UNITED STATES OF AMERICA
DEPARTMENT OF ENERGY
BEFORE THE
BONNEVILLE POWER ADMINISTRATION

2010 WHOLESALE POWER AND TRANSMISSION RATE ADJUSTMENT PROCEEDING	**)** **)** **)**	**BPA Docket No. BPA-10** **Sub-Dockets WP-10, TR-10**

BRIEF ON EXCEPTIONS OF THE PUBLIC POWER COUNCIL, THE CITY OF SEATTLE, PUBLIC UTILITY DISTRICT NO. 1 OF SNOHOMISH COUNTY, WASHINGTON, PACIFIC NORTHWEST GENERATING COOPERATIVE AND MEMBERS (PNGC GROUP) AND THE INDUSTRIAL CUSTOMERS OF NORTHWEST UTILITIES

July 2, 2009

WP-10-R-JP12-01
TR-10-R-JP12-01

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I. INTRODUCTION

In accordance with § 1010.13(d) of the Bonneville Power Administration's (BPA's) Procedures Governing Rate Hearings,[1] the Public Power Council (PPC), The City of Seattle, Public Utility District No. 1 of Snohomish County, Washington (Snohomish PUD), Pacific Northwest Generating Cooperative and Members (PNGC Group), and the Industrial Customers of Northwest Utilities (ICNU) (referred to collectively as "PPC" for purposes of this brief)[2] jointly file this Brief on Exceptions to set out PPC's position on BPA's tentative decisions contained in the Draft Record of Decision (Draft ROD) issued in this proceeding. ICNU does not join section II(e) of this Brief on Exceptions.

Except to the extent that PPC's positions in its Initial Brief are modified in this Brief on Exceptions, PPC's arguments in its Initial Brief are preserved for purposes of appeal and for consideration of the Administrator. The preservation of arguments from a party's Initial Brief is recognized by the Draft ROD, which states,

> [A] party need only raise an issue in either its Initial Brief or its Brief on Exceptions. While a party may wish to reassert an issue for other reasons, the party need not reassert an issue in its Brief on Exceptions in order to avoid waiving the issue. All arguments raised by a party in its Initial Brief shall be deemed to have been raised in the party's Brief on Exceptions.[3]

This brief is filed in both the WP-10 and TR-10 sub-dockets to retain readability and context. Subsections III.a through III.d are applicable to both WP-10 and TR-10;

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[1] 51 Fed. Reg. 7,611 (March 5, 1986).

[2] References to "PPC testimony" include testimony that may have been submitted by joint parties, including PPC.

[3] WP-10-A-01 / TR-10-A-01, Draft Record of Decision, pp. 6-7 (citing WP-10-HOO-02).

Subsection III.e is applicable only to TR-10; the remainder of the brief is applicable only to WP-10.

II. POWER RATE ISSUES

a. Overall Rate Increase

Under the decisions contained in the Draft ROD, BPA expects the final average PF rate in this proceeding to be about 6.8 percent higher than current rates (with Slice being about 4.4 percent higher than current rates). Given the dire economic circumstances facing the region, it is regrettable that any rate increase is necessary.

Although the proposed 6.8 percent increase is lower than the rate increase proposed in the Initial Proposal, it is higher than the rates BPA and preference customers believed may be achievable under the circumstances. For example, at an April workshop, BPA estimated that under a scenario that appears to closely resemble circumstances like those assumed in the Draft ROD (if not a little less favorable), the rate increase could be about 5.4 percent.

PPC understands that the rate increase may be higher than expected in April for various reasons, including:

- Secondary revenues being slightly less than expected;
- A further allocation of "7(b)(3) protection amounts" to surplus sales;
- Higher IOU Average System Costs contained in the final ASC reports; and
- A reduction in the revenue credits from the sale of operating reserves to wind.

PPC understands and appreciates the efforts of BPA staff and management to develop creative ways to mitigate the rate increase, and the difficult work this involved.

However, PPC urges the Administrator to take all available actions to keep the rate increase as low as possible—and to a level that is less than the rates expected under the Draft ROD. This is important so that businesses and consumers in the region do not experience unnecessary hardship caused by a rate increase at this time. There are further actions the Administrator can take to mitigate the rate increase proposed in this case.

b. Variable Rate for the DSIs

In its Draft ROD, BPA proposes to not adopt a variable rate for the FY 2010-11 period because "there was inadequate opportunity to fully address the issues that are necessary to address."[4] PPC supports BPA's determination to not establish a variable IP rate, for the reasons stated in PPC's Initial Brief. Under the circumstances present in this case, *i.e.* where a variable rate would only benefit the DSIs at the expense of preference customers, and would not result in a betterment of BPA's position, it would not be good policy to adopt a variable IP rate, and such a rate would run afoul of BPA's rate directives.[5]

Likewise, PPC supports BPA's determination to not commit to a new rate case to establish a long-term variable rate. In addition to the Draft ROD's discussion of this

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[4] Draft ROD, p. 202.

