



August 24, 2017

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Submitted via www.bpa.gov/comment

Re: Net Requirements FY 2018 Public Notice

The Bonneville Power Administration (BPA) has requested input on options to handle uncertainty in the process of establishing Net Requirements pursuant to the Regional Dialogue Contracts for FY 2018. Specifically, BPA has requested feedback on four potential options regarding the uncertain level of operation for a large industrial customer of Cowlitz PUD. The Public Power Council (PPC) submits the following comments.

As a threshold matter, this issue highlights the importance of BPA's ongoing efforts to improve the agency's competitive position in collaboration with its power customers and their representatives. Although industrial customers make operating decisions based on a variety of factors, the cost of power is an important one. Including the final rate decisions for FY 2018, BPA's average power rates will have increased by approximately 34 percent since FY 2009, which is over twice the rate of inflation during that time. Continuation of this trajectory exacerbates the difficulty of operating a business in a competitive international market for commodities. BPA's position as the provider of choice for preference power customers and as a positive economic engine for the region depends on the success of these efforts.

Regarding the issue at hand, it is important to recognize both the rights and the obligations of customers under the Regional Dialogue Contracts. Customers have a take-or-pay obligation for Tier 1 power, but also the right to adjust their Net Requirements based on changes to their forecast retail load. Given the size of the potential load reduction and the timing and uncertainty of its operation during FY 2018, BPA's decision on this issue could have a significant effect on Cowlitz PUD but also on other Tier 1 customers.

Out of the options presented in BPA's public notice, we believe that "Option 3" presents the best balance of all the parties' rights and obligations. Under this option, if the load in question does not operate as is currently forecasted, Cowlitz PUD is relieved of the obligation to pay for that power. However, if circumstances change and the load becomes operational, under Option 3 BPA, Cowlitz PUD, the industrial customer, and other preference customers would all be in the equivalent financial position had that information been known earlier.

BPA is expecting to execute Option 3 through a settlement agreement with a liquidated damages provision. In order to ensure adequate financial protection for all the interested parties, the terms of that settlement agreement and specifically the liquidated damages provision must be clear, robust, and enforceable. In light of the importance of the contemplated settlement agreement and BPA's prior history with pursuing damages under similar circumstances, BPA should make the settlement agreement available for public review.

As a final matter, in the interest of all parties, PPC encourages BPA to market the newly-available power as aggressively as possible to mitigate the financial loss from reduced Tier 1 sales. This power is available from the BPA system on a firm critical basis under all water conditions and is carbon free. All efforts should be made to secure the most value for these characteristics, and BPA should not be in a position of simply marketing the power passively in the short term.

Thank you for your consideration of these comments. We look forward to continuing collaborative work in the interest of the core preference power customers and the agency to resolve this and other challenges in the future.