

AGENCY RECORD OF DECISION:

**AMENDMENT NO. 1 TO FIRM POWER SALES
AGREEMENT WITH PORT TOWNSEND PAPER
CORPORATION, CONTRACT NO. 11PB-12330**

AUTHENTICATED

June 28, 2012



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I. INTRODUCTION

Bonneville Power Administration (BPA) and Port Townsend Paper Company (PTPC) are parties to a firm power sales agreement (Agreement), designated by BPA as Contract No. 11PB-12330. Power deliveries under the Agreement began on June 1, 2011, and are scheduled to end August 31, 2013.

PTPC and Jefferson County PUD No. 1 (Jefferson PUD), a public utility district in Jefferson County, Washington, requested that BPA allow Jefferson PUD to serve PTPC's Wheel Turning Load (WTL) and include this load in Jefferson PUD's Total Retail Load and in its Contract High Water Mark (CHWM). Jefferson PUD currently projects that it would begin serving PTPC's WTL in July 2013.

In response to the requests by PTPC and Jefferson PUD, BPA and PTPC will sign an amendment to PTPC's Agreement to: (1) include a definition and quantity of Wheel Turning Load in the amount of 4.982 MW; and (2) reduce PTPC's Contract Demand and Minimum Demand in the event that Jefferson PUD provides service to PTPC's WTL (Amendment No. 1).

Prior to making its decision to offer Amendment No. 1 to PTPC, BPA provided an opportunity for public review and comment on the proposed Amendment and the methodology BPA used to determine the amount of WTL which may ultimately be served by Jefferson County PUD. The public review and comment period began on May 3, 2012, and ended on May 17, 2012. BPA received two comments: one submitted by the Industrial Customers of Northwest Utilities (ICNU), and one submitted by PTPC.

II. BACKGROUND

PTPC is a direct service industry (DSI) customer taking service from BPA at the Industrial Firm Power (IP) rate under a contract that will expire according to its terms on August 31, 2013. The PTPC mill consists of two distinct plant loads, the Old Corrugated Container (OCC) load (3.275 aMW) and the Unbleached Kraft Pulp and Paper (main mill) load (approximately 17 aMW). PTPC's Contract Demand, defined in Exhibit A of the Agreement, currently equals 20.5 MW. PTPC's Minimum Demand, which is the amount that PTPC shall purchase on a take-or-pay basis for each hour of the Agreement, currently equals 13 MW.

Jefferson PUD is in the process of becoming the electricity service provider to retail loads in Jefferson County, Washington. Jefferson PUD executed a Contract High Water Mark (CHWM) power sales agreement with BPA in August 2010, and power deliveries under that contract are expected to begin in July 2013. The PTPC Unbleached Kraft Pulp and Paper mill load is located within Jefferson PUD's retail service area. Jefferson PUD has distribution facilities that are capable of providing service to the PTPC load. In 2005, BPA determined that the OCC facility was a new and separate facility from PTPC's main

mill.¹ BPA allowed Jefferson PUD to include the amount of the OCC load in its CHWM as part of its FY 2013 forecast Total Retail Load.

PTPC subsequently asked BPA whether a portion or the entirety of the main mill's WTL could be served by Jefferson PUD and included in Jefferson PUD's CHWM. This request was also made by Jefferson.² PTPC's contract currently does not contain a definition of WTL. These requests resulted in Amendment No. 1 to PTPC's Agreement, as described in this Record of Decision.

Wheel Turning Load

The term "Wheel Turning Load" was defined in BPA's 1981 power sales contracts with its DSI customers. The 1981 power sales contract distinguished non-production load from production load and recognized that:

[f]rom time to time, the Purchaser may have electrical load which is not integral to its industrial process and is not a part of a Technological Allowance (Wheel Turning Load).³

The 1981 contracts also contemplated that Wheel Turning Load could be served by either BPA or the DSI's local utility.⁴

Over the past thirty years the definition of Wheel Turning Load has changed very little. Wheel Turning Load is currently defined in BPA's 2012 General Rate Schedule Provisions (GRSPs) as follows:

Wheel Turning Load is that portion of Total Plant Load that is not integral to a Customer's industrial process and is not a part of a technological allowance. A megawatt amount of Wheel Turning Load shall be defined in the Customer's power sales contract with BPA, unless such amount is self-supplied.⁵

Based on this definition, WTL includes loads that are not integral to the production process such as electric load needed to run heating, air conditioning, lighting, office equipment, auxiliary emergency equipment, and other equipment including any motors and pumps not integral to production.