[5] *See* Initial Brief of PPC, et al., WP-10-B-JP11-01, p. 7 (explaining that the variable rate proposed would repeat the flaw found by the *PNGC* Court that BPA is not authorized to sell power to the DSIs at "below market *or* statutorily mandated rates.") (citing *Pacific Northwest Generating Cooperative, et al. v. BPA,* 550 F.3d 846, 876 (9th Cir. 2008) (petitions for rehearing pending) (emphasis in original)). *See also, Id.* (explaining contradiction of proposed variable rate and the Ninth Circuit's findings in *Golden Northwest Aluminum v. BPA* as well, where that Court noted that the "the preference rate will always be lower than even the lowest possible DSI rate." (citing *Golden Northwest Aluminum, Inc. v. BPA*, 501 F.3d 1037, 1046-47 (9th Cir. 2007)).

issue, however, it would be appropriate for BPA to affirmatively decide that it *will not commence* such a proceeding—rather than simply deciding that it will not commit to do so at this time. Initiating such a proceeding would seriously detract from other important work that needs to be done by BPA and its customers to prepare for the Regional Dialogue contract period, and would only further reveal that a variable rate for the DSIs would, under current circumstances, simply amount to a forced loan from preference customers to the DSIs at a time when doing so would be extremely harmful to public power. In other words, PPC cannot see how BPA could justify a long-term variable rate proceeding based on new information developed by negotiations with the DSIs. BPA should, in its Final ROD, determine that it will not conduct a new rate proceeding during FY 2010-11 to establish a long-term variable rate for the DSIs.

c. Industrial Margin Adjustment for Inflation

In the Draft ROD, BPA determined that it will, consistent with PPC's and others' recommendations, adjust its most recent Industrial Margin by an inflation factor, using the GDP Implicit Price Deflator.[6] PPC believes this is an acceptable alternative to re-running the industrial margin during this proceeding, due to the lack of time BPA and others had to develop such a study. In the future, however, PPC expects that BPA would intend to run an industrial margin study that takes a closer look at what the industrial margin should be.

[6] Draft ROD, p. 315.

d. DSI Rate Level

For the reasons explained in PPC's Initial Brief and other testimony in this proceeding, the Administrator should not be voluntarily incurring costs in order to serve the DSIs, and passing those costs onto the agency's preference customers. Aside from that point, however, PPC believes the agency has not properly established an IP rate in this proceeding.

Based on BPA estimates of the rates that may result from the decisions outlined in the Draft ROD, it appears that BPA expects the IP rate for the DSIs to be set at about $34.31/MWh. BPA's currently posted IP rate for FY 2009 is 34.82/MWh. *See* http://www.bpa.gov/power/psp/rates/current.shtml. This means that while preference customers' rates are expected to rise by about seven percent, the DSIs' rate will be decreasing by about one and a half percent.

This result does not seem logical, given that the IP rate is based on the PF rate, plus an industrial margin, and an allocation of 7(b)(3) protection amounts. PPC does not understand BPA to have calculated a vastly different 7(b)(3) protection amount in this proceeding from the one underlying current rates, and the PF rate is increasing significantly. PPC requests the Administrator to take a hard look at the IP rate calculations to ensure that the IP rate is based on a well-supported calculation of what the IP rate should be under BPA's rate directives. It is cause for alarm for preference customers to see their rates increase significantly while BPA's other constituent groups receive increasing benefits from the BPA system. This is especially troubling with regard

to service to the DSIs, which is not a requirement on BPA, but rather a choice by the Administrator.

It appears that a good portion of the DSI rate decrease may be due to the value of reserves BPA is proposing to credit to the DSIs. Although BPA initially determined that the value of reserves was very low, it is now proposing to assume a significant value of reserves based entirely, it appears, on an assumption of reserves that Alcoa represents it could provide.[7] However, BPA currently has no contract with Alcoa that provides for reserves.

