

INDUSTRIAL
CUSTOMERS OF
NORTHWEST
UTILITIES

200404 046

DW
MW
HL

KEN CANON
EXECUTIVE DIRECTOR

April 23, 2004

Steve Crow
Executive Director
Northwest Power and Conservation Council
851 S.W. Sixth Avenue, Suite 1100
Portland, OR 97204

RE: Council Recommendations for the Future Role of the Bonneville Power
Administration in Power Supply

Dear Steve,

Industrial Customers of Northwest Utilities (ICNU) is a regional industrial trade association that represents its 35 members' interest in electric power issues. ICNU members purchase power from publicly-owned utilities and the region's investor-owned utilities. It should be noted that the commercial/industrial customers of the IOUs do not share in any of the benefits of BPA. Due to the short time frame for response to your draft, please consider these comments to be preliminary.

ICNU members may have a perspective different from the utilities. Unlike the utilities, ICNU members produce products that are sold in markets in which competition is intense, customers are free to search for the best products, price and service and in which mistakes can actually put a company out of business.

General Comments

While we concur with the general direction suggested by the Council's paper regarding BPA's resource role, it is important to have realistic expectations regarding this proposed change. From an end-use customer's point of view, whether BPA augments to meet load growth or whether the Publics do so individually, the results may not be all that different. In both cases, higher cost resources are blended with lower cost resources. Whether a new allocation system is better than BPA's current augmentation system will be governed by whether the Publics can make better resource decisions than BPA. The results of the 2000/2001 power crisis would suggest that utilities may have little advantage over BPA.

It is true that an allocation could better align load growth responsibility and give it to those utilities actually experiencing load growth. If this is in and of itself a compelling

(503) 239-9169 FAX (503) 239-0466
E-MAIL: kcanon@icnu.org
825 N.E. MULTNOMAH, SUITE 180
PORTLAND, OREGON 97232-2185

APR 23 2004

reason to change BPA's fundamental resource acquisition role, then that decision should be made soon so that all utilities clearly understand the new responsibilities they are undertaking. Waiting until 2007/2008 to make the ultimate allocation decision unnecessarily creates further risks that intervening circumstance could once again delay such a decision.

We agree there is probably more debate regarding how to reach the end state than over the general nature of the end state itself. However, we disagree with the Council's conclusion that a formal rulemaking process will provide the durability and certainty necessary for prudent utilities to sign new 20-year take-or-pay contracts. We believe the changes being proposed are truly fundamental. For over 60 years BPA has met the load growth put on it by preference utilities. Only once has that role been limited and that was done by Congress (the New Large Single Load provisions of the Regional Act).

BPA's rate cases are more rigorous procedurally than the rulemaking process suggested in your draft. Rate cases are quasi-judicial and are presided over by an Administrative Law Judge. They feature sworn testimony, ex parte rules, cross examination, written briefs, a draft and formal decision and appeal rights. Yet even that more rigorous process is still widely considered to be a process of little substance, and one completely controlled by BPA. Therefore, the proposed formal rulemaking falls far short of the durability needed for this process.

Many parties cling to the mistaken belief that 20-year contracts can substitute for necessary changes to the Regional Act. However, the number of contract disputes between BPA and customers have been numerous, and the number will likely increase in frequency. There are two reasons this is likely to occur. First, in trying to construct contracts that will actually bind BPA, contracts will become increasingly detailed and complex. This will make them more subject to BPA "interpretation", leading to additional legal challenges. Second, by providing more separate, yet interdependent, contract products to its customers (i.e. slice, block, full requirements) the likelihood of intra-customer and cost-allocation disputes also increases.

We believe that relying on a formal rulemaking process that is then implemented by potentially unenforceable contracts does not establish a stable foundation for the fundamental changes being contemplated by the region. The Council should take the lead to at least catalog the key legislative revisions that would be necessary to actually implement the fundamental changes now being discussed.

Preliminary Comments on Specific Issues Identified by the Council

Allocation of the System

We support an allocation of the system that balances known and measurable change with historical usage that normalizes economic cycles.

Products

We would recommend that BPA offer a single product to its customers. This would be a slice product. In addition, BPA would offer separately priced services that would convert the slice product into a block, full-requirements or load growth service. For ease of administration and cost allocation, the load-growth service would be from a single, defined pool.

Tiered Rates

Instead of the predictable protracted fight over tiered rates, the region's time and effort would be better spent agreeing to define BPA's future resource role through an allocation system. That system should be put in place as soon as possible to allow those utilities interested in pursuing their own resource initiatives to do so.

New or Annexed Load

One of the fundamental purposes of BPA is to act as a "competitive yardstick" against which to measure IOU rate levels. While BPA has currently lost its way on this purpose, foreclosing the ability of new public power load to be placed on BPA (whether specifically or by establishing a process that has the same result) is an anathema to this historic BPA role. Therefore, BPA should retain the obligation to provide some amount of preference power to new public power loads. These loads do not arise without ample notice and if the amount allowed is reasonable, the impact on other customers should be slight.

BPA Costs/Business Practices

BPA's status as a self-regulated monopoly raises the cost issue to a critical level. Customers will sign new 20-year take-or-pay contracts only if a structure is created that allows a full and honest examination of all of BPA costs and financial strategies. Unfortunately, the further BPA's "frozen-system" costs fall below market prices, the more difficult it will be to control BPA's cost increases.

BPA is to be commended for its recent efforts to involve its customers in beginning such an effort through the Customer Cost Collaborative and the Process Improvement Program. However, other such efforts have had successful launches only to flounder as circumstances have changes. Bringing BPA's costs (revenue requirements) into the BPA rate process would only be meaningful if statutory changes were made to substantially improve the BPA rate-case process. An example would be an independent decision-maker on revenue requirement -- or at least an independent law judge recommendation to the Administrator.

Residential Exchange

ICNU is dismayed by the cavalier manner in which the Council walks away from the statutory directives regarding the Residential Exchange -- principally, to use the statutory average system cost methodology to equalize the rates of residential and small-farm customers of the IOUs and public agencies subject to limits imposed by the preference customer rate test. If all parties agree that the Residential Exchange is outmoded and can be easily manipulated by BPA, then the appropriate course of action is to make a statutory change. Picking and choosing which sections of the Regional Act to follow is just as "risky" as attempting to make needed change to the Act. The farther the Region deviates from the Act, the more discretion it provides to BPA.

Conservation and Renewables

With the allocation of BPA's existing resource base, utilities will face the marginal cost for new resources. Taking BPA out of the business of melding old and new power acquisitions will address one of the key reasons to have BPA in the conservation acquisition business. That role should be shifted to the utilities since they will now be responsible for acquiring their own load growth needs. The same is true for new renewables. Again, BPA may want to have a conservation and renewable acquisition service to sell to those utilities that want to invest in these resources but lack the individual capability to do so. The key element to having the BPA allocation process spur additional conservation activity is to ensure that the PF rate is sufficiently below the alternate cost of other power resources.

We look forward to working with the Council, BPA, and the other regional parties on this critical and long overdue issue.

Sincerely,



Ken Canon