¹ See Bonneville Power Administration's Policy for Power Supply Role for Fiscal Years 2007-2011, Administrator's Record of Decision, February 2005, at 56 (Power Supply ROD).

² Letter from Kenneth McMillen, President, Jefferson Cnty. Pub. Util. Dist. No. 1, to Shannon Greene, Account Exec., Bonneville Power Admin. (Sept. 6, 2011) (Attachment A).

³ See Power Sales Contract between Bonneville Power Administration and Crown Zellerbach Corporation, BPA Contract No. DC-MS79-81BP90347, at section 5(e).

⁴ *Id.*

⁵ 2012 Power Rates Schedules and General Rate Schedule Provisions (FY 2012-2013) at 102.

III. DETERMINATION OF PTPC'S WHEEL TURNING LOAD

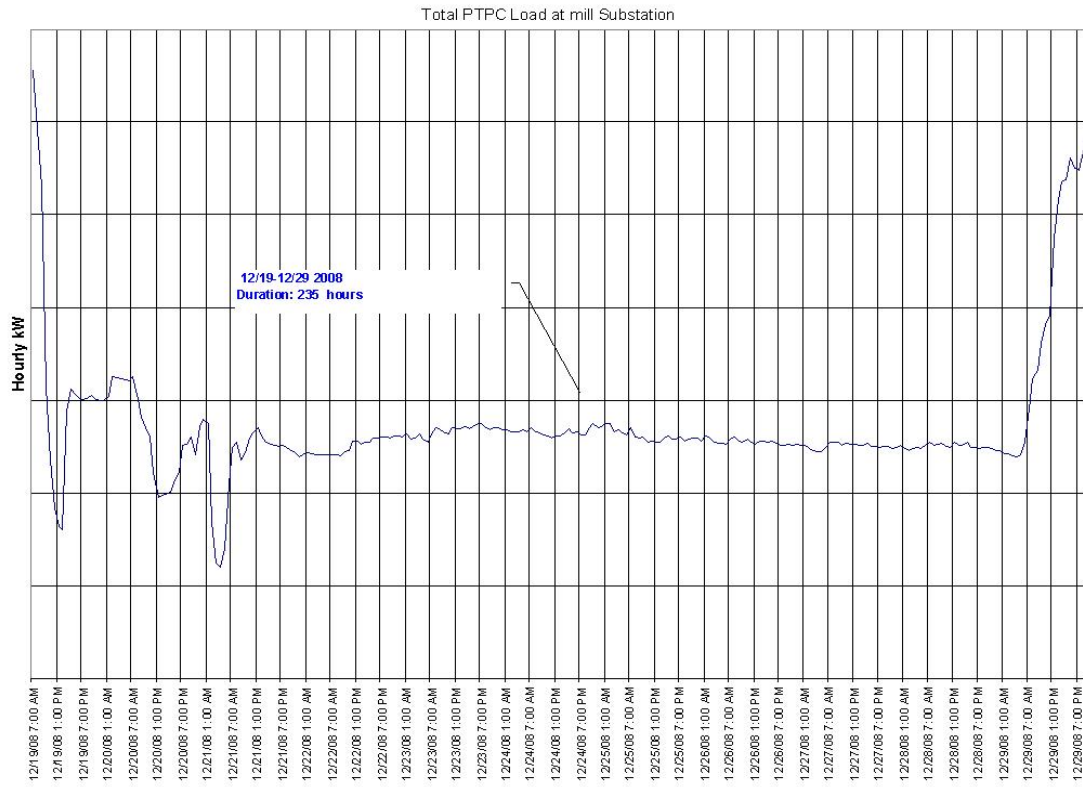
BPA used the 2012 GRSP definition as the starting point for its determination of PTPC's WTL. First, BPA examined its historical supply relationship with PTPC and found that PTPC has not previously requested to self-supply WTL. Second, BPA assessed whether the main mill's WTL could be metered. BPA staff found that both production and non-production loads shared the same circuits across the mill's electrical system. This makes metering the WTL extremely complicated and ultimately renders the metering of WTL at PTPC impractical and uneconomical. BPA concluded that, even assuming it were physically possible to allow for separate metering of the WTL, it would be prohibitive to physically isolate the wiring for individual equipment loads and reaggregate those loads into specific electrical panels that could then reasonably be metered.

