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Ms. Judi Danielson, Chair
Northwest Power and Conservation Council
851 S.W. Sixth Avenue, Suite 1100
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Dear Ms. Danielson:

Thank you for the opportunity to comment on the Northwest Power and Conservation Council's Draft Recommendations for the Future Role of the Bonneville Power Administration in Power Supply. I am submitting these comments to you on behalf of the six Investor-Owned Utilities that serve approximately sixty percent of the residential and small farm load in the Pacific Northwest. The investor-owned utilities are Avista Corporation, Idaho Power Company, PacifiCorp, Portland General Electric Company, Puget Sound Energy, Inc., and NorthWestern Energy.

The investor-owned utilities agree with the Council that the paramount goal for the Bonneville Power Administration is to preserve and enhance the benefits of the Federal Columbia River Power System for the Northwest. We believe that this goal is best accomplished by aligning the interests of BPA's customers in policies and practices that promote economic efficiency. The attached document provides additional detailed recommendations on how best to achieve these broad goals.

The investor-owned utilities appreciate this opportunity to comment on the Council's recommendations to BPA. As representatives of the four Northwest Governors, you provide important policy direction and guidance that will help determine the future policy framework and direction for BPA's role in the region's electric power system.

Sincerely,

James Litchfield
President
Litchfield Consulting Group, Inc.
Consultant to the Investor-Owned Utilities

Comments of the Investor-owned Utilities in Response to the NPPC's Draft Recommendations for the Future Role of the Bonneville Power Administration in Power Supply

The investor-owned utilities¹ submit the following comments to the Northwest Power and Conservation Council (the "Council") in response to the Council's Draft Recommendations for the Future Role of the Bonneville Power Administration in Power Supply ("Council Draft").

The investor-owned utilities agree with the Council that the paramount goal for the Bonneville Power Administration is to preserve and enhance the benefits of the Federal Columbia River Power System for the Northwest. *See* Council Draft, p. 6. This goal is best accomplished by

- (i) aligning the interests of BPA's customers and thereby giving all BPA customers a stake in working together for the most efficient operation of the federal facilities, and
- (ii) ensuring that the benefits of all the existing federal system are durably and equitably allocated and the costs of any new BPA resources to meet new BPA load are borne by that load.

This approach will facilitate planning and development of economic resources to meet load in the region by providing greater certainty as to the load BPA will meet with the low-cost existing federal system resources.

A. Alignment. The alignment of the interests of BPA and its customers, including the residential and small farm consumers served by investor-owned utilities, is essential in order to preserve the benefits of the federal power system for the region. Alignment among BPA's customers allows BPA to operate more efficiently and cost-effectively and gives all of BPA's customers a stake in working together for the most efficient operation of the federal facilities. Absent such alignment, contentious

¹ The investor-owned utilities are Avista Corporation, Idaho Power Company, PacifiCorp, Portland General Electric Company, Puget Sound Energy, Inc., and NorthWestern Energy. Collectively, these utilities serve sixty percent of the residential and small farm load in the Pacific Northwest.

litigation is likely to continue to divert attention and resources from efforts to maintain the benefits of federal power for the region.

B. Allocation. Alignment of the interests of BPA and its customers is best achieved by implementing an allocation of all of the benefits of the existing federal system² in a way that is stable, equitable, durable and transparent over the long-term.³ Unfortunately, previous joint efforts of BPA and its customers, such as in the Regional Dialogue of 2002, including the Joint Proposal of the Northwest Utilities-The Future Role of BPA Regarding Power Supply,⁴ to achieve such an allocation in the absence of legislation were well-intentioned, vigorously pursued, but ultimately unsuccessful. Accordingly, new legislation must be considered in connection with such an allocation.⁵ Consistent with the conclusion of the Council Draft that the issues “must be dealt with as a package rather than as separate sets of issues”, the allocation of the benefits of the existing federal system must be a comprehensive (rather than a partial) allocation of all such benefits that reflects the interests of all BPA customers.

C. Preserving the value of the existing federal system. In order to preserve the value of the federal power system, BPA must not meld higher-priced resources in with the existing federal system. Because BPA is basically in load/resource balance at this time, it is imperative to establish the principle now that new loads placed on BPA must be served by new resources at the full cost of those

² The existing federal system consists of the electricity produced by the federally-owned hydroelectric dams on the Columbia and Snake River systems, as well as the output of Energy Northwest’s Columbia Generating Station (formerly known as WPPSS Plant No. 2) and other long-term resources that have been acquired by BPA and that are currently in operation or under development.

³ The Council recommends that Bonneville allocate the power from the existing federal system among eligible customers. *See* Council Draft, p. 3. It is currently being proposed that the investor-owned utilities sign agreements with BPA under which only monetary payments (rather than power) would be provided as benefits during FY 2007-2011. The provision of monetary benefits rather than power will not be durable, and thereby not achieve alignment, if BPA and its customers view power as an “entitlement,” but monetary benefits as a burdensome “cost.” Benefits from the existing federal system for the 60% of residential and small farm customers served by investor-owned utilities must be provided in a form that is durable, as well as equitable.

⁴ *See* <http://www.nwppc.org/energy/bparole/2002.htm>

⁵ Current challenges to existing settlements suggest that region-wide future settlements would, in the absence of new legislation, be subject to expensive, uncertain, and contentious litigation.

resources. If BPA acquires new resources to serve new loads placed on BPA by a particular customer(s), such acquisition should only be done through bilateral contracts under which those customer(s) bear all the costs and risks of the new resource.

