

July 16, 2019

Via email:

techforum@bpa.gov

U.S. Department of Energy
Bonneville Power Administration
Transmission Services

Re: Comments of Portland General Electric Company and Puget Sound Energy, Inc. Regarding Draft Version 3 of TSR Study and Expansion Process Business Practice

Portland General Electric Company and Puget Sound Energy, Inc. (“Commenting Parties”) submit the following comments on BPA’s draft Version 3 of TSR Study and Expansion Process Business Practice.¹

1. Introduction and Summary

The Draft includes the following proposed new language in Section H (Financial Security Related to Plan of Service Construction):

1. Pursuant to Section 19 and 32 of the BPA OATT, BPAT will require a Customer that is offered a Service Agreement associated with the completion of an identified Plan of Service to provide BPA with acceptable forms of credit support as listed in BPAT’s current Basic Credit Standards, equivalent to its pro rata share of the total costs of the Plan of Service to enable its requested service. The forms of security acceptable to BPA are listed in the Basic Credit Standards posted to BPA’s external website.
2. The Customer’s pro rata share of cost of the Plan of Service will be calculated as the ratio of Customer’s requested MW out of the total requested MW identified to require the same Plan of Service, multiplied by the estimated total costs of the Plan of Service.
 - a. Under embedded rate determinations, BPAT may assess whether the Customer satisfies the following criteria established through BPA’s Basic Credit Standards when implementing its financial security provisions:
 - i. The counterparty is a distribution utility and has the direct authority to establish and adjust rates to recover costs, including power costs, without seeking approval from a regulatory agency;

¹ Available at <https://www.bpa.gov/transmission/Doing%20Business/bp/Redlines/Redline-TSR-Study-Expansion-Process-BP-V03.pdf> (“Draft”).

- ii. The counterparty is not in default to BPA or another known party and has not been in default to BPA or another known party during the prior year; and
 - iii. The counterparty has not experienced a material adverse change in its financial condition or payment practices during the prior year.
- b. Customers that satisfy all of the criteria listed above will be exempt from BPA's financial security requirement for pro rata share amounts less than or equal to \$10 million.
- 3. The Customer will have 30 calendar days following the receipt of the offer of service under the Service Agreement to provide the required executed letter of credit or other form of security, or the request will no longer be a Completed Application and shall be deemed terminated and withdrawn.

Thus, the Draft proposes in general to apply BPAT's Basic Credit Standards² when the customer is required to provide credit support. The Draft further proposes that a distribution utility with the direct authority to establish and adjust rates to recover costs, including power costs, without seeking approval from a regulatory agency is exempt (in the absence of default or a material adverse change in its financial condition or payment practices during the prior year) from BPA's financial security requirement for pro rata share amounts of less than or equal to \$10 million; this is in effect an exemption or "safe harbor" for these BPA customers. However, no similar exemption is contemplated in the Draft for creditworthy customers that are not "unregulated." As discussed below, the Draft should be revised to provide an exemption from providing financial security for amounts less than or equal to \$10 million for creditworthy customers, whether or not "unregulated."

Further, the Draft requires that financial security be provided within a period of 30 calendar days. As discussed below, this period should be expanded to 45 calendar days.

2. The Exemption in the Draft from Providing Security for Amounts Not Exceeding Ten Million Dollars Should Be Expanded to Also Apply to Any Creditworthy Customer

Under the Basic Credit Standards, a BPA customer may potentially qualify for unsecured credit using two alternative methods:

Under Qualification Method 1, a customer that is a distribution utility and has the direct authority to establish and adjust rates to recover costs, including power costs, without seeking approval from a regulatory agency may qualify (in the absence of default or a material adverse change in its financial condition or payment practices during the prior year) without a "comprehensive creditworthiness evaluation."

² Available at https://www.bpa.gov/transmission/Doing%20Business/Tariff/Documents/Basic_Credit_Standards.pdf.

Under Qualification Method 2, utilities or other BPA customers may qualify with a comprehensive creditworthiness evaluation: “Counterparties with internal credit ratings of investment grade or higher will qualify for unsecured credit. Counterparties rated below investment grade will need to provide an acceptable form of credit support.”³

As discussed above, the Draft proposes that a distribution utility with the direct authority to establish and adjust rates to recover costs, including power costs, without seeking approval from a regulatory agency is exempt (in the absence of default or a material adverse change in its financial condition or payment practices during the prior year) from BPA’s financial security requirement for pro rata share amounts of less than or equal to \$10 million. This is in effect application of the concept of Qualification Method 1 under the Basic Credit Standards in providing an exemption from BPA’s financial security requirement for pro rata share amounts of less than or equal to \$10 million. However, the Draft fails to include the concept of Qualification Method 2 under the Basic Credit Standards and erroneously fails to provide the same exemption for creditworthy customers, whether or not “unregulated.”

Particularly in light of the Draft’s proposed exemption for “unregulated” utilities from providing security for amounts not greater than \$10 million, it would be unreasonable and arbitrary and capricious to fail to provide such an exemption for any creditworthy customer. Simply put, a customer with a credit rating of investment grade or higher should not be forced to provide security for plan of service construction costs in amounts not greater than \$10 million and should not be forced to incur the costs of providing such security.

3. The Period of Time to Provide Financial Security Should Be Expanded from 30 Calendar Days to 45 Calendar Days

As indicated above, the Draft requires that financial security be provided within a period of 30 calendar days. This period should be expanded to 45 calendar days. A period of 30 calendar days to provide financial security is unreasonably short and fails to provide an adequate amount of time for the customer to arrange financial security. A period of 45 days is reasonable. This is particularly true because it appears very unlikely that BPA will in fact necessarily incur plan of service construction costs of any significance within 45 days of the customer’s receipt of the offer of service under the Service Agreement.

* * *

Nothing contained in these comments constitutes a waiver or relinquishment of any rights or remedies provided by applicable law or provided under BPA’s Tariff or otherwise under contract. Commenting Parties appreciate BPA’s review of these comments and consideration of the recommendations contained herein. By return e-mail, please confirm BPA’s receipt of these comments.

³ Basic Credit Standards at second page.