In its Initial Brief, PPC argued that BPA cannot reasonably expect to rely on DSI customers to provide reserves.[8] The highly speculative nature of DSI customers as a source of reserves does not warrant any reduction in the IP rate. BPA's proposed treatment of this issue only serves to shift even more risk and increased costs to the agency's preference customers and does not comport with section 7(c)(3) of the Northwest Power Act, which directs the Administrator to adjust the IP rate to take into account the value of reserves "made available to the Administrator *through his rights* to interrupt or curtail service to such direct service industrial customers."[9]

As BPA has no contract for serving the DSIs that sets out *any* rights to reserves that BPA can rely on, BPA is not justified in crediting a value of reserves to the IP rate. BPA's proposal relies on an Alcoa representation that significant reserves could be

[7] *See,* WP-10-E-BPA-36, p. 19; Draft ROD, p. 306-310.

[8] *See* WP-10-B-JP11-01, pp. 9-10, and testimony cited.

[9] 16 U.S.C. § 839e(c)(3) (emphasis added).

provided by the DSIs, but there is no actual commitment to provide such reserves. Given that it is clearly in the interest of Alcoa to have BPA assume a significant level of reserves because such an assumption reduces the IP rate, and given that there is no obligation in place for Alcoa to actually provide such reserves, it is unreasonable for BPA to rely solely on those representations to change its position and assume a level of reserves significant enough to drastically reduce the IP rate. BPA should assume no significant value of reserves due to the uncertainty about such reserves actually being provided, and in no event is BPA justified in failing to discount the value of reserves to recognize that uncertainty.

e. Residential Exchange Program Issues

Because many of the issues surrounding the Residential Exchange Program were not litigated in this proceeding due to the "standstill agreement" parties and BPA entered, and because BPA's Draft ROD response to many of the Residential Exchange Program issues PPC raised in its Initial Brief are similar to the responses previously provided, PPC does not restate all of its arguments here. Instead, PPC only reiterates a few of its arguments that are addressed in detail in the Draft ROD, and points out another error that appeared for the first time in the Draft ROD.

In its Initial Brief, PPC urged that it is inappropriate for BPA to implement criteria for determining the capitalization/expense split for conservation costs in the rate test that essentially allow the agency to choose the split based on the impact that the various

options have on the rate test results.[10] In the Draft ROD, BPA repeated its assertion that it is entitled to create criteria that allow it to alter the rate test result based on the result it finds "correct." For example, the Draft ROD acknowledges that the basis for the agency's criteria is the agency's desire to have control over what the rate test produces. The Draft ROD explains the reasons for BPA's criteria, stating

> BPA is concerned that the choice of the deferral period will impact the rate test results. . . . Although BPA is not attempting to eliminate the differences attributable to the accounting and financing policies between the two Cases, BPA cannot ignore the fact that the choice of setting the deferral period for expensed conservation costs will have an impact on the rate test. . . . Given that the 7(b)(2) Case is already advantaged by the longer amortization period for capitalized costs, and the choice of deferring the expensed costs also advantages the 7(b)(2) Case, it is appropriate that the comparability criterion is present to gauge the reasonableness of the difference in costs stemming from the different accounting policies.[11]

These statements acknowledge BPA's proposed approach of altering the conservation/expense split in order to achieve a level of IOU benefits determined by BPA. Again, PPC asserts that BPA is not entitled to impose criteria into the rate test that expressly make the assumptions subservient to BPA's subjective call about the appropriate level of IOU benefits. The rate test was intended to be an objective rate comparison, and BPA's decisions about the appropriate assumptions should be based on its best interpretation of the statutory text, not its subjective determination of what the rate test should produce. *See, e.g.*, S. Rep. No. 96-272, 96th Cong., 1st Sess. at 61 (1979) ("The specific rate limit factors are objective in nature.").

[10] WP-10-B-JP11-01, pp. 20-23.

[11] Draft ROD, p. 135.

Another problematic aspect of BPA's rate test calculations is BPA's proposed treatment of IRMP load for purposes of the rate test. The Draft ROD proposes that BPA will count IRMP load as requirements power in the rate test, and that it will count it as surplus power for purposes of allocating 7(b)(3) protection amounts to it.[12] First, BPA's decision that it can allocate 7(b)(3) protection amounts to surplus sales, such that preference customers end up paying the costs of their own rate protection, is improper for the reasons PPC has previously described in the WP-07 Supplemental proceeding. Second, even if BPA were entitled to 1) treat IRMP sales as surplus sales, and 2) allocate 7(b)(3) protection amounts to such sales, there remains an irreconcilable mismatch in BPA's treatment of IRMP loads for the purposes of the rate test. BPA explains that it continues to treat IRMP loads as requirements load in the rate test.[13] However, for purposes of allocating 7(b)(3) protection amounts to surplus sales, BPA treats IRMP loads as surplus sales. This improperly imposes a double-penalty on BPA's preference customers, by inflicting two assumptions that are incompatible, and both of which serve to increase REP benefits. Specifically, BPA's assumption that IRMP sales are requirements load means that BPA more quickly "exhausts" FBS resources in the rate test. Then, by counting such sales as surplus sales, BPA increases the amount of surplus sales to which surplus rate charges are applied, reducing the secondary credit preference customers receive to the PF rate.

