

Congress of the United States

Washington, DC 20510

September 29, 2009

Mr. Steve Wright
Administrator
Bonneville Power Administration
P.O. Box 3621
Portland, Oregon 97208-3621

Dear Mr. Wright,

We urge the Bonneville Power Administration (BPA) not to proceed with its proposed seven year power sales contracts with two aluminum companies in the Northwest known as Direct Service Industry (DSI) contracts. Although BPA has historically provided service to these plants, there are now significant legal and physical limits on future service which the pending proposals do not resolve.

First, BPA has not met the test required by recent U.S. Ninth Circuit Court of Appeals decisions that the contracts represent sound business practices and benefit BPA and its preference customers. For the second time in eight months, the Court again concluded that BPA must have a business justification for these contracts and it invalidated the latest contract (*Pac. Northwest Generating Coop. v. Bonneville Power Admin.*, Case Nos. 09-70228, 09-70236, 09-70988 (9th Cir. Aug. 28, 2009)), finding that “BPA has once again failed to advance a reasonable interpretation of its governing statutes that supports its actions” with regard to existing contracts with these companies. The Court’s finding is not surprising since BPA loses money in these arrangements, receives no discernible benefit from them, and must raise rates to its preference utility customers in order to purchase power for an individual company. BPA’s analysis of its current proposal is no different and shows that over time they cause job loss to consumers of BPA preference customers. Even under BPA’s most recent optimistic assessment, the net expected gain in regional jobs comes at a staggering cost of nearly \$180,000 per job per year – a cost borne by BPA and its customers.

Second, while service to DSI’s historically provided benefits to Bonneville and its customers from the sale of surplus power, BPA no longer has excess power to sell to the DSIs. The Regional Dialogue process leading to the renegotiation of long-term contracts to preference customers indicated that federal power will essentially be fully allocated. Ongoing proceedings concerning the Biological Opinion for the Federal Power System and recent BPA economic and budget forecasts suggest that power reserves will likely to continue to be constrained. Implementation of the proposed DSI contracts will therefore require BPA to enter into power purchase agreements with outside suppliers placing BPA and its customers at risk for changes in market conditions and/or for termination by the DSI’s. Rather than providing system benefits, the proposed contracts will result in increased system costs and financial risks.

In light of the Ninth Circuit’s invalidation of BPA’s current arrangements for the aluminum companies, and the lack of a reasoned analysis regarding the impacts of BPA intentionally

incurring up to \$600 million in additional costs to support these two companies over the next seven years, we question the agency's intent to move forward with new contracts. It would seem necessary at a minimum that BPA conduct added review of the risks, costs, and benefits of the proposed new seven-year deals.

We question whether the agency can justify new contracts with the aluminum companies under the requirements laid out by the Court. Pushing forward with the existing proposal and its analysis, which shows a loss to the agency and marginal trade-off of jobs across the region does not seem responsible.

On the heels of the Court's decision, and out of concern of the broader economic impacts to the region, we urge that you withhold further action on the proposed contracts.

Sincerely,



Ron Wyden
U.S. Senator



Mike Crapo
U.S. Senator



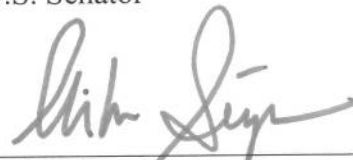
Jeff Merkley
U.S. Senator



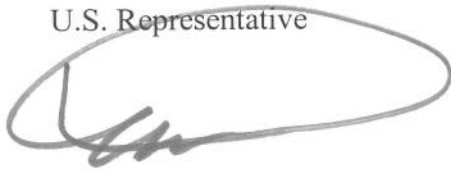
James E. Risch
U.S. Senator



Peter DeFazio
U.S. Representative



Michael K. Simpson
U.S. Representative



David Wu
U.S. Representative

Cc: Daniel Poneman, Deputy Secretary of Energy
Scott Blake Harris, General Counsel