



3628 South 35<sup>th</sup> Street  
Tacoma, Washington 98409-3192

TACOMA PUBLIC UTILITIES

January 6, 2017

**VIA EMail**

Tech Forum  
Bonneville Power Administration  
PO Box 491  
Vancouver, WA 98666  
techforum@bpa.gov

**RE: OATT Amendment Process**

Tacoma Power appreciates the opportunity to comment on the Bonneville Power Administration's (BPA) proposed process for revising its Open Access Transmission Tariff ("OATT"). Historically, BPA has been able to change its OATT only after receiving a determination from the Federal Energy Regulatory Commission ("FERC") that its changes are just and reasonable and not unduly discriminatory or such change meets the non-public utility reciprocity requirements. Now, BPA desires to remove the FERC's oversight role and make future amendments to its OATT through a new public process that takes place in the region. Under its straw proposal for this new regional process, BPA has proposed three models: (1) a case-by-case approach that allows the agency to determine a process based on the nature of the change it is proposing; (2) a scalable process which contains minimum procedural requirements that BPA currently requires of itself to make Transmission Business Practice changes; and, (3) a formal process that could take the form of its rate setting process as outlined in Section 7(i) of the Northwest Power Act.

Tacoma Power favors a formal 7(i) process for OATT changes and opposes the case-by-case or scalable process proposals. The formal 7(i) process is the appropriate mechanism to accomplish OATT changes because it is consistent with BPA's statutory mandate. Under Section 7 of the Northwest Power Act, the BPA Administrator is required to set rates in a prescribed manner and Section 7(i) provides certain procedural steps to assure transparency in the Administrator's decision making. Somewhat regrettably, the act does not appear to clearly distinguish between what a rate is--therefore subject to Section 7--and what is a non-rate term of service that is presumably free of any such requirements. From our perspective, however, rates and essential terms of service are largely inseparable because they can be meaningless when viewed in isolation. For this reason, we see the handling of changes to BPA's OATT outside of a 7(i) process as being inconsistent with the intent of the Northwest Power Act.

Foundational concepts in the 7(i) process are the opportunity of interested stakeholders to submit public testimony and the requirement that the BPA Administrator issue a record of decision. Tacoma Power strongly believes that the

process for changing the OATT must include the utmost consideration of public concerns and recommendations. This means that the revision process should afford stakeholders sufficient time and opportunity to meaningfully influence the decision. Furthermore, at adoption, BPA should publish both a rationale for the changes and detailed responses to public input.

To allow for changes to the OATT on less than a formal 7(i) process would render the OATT largely indistinguishable from BPA's Transmission Business Practices and would weaken it as a framework for customers to make long-term commitments to the agency. In 1998, Tacoma Power entered into a 39-year agreement with BPA to receive transmission service under the terms of its OATT. The agreement allowed BPA to modify the OATT from time-to-time, but only with the approval of the FERC. For this reason, BPA's recent proposal to remove the FERC's oversight—while perhaps appropriate—represents an assertion of unilateral control by BPA over the transaction with Tacoma Power. We believe that we are justifiably alarmed because this action gives the agency the ability to rewrite the terms of our service agreement for its remaining 20 years. Short of turning to other transmission service providers, one of our few options for recourse is to insist that BPA limit changes to those that have been vetted through its normal deliberative process.

We disagree with the assertion that modifying the OATT through a 7(i) process would consume too many agency or customer resources and would unduly limit the agency's flexibility. BPA is currently setup to conduct a 7(i) process every two years as part of its power and transmission rate setting. As we have described above, changes to the OATT could be efficiently and appropriately incorporated into this routine. Furthermore, BPA has tools at its disposal to flexibly respond to special or exigent circumstances. BPA can accommodate many situations by revising its Transmission Business Practices, which it can do readily when the changes clarify implementation of its OATT and do not contradict it. And in the hopefully very rare instance when this tool is inadequate and an OATT modification is necessary on a short timeline, BPA could hold an abbreviated 7(i) proceeding, which it has successfully done in the recent past.

Finally, we believe the OATT should serve as a durable set of terms for transmission service. It should, to the maximum possible extent, reflect the conditions of Open Access as provided by the FERC pro forma OATT. Truly substantial OATT revisions should only occur in coincidence with major shifts in the electric transmission industry.

Thank you for your consideration.

Sincerely,



Nicolas Garcia

Assistant Power Manager