[12] Draft ROD, p. 52.

[13] WP-10-A-01, pp. 51-52.

PPC points out that this improper rate treatment is addressed at greater length in the Brief on Exceptions filed by Cowlitz PUD.[14]

f. Balancing Power Purchase Assumptions

In the Draft ROD, and as explained in greater detail in workshop materials, BPA proposes that the cost of expected balancing power purchases has increased by an average of $20 million per year since the Initial Proposal.[15] This result is counter-intuitive, given that power prices appear to have gone down since the Initial Proposal, and so have loads.[16] PPC urges the Administrator to closely review BPA's power purchase cost assumptions to see if some rate relief can be gained by making supportable, more optimistic assumptions based on current circumstances.

g. Rate Case Process Generally

In its Initial Brief, PPC stated its hope that the lack of clarity about the final rates that has persisted in this rate case not become the norm for future cases.[17] PPC is concerned that BPA's rate proceedings do not become merely a debate about a "construct," which, once decided, simply produces a rate at the time BPA inputs final numbers.

In its Draft ROD, BPA responded that PPC's concerns "give BPA pause whether it can improve its rate case and customers' satisfaction, so BPA will endeavor to work

[14] *See* Brief on Exceptions of Cowlitz PUD, section III.

[15] *Workshop Presentation Materials,* BPA-10 Draft Record of Decision: Preliminary Rate Results and Forecast Effects of DSO 216 on Wind Generation (June 29, 2009), p. 12.

[16] *Compare* prices from WP-10-E-BPA-05A, p. 98, with those recently estimated in connection with Draft ROD.

[17] WP-10-B-JP11-01, p. 26.

with rate case parties to explore and develop procedures for rates determined pursuant to the Tiered Rate Methodology."[18] PPC appreciates BPA's willingness to consider modifications to the rate case process in the future that will give customers a better ability to engage with BPA staff on the actual rates being proposed. Although PPC cannot offer concrete fixes at this time to the problem of changing variables over time that alter the ultimate rate level, PPC is confident that with some effort, parties can develop improvements that will make the process better.

III. WIND INTEGRATION SERVICE RATE, GENERATION INPUTS AND TRANSMISSION RATE ISSUES[19]

a. Policy on Integrating Renewables

Contrary to the arguments of several parties that BPA's proposed wind integration rate would discourage the development of renewables, PPC believes there is strong evidence that BPA's actions, including the development of an appropriate wind integration rate, will facilitate continued widespread development of renewables in the region. As stated in prior PPC filings, renewable resources are, and will continue to be, an important part of the region's resource portfolio, and PPC's members will rely on wind resources to meet state standards and carbon emission goals.

Wind generation is a beneficial energy resource but, as a variable form of generation, its consumption of balancing capacity imposes costs on the system. BPA demonstrates conclusively in this proceeding and elsewhere that wind generators are

[18] Draft ROD, Draft Record of Decision, p. 370.

[19] Cowlitz PUD does not join in this section of the brief.

imposing significant costs and operating constraints on the BPA system that necessitate a rate to recover those costs.[20]

PPC supports BPA's determination that its "fundamental pricing principle is to apply cost causation to all firm uses of the system."[21] The provision of balancing reserves to meet the variability of load and variable generation is a firm use of the system, for which machine capacity must be set aside and for which all costs of the provision of that service should be recovered from the generation or load that causes them to be incurred. PPC observes, however, that some of BPA's proposed decisions run counter to cost-causation principles by failing to assign identified and proven costs to the Wind Balancing Service, that wind generators are causing the system to incur. We address those proposals below. PPC also addresses various aspects of the Wind Integration and other transmission rates.

b. Accounting For Potential Self-Supply In The Revenue Forecast

In the Draft ROD, BPA declines to alter its revenue forecast for the cost allocation associated with the Wind Balancing Service rate based on possible self-supply or movement of wind generation to another Balancing Authority.[22] BPA states, however, that it "will account for this risk in the final risk analysis."[23]

PPC is prevented from making informed comments on this because BPA does not explain how it will account for anticipated self-supply or movement of wind generation

[20] Draft ROD, p. 215.

