments on BPA's Approach for Straw Proposals
Regarding a Process for Making OATT Changes**

BPA currently intends to remove from section 9 of its Open-Access Transmission Tariff (OATT) its obligation to seek FERC approval of its OATT and OATT changes. BPA seeks comments on the public process that it should adopt to propose, review and adopt changes to its OATT after that obligation is removed. PPC's comments are intended to address at a higher level many of the questions that BPA published in its Tariff Engagement Design Questionnaire, dated Dec. 8, 2016.

PPC Would Like the BPA Process for Making OATT Changes to Be Predictable and Understandable and to Produce Rigorous and Transparent Decisions

How BPA will go about adopting OATT amendments is a matter of significant interest to PPC members. Nearly all have long-term, OATT-based transmission service contracts with BPA. The BPA OATT contains the substantive terms and conditions of those contracts, which may change when the OATT changes. PPC members have a strong interest in the certainty and stability of the OATT services over the long-term so that the economic value of these services is retained. We believe that public power and BPA share this interest as well as an interest in maintaining high levels of long-term transmission service reservations as an assurance of stable revenues for capital repayment and system expenses. These interests make the process to amend the OATT important to public power. BPA should not undertake OATT changes often or without significant consideration. Many of the following suggestions are intended not only to help create a workable and appropriate process, but taken together, to ensure that BPA fully considers its proposals in a consistent and transparent way and does not undertake them lightly.

PPC Prefers that BPA Tariff Decisions Be Made in a Formal Process (Questions 2, 3 and 7)

BPA made three generic proposals for a public process for making decisions on proposed BPA OATT changes. We believe that any process should provide customers with certainty about how decisions will be made for any particular proposed OATT amendment. The process, therefore, should minimize BPA's discretion to decide what process to follow and follow pre-established rules. This argues against an ad hoc, "Case-by-Case" process. PPC prefers that the process or processes used be formal processes, that is, Administrative Procedures Act-compliant processes.

We also recognize, however, that not every proposed OATT amendment warrants a 7(i)-type hearing. Some might be more efficiently dispensed with in a formal process that is less than a hearing process. For example, a formal notice-and-comment-type process may be appropriate for some proposed more minor tariff changes. This would preserve the integrity of the process without imposing an undue burden on the agency or its customers.

We urge BPA to keep the decision-making process options simple and few, perhaps only two, options (*e.g.*, a 7(i) hearing process and a notice-and-comment process). Both, of course, would be preceded by public workshops. This would provide customers with greater transparency and

certainty of the process that would be used in any particular situation. We do not believe that a process as informal as the one currently used to adopt or amend business practices is appropriate for OATT changes. OATT changes are more fundamental, lasting and likely to modify contract terms and conditions; although important, business practices affect implementation of those terms and conditions only.

PPC supports the use of the procedures set out in section 7(i) of the Northwest Power Act for significant and contentious OATT amendment proposals. The procedures have the benefit of having been used before to adopt OATT terms and conditions. BPA and customers use the 7(i) procedures routinely in BPA rate cases and they are generally well established and understood. A 7(i) process also clearly establishes the scope of the hearing process, which makes the process more efficient for both BPA and the customers. This provides certainty to BPA and the customers regarding the use of the complete BPA hearing record in any subsequent regulatory or judicial hearings, if any. Solely from the customers' perspective, use of a hearing process provides some incentive to BPA to have carefully considered proposed OATT amendments and requires that BPA fully set out and justify its proposed OATT amendments.

If BPA Determines that More than One Process Option Should Be Available for Decision-Making, BPA Should Consider Involving Customers in Assignment of Issues to Decision-Making Processes (Questions 3, 5, 6 and 7)

If more than one process option is available (in the example above, a notice-and-comment process and a 7(i) process), a method for triaging OATT proposals between those options would need to be developed. Using predefined guidelines to classify the issues that should be assigned to a particular kind or level of process is fraught with difficulties. It is likely to be difficult to pre-define, for example, what changes to particular parts of the OATT are more important, what might be "ministerial" or "minor revision," and what qualifies as contentious. We are concerned that definitions will spawn their own disputes and that arriving at definitions that are agreeable to all may be unmanageable in a useful timeframe.

In order to classify which process option should be used, the overall process could use workshops, not just for education and issue development, but to discuss which process option is more appropriate. PPC would like to investigate this type of customer involvement. PPC also believes that it would be useful to discuss whether the workshop process would benefit from a defined timeline, with limited opportunities to extend, and have a scope that can be controlled so that some consensus, if possible, can be achieved.

Whatever Decision-Making Process is Selected, It Should Conclude with a Record of Decision (Question 9)

Customers should be assured that BPA's decisions to alter the OATT and service contract terms and conditions are made after careful consideration and that the basis is fully transparent and final. Records of Decision are an important means to lay out BPA's assessment of the arguments and proposals made by customers and its basis for adopting or rejecting them. The finality of the decision and the date of the decision are also fixed by the Record of Decision. Just as the process for business practice changes is too informal, BPA's decision should not informally filter out through contacts among executives, account executives, or Tech Forum emails.

Thank you for the opportunity to comment on BPA's approach to developing proposals for a public process that would be used to make changes to BPA's OATT after section 9 is amended to remove BPA's obligation to file its OATT and OATT amendments at FERC.