

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

**Fiscal Years 2018-2019 Proposed )  
Power and Transmission Rate )  
Adjustment Proceeding )**

**BPA Docket No. BP-18**

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**SUPPLEMENTAL BRIEF OF**

Public Power Council  
and  
Northwest Requirements Utilities

**as**

**JOINT PARTY 8**

**SUBJECT:**

**Spill Surcharge**

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June 9, 2017

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## **I. Introduction.**

Pursuant to the applicable rules of procedure<sup>1</sup> and Hearing Officer's Order Amending Schedule, BP-18-HOO-30,<sup>2</sup> the Public Power Council ("PPC") and Northwest Requirements Utilities ("NRU"), together designated as Joint Party 8 ("JP08"), file this Supplemental Brief to address the Bonneville Power Administration's ("BPA") staff's proposed Spill Surcharge.

All members of NRU and PPC are preference customers of BPA who purchase wholesale power from BPA and will bear the cost of any increased spill that results from the U.S. District Court order in *National Wildlife Federation v. National Marine Fisheries Service*, No. 3:01-cv-0640-SI, 2017 WL 1135610 (D. Or. Mar. 27, 2017, *as amended* Apr. 3, 2017) ("the court order"). As described below, this increase in spill will be yet another driver for significant cost increases to BPA, which, in turn, jeopardizes BPA's ability to fund the numerous benefits that it provides to the Pacific Northwest, including BPA's fish and wildlife program. While Joint Party 8 views BPA staff's Spill Surcharge as the most tolerable method for addressing the court's order, members of NRU and PPC are increasingly concerned about BPA's rate trajectory and specifically, the impact of fish and wildlife costs on BPA's power rates.

## **II. BPA's Rate Trajectory Is Unsustainable and Threatens the Agency's Ability to Fund Programs Vital to the Pacific Northwest.**

As NRU and PPC discussed in the Initial Brief of Joint Party 7 addressing BPA's proposed financial reserves policy, BPA's stability is critical to the entire Northwest region, not only its power customers, and BPA's stability is driven by its competitiveness. Fundamentally, BPA's ability to meet its statutory obligations is directly connected to whether its rates are competitive. These obligations include protecting and enhancing fish and wildlife, ensuring cost

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<sup>1</sup> BPA Rules of Procedure Governing Rate Hearings at § 1010.13(c); Special Rules of Practice Governing this Proceeding, BP-18-HOO-02 (November 17, 2016).

<sup>2</sup> Order Amending Schedule, BP-18-HOO-30 (April 21, 2017).

recovery, meeting Treasury payment obligations, encouraging the widest possible diversified use of Federal power at the lowest cost consistent with sound business principles, and giving highest priority to cost-effective conservation when acquiring resources to meet the customers' needs. These obligations are vital for the entire Pacific Northwest and all those with a stake in BPA's role in the region should be concerned about BPA's rising costs.

Any additional costs included in power rates for the BP-18 rate period will be especially problematic for BPA's power customers given the trajectory of power rates in recent years and the difficult financial situation BPA is already facing. Power rates have increased by approximately 28 percent over the past eight years, which is more than twice the rate of inflation during the same time period.<sup>3</sup> Moreover, BPA's initially proposed BP-18 rates are already subject to significant upward pressure due to the continued erosion of net secondary revenues. Specifically, in FY 2016, Power Services lost \$175 million relative to the BP-16 rate case forecast, and in the current fiscal year, Power Services is forecasted to lose an additional \$29 million relative to the rate case forecast.<sup>4</sup> Although the rate increase included in the BP-18 Initial Proposal was relatively modest compared to other recent cases, these adverse market conditions, additional financial pressures, and now the court order requiring increased spill in 2018 make it likely that the BP-18 actual rate increase will be higher than forecasted in the Initial Proposal.

Notably, even during these years of large rate increases, BPA power customers have continued to fund an average total cost of approximately \$614 million per year for BPA's Columbia Basin Fish and Wildlife Program.<sup>5</sup> This constitutes an annual \$698 million in total program expenses, foregone revenues, and power purchases offset by \$83 million in 4(h)(10)(C)

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<sup>3</sup> Deen et. al., BP-18-E-JP08-01 at 3, lines 2-3.

<sup>4</sup> *Id.* at 3, lines 11-16.

<sup>5</sup> *Id.* at 5, lines 22-23.

credits.<sup>6</sup> In terms of impact of on BPA’s power rates, in recent years, BPA Fish and Wildlife Program costs make up about one-third of preference customers’ BPA power costs.<sup>7</sup> Indeed, BPA’s Columbia Basin Fish and Wildlife Program spans across a four-state region and “is the largest environmental program of its kind in the world.”<sup>8</sup> Since 1978, BPA’s power customers have incurred costs of approximately \$15.9 *billion* to support salmon and steelhead mitigation efforts in the Northwest.<sup>9</sup> For the foreseeable future, salmon and steelhead mitigation in the Northwest will continue to be one of the largest wildlife recovery efforts in history.

Despite the enormity of the BPA’s power customers’ existing funding commitment, the court order will result in even more upward pressure on BPA’s power rates due to fish and wildlife costs. The likely changes in spring operations under the court order would affect BPA’s power rates in two ways: (1) cause BPA to purchase non-federal power on the market, thereby increasing costs; and (2) cause BPA to lose the opportunity to sell surplus federal power on the market, reducing revenues that could otherwise be reinvested in the Pacific Northwest.<sup>10</sup> If the court adopts plaintiffs’ proposed spill operations, the expected 815-average-megawatt reduction in generation would result in approximately a \$40 million impact to power customers, an estimate which is “likely conservative.”<sup>11</sup> By recovering this cost in rates, BPA would be adding more than two percent to an already forecasted rate increase of three-and-a-half percent,<sup>12</sup> resulting in yet another substantial increase in BPA’s power rates.