[21] *Id.*, p. 213.

[22] *Id.*, p. 228.

[23] *Id.*

to another BA (collectively "self-supply" for purposes of this brief) in the final risk analysis. PPC notes that BPA has not quantified the potential amount of self-supply or how BPA would reflect self-supply of components of the Wind Integration Service in the risk analysis. And, as BPA notes, no evidence has been entered into the record regarding the feasibility of self-supply or the commitment of wind generators to self-supply balancing reserves during the rate period.[24]

Given these statements, BPA provides no basis for its BPA's conclusion that the final risk analysis can "use a similar model [to the risk associated with under or over forecasting installed wind generation] to assess the amount of revenue risk due to the possibility of self-supply . . . ."[25] BPA simply cannot formulate a reasonable assumption based on evidence in the record of this proceeding about the likely amounts of self-supply. Moreover, because BPA does not state what assumption would be made or how it would be derived and how it would be used in the risk analysis, PPC is unable to comment on or test BPA's assumptions—a right that is afforded it under the Northwest Power Act.[26]

PPC strongly supports self-supply of balancing reserves and wants BPA and the customers to arrive at a durable and commercially feasible proposal for accomplishing

[24] Draft ROD, pp. 226, 227.

[25] *Id.*, p. 227.

[26] *See, e.g.,* 16 U.S.C. § 839e(i)(2) (giving parties the right to "offer refutation or rebuttal of any material submitted by any other person or the Administrator"); *See also* 16 U.S.C. § 839e(i)(5) (requiring that the rates be based on the information in the record developed in the rate proceeding).

this objective. Given, however, that BPA's proposal is made very late in the rate case process, that the proposal is unspecified and that no party has had an opportunity to comment on the proposal, BPA must determine the effect of self-supply on the revenue requirement for the Wind Integration Service in a supplemental 7(i) rate proceeding. This should occur after BPA has developed and discussed the terms and conditions of self-supply with its customers and after the wind generators that wish to self-supply have made their plans known. At that point the impact of self-supply can be determined in a rate proceeding where parties will be afforded their statutory rights under section 7(i).

c. Assumed Wind Generation Scheduling Accuracy

In the Draft ROD, BPA finds that the wind fleet as a whole has achieved a scheduling accuracy equivalent to 60-minutes persistence,[27] but that the wind fleet is capable of further improvement during the FY 2010-2011 rate period.[28] BPA proposes to set the wind integration rate using an assumption that generators will be able schedule at an accuracy of 45-minute persistence, *i.e*. based on an assumption that generators will improve their scheduling during the rate period beyond the recent improvements that have been demonstrated.[29] BPA further states that it will consider moving to a 30-minute persistence assumption if it is satisfied that it can rely on curtailments when actual scheduling accuracy deviates from its rate case assumptions.[30]

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[27] Draft ROD, p. 241.

[28] *Id.*, p. 245.

[29] *Id.*, p. 250.

[30] *Id*.

i. The Record Does Not Show That There Will Be Further Improvements in Wind Generation Scheduling Accuracy

Several generators in the wind fleet have significantly improved their scheduling accuracy as measured by schedule persistence. Like BPA, PPC is encouraged by these improvements. Nevertheless, the rate case record does not support an assumption of further dramatic scheduling improvements by the wind fleet as a whole, nor does it provide a sufficient basis for quantifying the improvement relative to any particular persistence scheduling accuracy measurement.

BPA asserts that an assumption of improved scheduling accuracy is supported by BPA's decision to provide wind forecasting information to wind generators located inside its BA.[31] While this is a helpful step, BPA has presented no evidence that this improved information or the Generation Imbalance and Persistent Deviations Penalty charges will be sufficient to drive the scheduling accuracy of the wind fleet to a level equal to or better than a 45-minutes persistence accuracy level. Rather, these helpful steps *may* improve scheduling accuracy over time, but they are several steps removed from being sure ways to improve accuracy. For example, simply supplying wind forecasting information to wind generators is unlikely to improve scheduling unless wind generators' schedulers are able to take account of the information and know how to apply it. Getting to this point requires an investment in staff training and expertise by the wind generators, and for some wind generators will require an investment in additional scheduling staff to provide