Third, BPA researched past DSI contract actions related to WTL and found no evidence that a defined methodology was ever used to determine the amount of a DSI customer's WTL. Instead, the amount of WTL has been negotiated between BPA and DSIs as part of the DSI contract. Thus, there does not appear to be a historical methodology available to calculate the WTL amount.

In the absence of a defined methodology, BPA looked for a way to reasonably determine what portion of PTPC's Total Plant Load is not integral to PTPC's industrial process.

As BPA reviewed several years of total load data for the main mill, BPA found that in late 2008, PTPC shut down the mill's production for 10 days due to economic conditions. During this economic curtailment, total plant metered load remained relatively steady. *See* Figure 1. The mill was not producing paper during this time, so BPA concluded that this load was "not integral to the industrial process." By averaging the total hourly plant load over the 235 hours the plant curtailed production, BPA determined a WTL amount of 4.982 MW.

Figure 1. Event 12/19/08 - 12/29/08



BPA believes that this approach yields an objective and reasonable measure of PTPC’s WTL because it is based on actual metered data of the total plant load during an extended event where neither the main mill nor the OCC was producing product.

BPA considered, but rejected, two other approaches. First, BPA considered analyzing the installed equipment in the plant. BPA rejected this approach because it introduced significant ambiguity around equipment load under production and non-production scenarios. Second, BPA considered using load data from the other outage events occurring over the last four years, none of which lasted longer than two days. BPA rejected this approach because BPA found that the load data from such events lacked consistency between events as a result of irregular outage patterns at the plant.

III. SUMMARY OF AMENDMENT NO. 1

Amendment No. 1 amends PTPC’s Agreement to: (1) include a definition of Wheel Turning Load; and (2) reduce PTPC’s Contract Demand and Minimum Demand in the event that Jefferson PUD commences to serve PTPC’s WTL.

a. Definition of Wheel Turning Load

In accordance with the 2012 GRSPs, Amendment No. 1 adds Section 2.24 (“Wheel Turning Load”) to the Agreement:

2.24 “Wheel Turning Load” shall have the meaning described in the 2012 GRSPs and, for the purpose of the Agreement, shall equal 4.982 MW.

b. Contract Demand Revision

The Agreement currently provides that PTPC’s Contract Demand will be reduced in the event that Jefferson PUD commences service to PTPC’s OCC load. A similar reduction will be necessary if Jefferson PUD commences service to PTPC’s WTL. Therefore, Amendment No. 1 amends Exhibit A of the Agreement to:

- (1) acknowledge that PTPC is working with Jefferson PUD to develop an agreement to provide service for PTPC’s Wheel Turning Load; and
- (2) provide that to the extent Jefferson PUD commences to serve PTPC’s Wheel Turning Load, PTPC’s Contract Demand will be reduced by the additional amount of 4.982 MW to reflect the change in status of that portion of the PTPC load.

c. Minimum Demand Revision

If Jefferson PUD commences service to PTPC for its OCC load and WTL, the current Minimum Demand in PTPC’s Agreement will be higher than the total amount that PTPC will be purchasing from BPA. Therefore, Amendment No. 1 deletes Section 2.9 (“Minimum Demand”) and replaces it with the following:

2.9 “Minimum Demand” shall mean the lesser of i) 13 megawatts (MW); or ii) the hourly Peak Demand Entitlement established in Exhibit A, Peak Demand. To the extent Jefferson County PUD No. 1 commences to serve the OCC and Wheel Turning Load, Minimum Demand will be reduced to 6.326 MW to reflect the change in status of those portions of the Port Townsend load.”

See discussion of the Minimum Demand amount in section IV.b below.

IV. RESPONSE TO COMMENTS

a. Response to ICNU

ICNU raised several issues in its comment. First, ICNU states that “BPA has not provided any explanation regarding how its proposal to allow Port Townsend to purchase almost 5 MWs of power through Jefferson PUD at a PF rate is consistent with its current NLSL policies.” ICNU appears to be confusing the function of a WTL determination with a New Large Single Load (NLSL) facility determination. The PTPC main mill is a single facility, consistent with BPA’s NLSL policy.⁶ What BPA is considering in this

⁶ See Power Supply ROD at 56.