Similarly, BPA should not provide service at rates that meld in the cost of existing BPA resources to BPA preference customers for service to load annexed or otherwise taken over from investor-owned utilities. Providing BPA service at melded rates to such newly-annexed or taken-over loads would (i) inhibit the ability of all BPA utility customers to reliably plan on BPA power and benefits to serve their loads, (ii) discourage the development of adequate resources (including conservation), (iii) require both the BPA preference customers relying on long-term BPA contracts and the remaining residential and small farm customers of the investor-owned utilities to subsidize annexation and other take-over efforts, and (iv) prevent the alignment of interests of BPA's customers. Indeed, providing such service at melded rates would threaten over time to recreate the intra-regional conflicts that existed prior to, and led to the adoption of, the Northwest Power Act. In short, such an allocation policy would be in direct conflict with the important principles espoused in the Council Draft.

D. Durability. The Council Draft recommends that changes in Bonneville's role should be implemented through new long-term contracts and a revised pricing structure.⁶ We agree that these are among the essential elements for implementing a durable solution. The Council Draft further recommends that the basic elements of Bonneville's "future role" policy be established through a rulemaking process under the Administrative Procedure Act ("APA"). The Council candidly acknowledges the principal weakness of such an approach:

"[s]uch a rule could have the force of law, the same as a statute, and bind the agency and those affected by the agency in all future implementing actions (*as long as the rule remained in effect*)."⁷

Unfortunately, this one exception--- "*as long as the rule remained in effect*"--- removes the durability suggested by the beginning of the sentence. Implementing BPA's long-term policies through a rulemaking process effectively asks the regional utilities to make twenty, thirty, or even forty-year resource acquisition decisions based upon BPA policies that can be changed in a matter of months. We don't believe that

⁶ Council Draft, p. 2.

⁷ Council Draft, p. 2 (emphasis added).

any such proceeding would offer the necessary durability. It appears that the Council is contemplating as a rulemaking a section 553 proceeding under the APA, which generally provides for publication of proposed rule in the Federal Register, an opportunity to comment, and publication of the rule prior to its adoption. Such a rulemaking does not preclude the agency from revoking or modifying any such rule that is adopted.⁸

E. Product switching. The structure of power products offered by BPA must be fundamentally changed to reflect BPA's new role in power supply. Bonneville should offer one basic power product to all its customers that reflects the variability and true costs of the system's underlying generating resources. In addition, Bonneville should sell to customers who desire it, other services (such as shaping and load following) at rates that reflect the true costs of providing those services. This achieves the Council's goal of aligning the costs and benefits of access to federal power and reduces Bonneville's exposure to market risk and its impact on the wholesale power market.

F. Resource adequacy. Much of the confusion regarding resource responsibility is due to uncertainty regarding Bonneville's load-serving obligations. The investor-owned utilities agree with the Council that resource adequacy is an important long-term issue. It is important, therefore, to define, on a long-term basis, Bonneville's load-serving obligation. This will clarify to Bonneville's customers the extent of their residual load serving obligations. The Council Draft proposes that BPA customers, at their expense, should have the option of having BPA replace their proportionate share of any loss of resources from the existing federal system. This approach is consistent with the comprehensive and durable allocation of the existing federal system and the principle of having particular BPA customer(s) bear the cost of new resource acquisitions discussed above.

G. Schedule. The investor-owned utilities are concerned that the Council's proposal lacks the sense of urgency needed to develop and implement a long-term framework for Bonneville's future role. If Bonneville does not have in place before October 2005 (i) a long-term allocation of the existing federal system and (ii) a rate mechanism that allocates the full costs and risks of new resources to new loads

⁸ This is particularly true in light of section 9(e)(2) of the Northwest Power Act, which provides that "[n]othing in this section [which addresses, among other things, BPA procedures] shall be construed to require a hearing pursuant to section 554, 556, or 557 of title 5 [which address formal rulemaking and adjudications]" and in light of experience with the lack of durability of prior policies adopted by BPA after extensive public comment and notice, such as the Bonneville Long-Term Intertie Access Policy.

through bilateral contracts, then Bonneville should implement a tiered rate⁹ mechanism for 2007-2011.

H. Benefits for Residential and Small Farm Customers of Investor-Owned Utilities. The majority of the region's residential and small farm consumers are served by investor-owned utilities. As a consequence, a majority of the region's voters participate in the benefits of the federal power system only through the Residential Exchange Program, or through a settlement related thereto.¹⁰ Therefore, any durable, long-term and stable role for BPA that hopes to align the interests and retain the support of that constituency must begin by ensuring that those consumers receive a share of the benefits of the federal power system that is equitable and durable.¹¹ We believe that a share of the benefits of the federal power system can be judged as "equitable" only upon taking into account the fact that our customers represent sixty percent of the region's residential and small farm consumers.

⁹ The Council recommends that Bonneville implement tiered rates under current contracts absent "significant progress" toward changes in Bonneville's role and contracts that would implement that role. *See* Council Draft, p. 3. It should be recognized that the label applied to a rate construct, such as "tiered rates," is not important; rather, it is the principle that incremental loads should be assigned the full costs and risks, over the long-term, of any new resources acquired to serve such loads (*i.e.*, such assignment of full costs and risks should not be limited only to a current rate period with such loads eligible to be served at a melded rate during subsequent rate periods).

¹⁰ The current settlement contracts entered into by BPA and the investor-owned utilities provide benefits based on only 2200 MW during FY 2007-2011 period, which is approximately half of the residential and small farm load served by the investor-owned utilities.

¹¹ This is consistent with the Council's goal of achieving "an equitable sharing of benefits of the federal power system." Council Draft, p. 6. Similarly, BPA seeks to "ensure that the benefits of low-cost federal power are widely enjoyed by residential and small farm customers throughout the Pacific Northwest." BPA Power Subscription Strategy, p. 12.