[31] Draft ROD, pp. 243, 244.

around-the-clock schedule adjustments.[32]

PPC believes that in the end, the only means at BPA's disposal to obtain a better-than-demonstrated wind scheduling accuracy will be to impose and enforce curtailment and feathering procedures. For the reasons described in PPC's Initial Brief and below, this approach has significant drawbacks.

ii. Assuming a Better-Than-Demonstrated Scheduling Accuracy Will Likely Shift Costs of Wind Integration to Requirements Customers

BPA does not dispute that excess balancing reserve costs (due to the need to commit balancing reserves in excess of the rate case forecast) will, if incurred, be allocated to requirements customers. This will raise preference customers' rates, and could reduce the capacity available to customers, especially Slice customers, to serve their loads.[33]

BPA assumes that it will successfully implement curtailment and feathering orders when the total system balancing reserves are nearly used up and that this will permit the system to carry fewer balancing reserves. As PPC explained in its Initial Brief, this approach creates a significant risk that BPA will, over time, find itself holding out more reserves for wind than it assumes in the rate case, due to the undesirability of having to order the curtailing or feathering of wind projects.[34] BPA responds to this concern, only by stating that it has no incentive to do this—but at the same time recognizes that nothing

[32] PPC notes that only one wind generator has entered evidence into the record of its willingness and actions to improve it scheduling accuracy.

[33] Draft ROD, p. 270-271.

[34] WP-10-B-JP11-01, p. 36-37.

would preclude it from doing so.[35] PPC submits that even if BPA does not intend at this point to hold out excess reserves, there will be pressure to do so when actually faced with the circumstance where wind generators are exceeding available system reserves. Wind generators have a concrete incentive to bring pressure to bear if curtailments and feathering orders negatively impact their profits.

BPA's plan to obtain assurances from wind generators in this rate case that they will "accept" these curtailments does not alleviate PPC's concerns. The current estimates of the frequency and duration of curtailment and feathering orders are, at best, preliminary and perhaps illustrative. However, not all existing wind generators are parties in the rate case. Certainly, future wind generation is largely unrepresented and will not be bound in any fashion by the statements of others. Nor do we believe that statements to "accept" curtailments and feathering orders will lead to complete enforcement or insulate BPA from complaints, especially if if the orders turn out to be more frequent or longer in duration than previously estimated. As has been demonstrated, generators feel, understandably, that it would be premature to offer binding commitments in this regard before DSO-216 is developed.

On the whole, PPC believes there is a substantial risk that assuming a better-than-demonstrated scheduling accuracy will shift wind integration costs to requirements customers. Doing so is contrary to cost-causation principles, and argues against the rate construct that BPA is proposing. If BPA decides to lower the WI-10 rate level by assuming better-than-demonstrated scheduling accuracy as described in the Draft ROD,

[35] Draft ROD, p. 246.

BPA must ensure that the risk of an inadequate reserve assumption is not borne by BPA's requirements customers.[36] Avoiding a cost shift due to an overly optimistic reserves assumption is important not only for the reasons above, but also due to the fact, set out in PPC's testimony, that wind will tend to overuse reserves paid for by load in disproportionate amounts as compared to load's overuse of reserves paid for by wind.[37]

iii. Data Collection and Verification

If BPA decides to pursue its proposal to assume a 45-minute persistence scheduling accuracy level, BPA should take additional steps to demonstrate that it is setting aside and deploying no more balancing reserves than forecast in the rate case. BPA should publish data and analysis at least monthly that will allow customers to monitor and verify the level of balancing reserves BPA actually sets aside and deploys. At a minimum, BPA should provide the following information: total reserves held (5-minute data); total reserves deployed (5-minute data); aggregate load level (5-minute data); aggregate wind generation (5-minute data) and associated capacity factors; and an after-the-fact analysis of reserves deployed for load and wind separately (each hour of each month). BPA also should complete its preliminary study of the use of reserves by

[36] At a minimum BPA should decide that, in the event that additional balancing reserves are set aside for wind generation in excess of the rate case forecast, Transmission Services would pay Power Services the per-unit cost of such balancing reserves and reflect that payment as a reduction of Transmission Services's financial reserves. This is not an optimal solution but will mitigate the risk to the requirements customers that Power Services will incur costs from the provision of the generation inputs for the Wind Integration Service that are not recovered from Transmission Services.