Record of Decision is whether a portion of PTPC's main mill load can be reasonably determined to be nonproduction load (WTL) and therefore may be served by the local utility. If that happens, BPA will sell firm power to Jefferson PUD under its CHWM contract at the PF rate in the amount of the WTL. BPA will not sell firm power to PTPC at the PF rate. Rather, Jefferson will serve the load at its retail rate.

Allowing a local utility to serve a DSI's WTL is not a modification of BPA's NLSL policy. BPA has recognized the distinction between DSI production and nonproduction load in its previous NLSL policy decisions.⁷ Accordingly, BPA has contractually allowed service by a local utility of the non-production load (WTL) of a DSI.⁸ ICNU's assertion that BPA must show that the WTL is a separate facility because "BPA has previously explained that it will not allow separate loads to be broken up to avoid status as an NLSL" is inaccurate. BPA's NLSL policies specify that DSI *production* load, if over 10 aMW, would be a NLSL if served by a local utility.⁹

Here, BPA is consistently applying its construct for DSI service by distinguishing PTPC's main mill's non-production load from the production load served under the DSI contract. This WTL determination does not modify BPA's NLSL policy; rather, it determines the best basis for calculating PTPC's WTL given the relevant specific information about the load, outages, and load profile of PTPC. PTPC and Jefferson PUD are receiving no benefit other than that afforded to all other DSIs and their local utilities under BPA contracts and rates since 1981. ICNU is mistaken in asserting that the WTL is a new policy, a new service concept, a modification to or a conflict with BPA's NLSL policy.

Second, ICNU comments that "if BPA decides to change its NLSL policies, then any such change should apply equally to all industrial loads." As discussed above, BPA is not changing its NLSL policy.

Lastly, ICNU asserts that BPA should "not sell any power that will be used to serve Port Townsend until BPA first obtains repayments of any previous amount[s] that were illegally paid to Port Townsend." This comment is outside the scope of this Record of Decision and will not be addressed here. In a separate administrative process and Record of Decision, BPA determined that it does not have a viable contract or equitable claim against either Clallam or Port Townsend under BPA's Surplus Firm Power Sales Contract with Clallam PUD.¹⁰ That Record of Decision is currently being challenged before the

⁷ See Power Supply ROD at 43–53 (addressing whether BPA should change its NLSL policy to allow current and former DSI customer *production* load to transfer to public utility service in 9.9 aMW increments) (emphasis added).

⁸ See e.g., Power Sales Contract between Bonneville Power Administration and Crown Zellerbach Corporation, BPA Contract No. DC-MS79-81BP90347, at section 5(e) ("If any Wheel Turning Loads are properly documented for Bonneville's approval . . . the Purchaser may make an arrangement with the local utility for service to such load."); see also Power Supply ROD at 46, 48 (noting that Klickitat PUD had served Goldendale Aluminum's DSI non-production load).

⁹ See Power Supply ROD at 50 (emphasis added).

¹⁰ Administrator's Record of Decision: Issues Remanded to Bonneville Power Administration in PNGC I and PNGC II, Feb. 18, 2011, at 6-7 (Lookback ROD).

Ninth Circuit Court of Appeals. Furthermore, BPA believes that it would be unreasonable to deny Jefferson PUD's request simply because BPA's prior contract with Clallam PUD is currently being litigated.

b. Response to PTPC

BPA also received a comment from PTPC during the public comment process. PTPC expressed concern over its take-or-pay obligation (determined by its Minimum Demand in the contract). In its Draft Amendment, BPA proposed to reduce the Minimum Demand (defined in PTPC's contract as the amount that PTPC shall purchase on a take-or-pay basis for each hour of the Agreement) from 13 MW to 8 MW. PTPC requested in its comment that BPA further reduce the Minimum Demand to 4.473 MW because "any higher take-or-pay level under the amended IP contract would cause PTPC's obligation to trigger at a higher load level and more often than under the current IP contract."¹¹ From BPA's perspective, PTPC has raised two issues related to the Minimum Demand: a) the reduction in PTPC's load served by BPA would reduce PTPC's scheduling flexibility; and b) the proposed 8 MW Minimum Demand would increase PTPC's take-or-pay obligation relative to PTPC's new Contract Demand. BPA agrees that the Minimum Demand should be reduced from the proposed 8 MW, but, as discussed below, not for the reason given by PTPC.

