

**BONNEVILLE POWER ADMINISTRATION'S  
POLICY FOR POWER SUPPLY ROLE  
FOR FISCAL YEARS 2007-2011**

**ADMINISTRATOR'S RECORD OF DECISION**

Bonneville Power Administration  
U.S. Department of Energy

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## Table of Contents

	Page
INTRODUCTION –BPA’S POWER SUPPLY ROLE FOR FY 2007-2011 .....	3
I. AN INTEGRATED STRATEGY FOR FY 2007-2011 .....	11
A. FY 2007-2011 Rights to Lowest-Cost Priority Firm (PF) Rate.....	11
B. Tiered Rates .....	12
C. Term of the Next Rate Period .....	13
D. Service to Publics with Expiring Five-Year Purchase Commitments that Do Not Contain Lowest PF Rate Guarantee through FY 2011 .....	16
E. Service to New Publics and Annexed Investor-Owned Utility (IOU) Loads.....	22
F. Product Availability .....	26
G. Service to Direct-Service Industries (DSIs).....	37
H. Service to New Large Single Loads (NLSL).....	41
I. Service to Residential and Small-Farm Consumers of Investor-Owned Utilities (IOUs) .....	62
J. Conservation Resources.....	65
K. Renewable Resources .....	71
L. Controlling Costs and Consulting with BPA’s Stakeholders .....	77
II. LONG-TERM ISSUES .....	80
A. Long-Term Policy: Limiting BPA’s Long-Term Load Service Obligation at Lowest Cost-Based Rates for Pacific Northwest Firm Requirements Loads .....	80
B. Schedule for Long-Term Issue Resolution .....	86
III. ENVIRONMENTAL ANALYSIS.....	89
IV. CONCLUSION .....	89
APPENDICES	
A. LIST OF COMMENTERS.....	91
B. LIST OF COMMENTERS: 2001 NLSL COMMENT PERIOD.....	101

## **INTRODUCTION – BPA’S POWER SUPPLY ROLE FOR FY 2007-2011**

The Bonneville Power Administration (BPA) is adopting a Regional Dialogue policy on the agency’s regional power marketing for Fiscal Years (FY) 2007-2011. Since embarking upon its Power Subscription Strategy over 5 years ago, BPA and its regional customers and stakeholders have continued to discuss matters of critical importance that pertain to the sale and purchase of Federal power marketed by BPA. Now, in the aftermath of the 2000-2001 West Coast electricity crisis, this policy will serve as an important signpost for customers and others who have an interest in BPA’s regional power marketing activities. Importantly, this policy is intended to provide BPA’s customers with greater clarity about their Federal power supply so they can effectively plan for the future and make capital investments in long-term electricity infrastructure if they so choose. It is also intended to provide guidance on certain rate matters BPA expects will be addressed in the next rate period while assuring that the agency’s long-term strategic goals and its long-term responsibilities to the region are aligned.

This Record of Decision (ROD) is organized by section in the same order as the Regional Dialogue Policy. This ROD addresses the issues raised by commenters who responded during the public comment period to BPA’s Regional Dialogue policy proposal released on July 7, 2004. The list of commenters, including abbreviations, is shown in Appendix A. This ROD also addresses issues raised in 2001 during the comment period regarding BPA’s New Large Single Load (NLSL) policy. The list of commenters for that comment process is shown in Appendix B.

### **PUBLIC PROCESS**

The Regional Dialogue process began in April 2002 when a group of BPA’s Pacific Northwest electric utility customers submitted a “joint customer proposal” to BPA. This proposal focused on settling outstanding litigation on the Residential Exchange Program Settlement Agreements signed in 2000, as well as on determining how to market Federal power and distribute the costs and benefits of the Federal Columbia River Power System for 20 years.

In June 2002, BPA and the Northwest Power and Conservation Council (Council) jointly initiated a public process regarding BPA’s marketing of Federal power post-2006. In September 2002, several jointly sponsored public meetings were held throughout the region for interested parties to discuss their proposals and provide new ideas and suggestions. BPA and the Council accepted comments and proposals from all interested parties. This phase of the Regional Dialogue ended in December 2002 when the Council submitted final recommendations to BPA on “The Future Role of Bonneville.”