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<sup>6</sup> Deen et. al., BP-18-E-JP08-01 at 6, lines 1-3 (citing 16 U.S.C. § 839b(h)(10)(C)).

<sup>7</sup> The State of the Columbia River Basin, Fiscal Year 2015, Northwest Power and Conservation Council’s 2015 Annual Report to Congress, (February 1, 2016), available at <https://www.nwcouncil.org/media/7150397/2016-1.pdf> (June 6, 2017).

<sup>8</sup> Columbia Basin Fish & Wildlife Program, <https://www.cbfish.org/> (June 6, 2017).

<sup>9</sup> BPA Facts 2016, (last updated March 2017), available at <https://www.bpa.gov/news/pubs/GeneralPublications/gi-BPA-Facts.pdf>.

<sup>10</sup> Fisher et. al., BP-18-E-BPA-55, Attachment 2 at 2.

<sup>11</sup> *Id.* at Attachment 2 at 3-4.

<sup>12</sup> *National Wildlife Federation v. National Marine Fisheries*, 2017 Declaration of Kieran Connolly, Bonneville Power Administration, D. Or. 3:01-CV-00640-SI, ECF 2145 (Feb. 1, 2017) at 17.

### **III. BPA Staff's Proposed Spill Surcharge Is the Least Detrimental Option for Addressing the U.S. District Court Order.**

As described above, Joint Party 8 is concerned about BPA's rate trajectory and the agency's ability to continue to provide power at competitive rates while funding programs that benefit the Northwest region. The increased spill in 2018 will exacerbate this problem. That being said, BPA staff's supplemental proposal for a Spill Surcharge would provide the least detrimental method for addressing the court's order. Specifically, the BPA Spill Surcharge proposal has four primary benefits compared to other methodologies that BPA could employ to address the court's order.

First, the Spill Surcharge costs will be transparent. Under BPA staff's proposal, BPA would calculate a difference in hydro generation between the HYDSIM study for the BP-18 final proposal and a revised HYDSIM study that adjusts only for the changes in spill operations.<sup>13</sup> This change in generation will then be multiplied by the final market prices from the BP-18 final proposal to generate a dollar amount.<sup>14</sup> This approach is transparent and based on the minimum amount of changes from the BP-18 final studies. BPA staff propose to publish BPA's assumptions and results for review, hold a public workshop, and accept comments from stakeholders. In rebuttal testimony, BPA staff also supported a suggestion to provide a longer public process in order to give BPA's customers more time to review and comment on the Spill Surcharge calculation.<sup>15</sup> BPA staff's proposed methodology and the associated public process will allow the agency to transparently address the court's order.

Second, because the approach will model actual spill requirements when they are known, it will minimize chances that BPA will collect unnecessary revenues. Because BPA will not be

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<sup>13</sup> Deen et. al., BP-18-E-JP08-01 at 4, lines 16-19.

<sup>14</sup> *Id.*

<sup>15</sup> Fisher et. al., BP-18-E-BPA-56 at 17, lines 8-20.

speculating on the outcome of the 2018 spill design or the 2019 Federal Columbia River Power System Biological Opinion (“BiOp”), it will allow those processes to proceed unhindered by any rate case assumptions.

Third, given that the surcharge is meant to recover costs for a single year of operations or for unknown future BiOp operations, it is appropriate from a ratemaking perspective to have a separate charge rather than to simply roll the operational assumption into the baseline hydrological studies. Finally, BPA staff’s proposed approach will not bias or pre-judge the outcome of other processes. By declining to speculate on outcomes, BPA is allowing the court process to determine spill operations for FY 2018 and the 2019 BiOp to not be hindered by any rate case assumptions. Conversely, if BPA staff adopted an approach that involved predicting these outcomes, it could potentially prejudice the court and BiOp processes.

**IV. Conclusion.**

For the reasons stated above, BPA staff’s proposed Spill Surcharge is the most appropriate means available to address the court’s order for increased spill in FY 2018.

Respectfully submitted this 9th day of June, 2017.

s/ Betsy Bridge  
Attorney for Northwest Requirements Utilities

s/ Irene A. Scruggs  
Attorney for Public Power Council

**Post-Hearing Exhibit List of Joint Party 8**

| Exhibit         | Document Title                                   | Date Filed | Status         |
|-----------------|--|------------|----------------|
| BP-18-E-JP08-01 | Supplemental Direct Testimony of Joint Party 8   | 5/11/2017  | To be admitted |
| BP-18-E-JP08-02 | Supplemental Rebuttal Testimony of Joint Party 8 | 5/25/2017  | To be admitted |
| BP-18-Q-NR-01   | Qualification Statement of Megan Stratman        | 1/27/2017  | Admitted       |
| BP-18-Q-PP-03   | Qualification Statement of Michael Deen          | 1/23/2017  | Admitted       |
| BP-18-Q-PP-05   | Qualification Statement of Bo Downen             | 4/28/2017  | Admitted       |

## CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing on the Bonneville Power Administration's Office of General Counsel, the Hearing Clerk, and all litigants in this proceeding by uploading it to the BP-18 Rate Case Secure Website pursuant to BP-18-HOO-02 and BP-18-HOO-05.

DATED: June 9, 2017.

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