Scheduling Flexibility

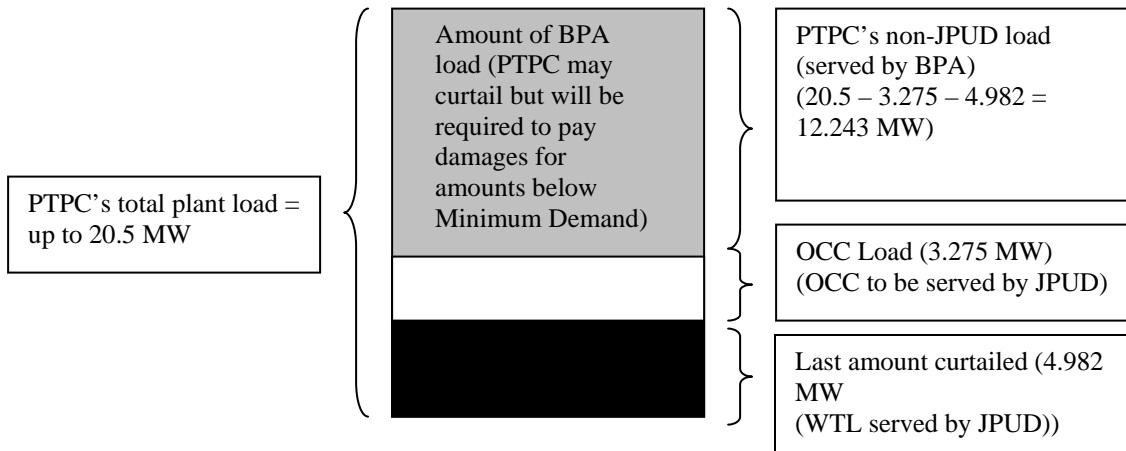
BPA recognizes that the reduction in PTPC's BPA-served load would reduce PTPC's ability to manage load variability if the Minimum Demand is not reduced below the proposed 8 MW. Under the Agreement, PTPC must submit an hourly pre-schedule of firm power. Currently, PTPC can schedule from 0 MW to 21 MW on any given hour. If PTPC schedules more than 21 MW on any given hour or averages more than 20.5 aMW for the month, then PTPC may incur an Unauthorized Increase penalty. If PTPC's schedule averages less than 13 aMW for the month, then PTPC agrees to pay for the 13 MW Minimum Demand times the number of hours in the month at the IP rate.

As discussed above, the WTL is a calculated amount rather than a metered amount, so it will remain a constant 4.982 MW each hour that PTPC's actual load is greater than 4.982 MW. When the Total Plant Load is less than the 4.982 MW, then the WTL would equal the metered Total Plant Load for those hours. As a practical matter, this means that in the event that PTPC must curtail load at the plant, the WTL will be curtailed last.

If the WTL and OCC move over to Jefferson PUD, PTPC would continue to schedule the balance of the total plant load with BPA (the gray portion of the diagram below). However, PTPC would no longer have flexibility with respect to the WTL (the black portion of the diagram below). PTPC would only have the flexibility to adjust its power schedule submitted to BPA for non-Jefferson-PUD served load, represented by the gray portion of the diagram (12.243 MW versus 20.5 MW under the current Agreement). PTPC would still have the same load variability that it has now, but would have a

¹¹ PTPC at 1.

reduced ability to manage this variability using its BPA power schedule. The diagram below illustrates the relative flexibility:



Accordingly, in order to provide PTPC with adequate scheduling flexibility to manage its load variability, BPA determined that a further adjustment to the Minimum Demand is appropriate. BPA disagrees, however, with PTPC's suggested Minimum Demand of 4.473 and is instead including a Minimum Demand amount of 6.326 MW, as explained below.