[37] WP-10-E-JP6-1, pp. 11-12.

load and wind that was begun in January 2009.[38]

Regarding whether BPA should assume a scheduling accuracy of 30-minutes for wind, PPC objects to such an assumption for the reasons stated above. In summary:

1) The record does not demonstrate that this is likely to be a valid assumption about the accuracy with which the wind fleet will schedule;

2) PPC believes that it will be difficult for BPA to order curtailments or feathering if DSO 216 is challenged or the subject of complaint;

3) Assuming a better-than-demonstrated scheduling accuracy of 30-minutes will exacerbate the overuse by wind generators of reserves set aside for load, which is caused by BPA's curtailment trigger being usage of 90% of *total* reserves; and

4) Preference customers will unfairly be required to bear the costs of excess reserves held out by BPA.

d. Generation Input Pricing

i. <u>BPA Has Not Supported the Proposed Changes to Its Allocation of Embedded Costs to Ancillary Services Using Generation Inputs</u>

In its Draft ROD, BPA proposes to use average water, rather than critical water, to establish the 120-hour peaking capability used in the generation inputs embedded cost pricing methodology.[39] BPA's primary justification for this change is that "there is no statutory requirement that dictates whether BPA uses critical water, 1937 water, or some other measure for the purpose of allocating costs for generation inputs," and that "[u]sing average water instead of critical water would not violate section 7(g) of the Northwest

[38] WP-10-E-JP6-2, Att. 3.

[39] Draft ROD, p. 265-266.

Power Act, because BPA is not crediting transmission rates for secondary sales."[40]

It would be error for BPA to use average water in making this calculation. Costs not specifically allocated in rates by the Northwest Power Act are to be equitably allocated "in accordance with generally accepted ratemaking principles . . . ."[41] The costs of firm uses of the FCRPS are allocated on the firm capability of the system, represented in this rate case using 1937 water. The consistent application of this metric is essential to the application of cost-causation in allocating costs. BPA has not demonstrated facts or circumstances that justify a change from the application of 1937 water in developing the allocation of costs to firm system uses. Moreover, by changing to average water, BPA will overstate the peaking capability of the FCRPS and apply that overstated amount to the embedded costs to lower the per-unit cost of generation inputs, thus lowering the rate levels for certain ancillary and control area services.[42] This shift in costs to requirements customers violates the cost-causation principle that BPA agrees underlies its rates.[43] Under the circumstances, departure from the use of firm water would violate the statute.[44]

PPC understands that for most, if not all, other cost allocations regarding power costs, BPA uses critical water. Making an exception here, in a piecemeal fashion, would likely cause cost-shifts among and within customer classes and PPC does not believe that

[40] Draft ROD, p. 266.

[41] 16 U.S.C. § 839(e)(g).

[42] These are the Wind Integration Service, Regulation and Frequency Response Service, Operating Reserve – Spinning Reserve Service and Operating Reserve – Supplemental Reserve Service.

[43] Draft ROD, p. 213.

[44] PPC also notes that "a balanced approach" is not a principled basis for ratemaking. As a standard, it is undefined and inherently subjective.

BPA has demonstrated how it would avoid this in the Draft ROD. If BPA were to make a decision to go to average water instead of critical water, it may make more sense to do so if the question was addressed from a more holistic perspective, looking at all system uses and allocations of costs.

Furthermore, PPC is not persuaded of BPA's proposed change by the agency's statement that "[u]sing average water instead of critical water would not violate section 7(g) of the Northwest Power Act, because BPA is not crediting transmission rates for secondary sales"[45] Embedded costs recovered in power rates are allocated based on 1937 water. Power customers receive a credit from secondary sales that off-sets some of those costs because power customers also bear the risk of underperformance of secondary sales. But, assigning a credit in any form to wind generators for secondary sales is inequitable and contradicts section 7(g) of the Northwest Power Act because wind generators do not bear the risks of underperformance of secondary sales from the BPA system. Moreover, power customers pay for the embedded cost of the entire system, not just the Big 10 hydro units, including the WPPS projects. This further underscores that it is not appropriate for BPA to attempt to equate using average water to allocate embedded costs to wind generators with the rate treatment afforded power customers.

ii. Variable Costs Allocated to Balancing Reserves

In the Draft ROD, BPA proposes to modify the variable costs in the final studies to include only the variable costs for "dec" reserves and the efficiency losses for "inc" reserves. BPA states that the energy shift component of the variable cost methodology

[45] Draft ROD, p. 266.

for inc reserves will be removed from this rate, but may be reconsidered in future rates.[46]