To arrive at 6.326 MW, BPA first reduced the existing Minimum Demand (13 MW) and existing Peak Demand Entitlement (20.5 MW) by the WTL amount (4.982 MW). Second, BPA applied the the ratio between those two numbers to the new Peak Demand Entitlement (12.243 MW, result of the old Peak Demand Entitlement less the WTL and OCC) to solve for the new Minimum Demand as shown below.

$$\begin{aligned} & \text{(Minimum Demand – WTL) is to (Peak Demand Entitlement – WTL)} \\ & \qquad \qquad \qquad \text{as} \\ & \text{(new Minimum Demand Amount) is to (new Peak Demand Entitlement)} \end{aligned}$$

Or:

$$\begin{aligned} & (13 - 4.982) \text{ is to } (20.5 - 4.982) \\ & \qquad \qquad \qquad \text{as} \\ & (x) \text{ is to } [20.5 - (4.982 + 3.275)] \end{aligned}$$

Therefore:

$$\text{new Minimum Demand amount} = 6.326 \text{ MW}$$

PTPC's Take-or-Pay Obligation

Although BPA agrees that a lower Minimum Demand is appropriate, BPA wishes to clarify that it does not agree with PTPC's stated reason. As stated in its comment, PTPC is concerned that the proposed 8 MW Minimum Demand will result in an increase to its overall (BPA and Jefferson PUD combined) take-or-pay obligation. This concern is based on PTPC's interpretation of section 3.2 of BPA's Regional Dialogue Load Following Power Sales Agreement (Power Sales Agreement) template:

3.2 **Take or Pay**

«Customer Name» shall pay for the amount of Firm Requirements Power it has committed to purchase under section 3.1, and that BPA makes available at the rates BPA establishes pursuant to the TRM, as applicable to such power, whether or not «Customer Name» took actual delivery of such power.

PTPC argues that “under make-whole provisions of its power purchase agreement with Jefferson PUD” it will “be responsible for this take-or-pay amount.”¹² PTPC concludes that it will assume an 8.257 MW take-or-pay commitment to BPA, through its contract with Jefferson PUD, in addition to its 8 MW take-or-pay commitment in its DSI power sales contract with BPA, for a total take-or-pay obligation of 16.257 MW.

BPA disagrees with PTPC's interpretation of section 3.2. Under section 3.1 of Jefferson PUD's Power Sales Agreement, BPA will provide Firm Requirements Power in hourly amounts equal to Jefferson PUD's hourly Total Retail Load.

Total Retail Load is defined in the Power Sales Agreement as follows:

2.79 “Total Retail Load” means all retail electric power consumption, including electric system losses, within Jefferson's electrical system excluding:

- (1) those loads BPA and Jefferson have agreed are nonfirm or interruptible loads,
- (2) transfer loads of other utilities served by Jefferson, and
- (3) any loads not on Jefferson's electrical system or not within Jefferson's service territory, unless specifically agreed to by BPA.

Accordingly, Jefferson PUD's take-or-pay obligation is simply its hourly electric power consumption, not a specified megawatt amount. Jefferson PUD has not assumed a take-or-pay obligation of 8.257 MW from BPA as asserted by PTPC.

¹² PTPC at 2.

V. ENVIRONMENTAL EFFECTS

BPA has reviewed the Amendment for potential environmental effects that could result from its implementation, consistent with the National Environmental Policy Act (NEPA), 42 U.S.C. § 4321, et seq. The changes to the Agreement in the Amendment are clarifying and administrative in nature and would not be expected to result in reasonably foreseeable environmental effects. For these reasons, BPA has determined that the Amendment falls within a class of actions excluded from further NEPA review pursuant to U.S. Department of Energy NEPA regulations, which are applicable to BPA. More specifically, the Amendment falls within Categorical Exclusion A2, found at 10 CFR 1021, Subpart D, Appendix A, which provides for the categorical exclusion from NEPA of actions involving “[c]ontract interpretations, amendments, and modifications that are clarifying or administrative in nature.” BPA has prepared an Environmental Clearance Memorandum that documents this categorical exclusion, and that memorandum has been posted at BPA’s website:

http://efw.bpa.gov/environmental_services/categorialexclusions.aspx.

VI. CONCLUSION

For the above reasons, BPA will sign Amendment No. 1 to PTPC’s Agreement on or after the date of this Record of Decision.

Issued at Portland, Oregon.

/S/ SUZANNE B. COOPER

Suzanne B. Cooper
Vice President, Bulk Marketing

6/27/2012 _____

Date