BPA's proposal is unsupported in the record. BPA aptly defends its prior proposal for charging wind generators variable costs as recovering legitimate and identifiable costs and concludes that it "has supported the calculation of the components of the embedded and variable costs with substantial evidence and has also provided evidence of how each component recovers discrete system costs."[47] BPA further concludes that the costs of providing balancing reserves that are recognized in the variable costs are not "duplicative of the Generation Imbalance charge,"[48] that they are not opportunity costs,[49] and that recovery of the embedded and variable costs is not "and" pricing.[50]

Despite having concluded that it is appropriate to charge variable costs to the wind integration rate, however, BPA proposes to eliminate the Energy Shift component of the variable costs for inc capability. BPA's stated rationale for this proposal is that the Energy Shift cost "is based on the difference between the HLH and LLH pricing, and this component is different from BPA's pricing in past rate proposals[.]"[51]

BPA's proposal to not charge to the wind integration rate costs that are supported by substantial evidence and are caused by the integration of wind resources is arbitrary and capricious and violates BPA's stated cost-causation principles, because the costs are

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[46] Draft ROD, pp. 279-282.

[47] *Id.*, p. 270.

[48] *Id.*, pp. 276, 283.

[49] *Id.*, p. 279.

[50] *Id.*, p. 282.

[51] *Id.*, p. 282.

shifted to requirements customers in violation of section 7(g) of the Northwest Power Act. Furthermore, BPA fails to recognize that it will, under the TRM, rely heavily on basing certain charges on the difference between HLH and LLH pricing. To do so with respect to the wind integration rate is not, therefore, unique, and the agency should include this component in the rate.

e. Transmission GRSP and Rate Design Issues (TR-10)

i. Persistent Deviation Penalty Charge Proposal

PPC agrees with BPA's proposed modifications of the initial proposal of the Persistent Deviation Penalty charge. PPC believes that the decisions to modify the hours of the duration of the deviation, add a waiver provision and clarify the interaction of the charge with Generation and Energy Imbalance charges improve the proposed rate significantly. PPC also agrees that the 125% penalty, along with the above modifications, strikes an appropriate balance between BPA's interests and the interests of its customers. PPC strongly suggests that BPA collect and make public aggregate data on the imposition of the penalty charge during the FY 2010-11 rate period so that customers can assess the effectiveness of the penalty charge in providing an incentive for better scheduling practices.

ii. Ability to Self-Supply Components of the Wind Integration Service and Receive a Credit

BPA proposes in the Draft ROD to credit wind generators for self-supply of components of the Wind Integration Service based on the unbundled rate for that

component.[52] PPC supports providing the ability to wind generators to self-supply balancing reserves. BPA's proposed unbundling of the Wind Integration Service into components for purposes of self-supply will benefit the FCRPS and merit a rate credit to the extent that the self-supply actually reduces the obligation on BPA to provide reserves in the delivery hour for which the credit is awarded.

PPC understands that BPA will establish the terms and conditions for self-supply in a Business Practice that will be drafted and implemented in a process outside of this rate case. The details of how and when the credit is awarded will be critical to ensure that self-supply is successful and provides a durable option for wind generators. BPA should assess the eligibility for and size of credits based on an after-the-fact determination of the amount of reserve obligation that the self-supply relieved—that is, the amount of reserve capacity that BPA does not have to set aside or deploy for the wind generator during the delivery hour. BPA must not be in a position of having to set up the system so that the reserve is held for the delivery hour in which self-supply is permitted. Otherwise, it would be foregoing charges for costs it still incurs.

iii. Exemption from Payment of WI-10 by Small Generators During FY 2010

BPA proposes an exemption from the wind integration rate for small wind generators (less than 20 MW) during the first year of the rate period.[53] PPC does not support an exemption for small wind generation from the wind integration rate. Each

[52] Draft ROD, pp. 390-391.

[53] *Id.*, p. 437.

wind generator in the BPA BA contributes to the BPA system balancing requirement by virtue of its resource's characteristics and scheduling behavior, and its size does not mean that it does not require balancing capacity in order to be integrated.

If BPA decides to go forward with the proposed exemption, BPA should commit in the Final ROD not to extend this exemption beyond FY 2010 and should adopt a policy that very strongly disfavors exemptions from the Wind Integration Service rate in future rate periods.

IV. CONCLUSION

PPC respectfully requests that, for the reasons described above, the Administrator alter BPA's Final Rate Proposal in a manner consistent with PPC's recommendations contained in this Brief on Exceptions and PPC's Initial Brief.

Respectfully submitted,

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