In February 2003, faced with a continuing financial crisis, BPA announced that it would proceed with a rate-setting process for the Safety Net Cost Recovery Adjustment Clause (SN CRAC). Consequently, BPA decided that the Regional Dialogue discussions should take a slower, more deliberate pace, focusing only on a few key items, such as the level of benefits for the residential and small-farm consumers of the region’s investor-owned utilities (IOUs), until the rate case concluded.

In early 2003, BPA initiated a detailed examination of events beginning in 2000 that led to significant rate increases and deterioration of BPA's financial condition. On April 18, 2003, BPA released a Report to the Region that included lessons the agency learned, with the intention of translating those lessons into future actions.

In a June 5, 2003, letter, the Governors of the four Pacific Northwest states encouraged BPA and the Council to jointly restart the Regional Dialogue. In response, BPA and the Council hosted a series of informal meetings with customers and interested parties throughout the region in the fall of 2003. Shortly thereafter, the Council released a set of principles and an issue paper entitled "Proposed Council Principles for the Future Role of the Bonneville Power Administration in Power Supply" for public comment. Following the close of comment in December 2003, the Council held several workgroup meetings aimed at gathering input from customers and others to help guide its next round of recommendations on the future role of BPA in power supply.

Following conclusion of the work group meetings, the Council released in April 2004 its draft recommendations on "The Future Role of the Bonneville Power Administration in Power Supply" and took public comment. Those recommendations were finalized and sent to BPA in May 2004.

On February 27, 2004, BPA sent a letter to the region updating BPA's plans for resolving Regional Dialogue issues. In the letter, BPA identified issues that are a priority to resolve for the FY 2007-2011 period. While this Regional Dialogue proposal focuses primarily on the FY 2007-2011 issues, key long-term questions remain unanswered. BPA is committed to resolving the long-term issues soon after the conclusion of this current process.

In March 2004, BPA publicly released information about its long-term strategic direction as a springboard for discussions with customers and other stakeholders. The issues addressed in the strategic direction, as mentioned above, serve as the foundation for the Regional Dialogue. BPA account executives held informal meetings and conversations with customers and discussed and recorded their comments. Some customers, as well as other constituents, also submitted written comments.

In the process of developing this proposal, BPA analyzed and considered 388 comments related to Regional Dialogue issues. Many who commented said that allocation of the system is a high priority issue and now is the appropriate time to review this issue. They cautioned that discussions regarding BPA's long-term obligation to provide service at lowest cost-based rates for Pacific Northwest firm requirements loads and related decisions would be difficult, and their objections to tiered rates were much more frequent than statements in support. Commenters said that any allocation discussion should be completed before entering into the ratemaking process to tier power rates. In July 2004, BPA published its revised Strategic Direction.

On July 7, BPA published its policy proposal and posted the document on its Regional Dialogue Web site. The policy proposal was published in the Federal Register on July 20, 2004. The public was invited to participate in six public meetings on the proposal.

Between August 17 and September 15, 2004, BPA held a series of six public meetings in Seattle, Washington; Eugene, Oregon; Spokane, Washington; Boise, Idaho; Portland, Oregon; and Kalispell, Montana. In those meetings, the agency presented its draft policy proposal and took comment. Meetings were held throughout the region with customers, constituents, tribes and other interested stakeholders during the additional comment period, which closed on November 12, 2004.

By the end of the public comment period on September 22, 2004, BPA received over 130 written comments. On September 29, 2004, those public comments, along with summaries from the six public meetings, were posted to BPA's Regional Dialogue Web site.

In a letter dated August 31, 2004, Mike Weedall, vice president for Energy Efficiency, invited interested parties to participate in a conservation work group. The purpose of the work group is to develop a proposed conservation program for the post-2006 period as indicated in the Regional Dialogue policy proposal. The deadline for expressing interest was September 13, 2004. The letter noted that future information about this topic will be available on the Post-2006 Conservation Program page on the BPA Energy Efficiency (EE) Web site. The first meeting of the work group was held on October 7, 2004.

On October 7, 2004, Paul Norman, senior vice president of BPA's Power Business Line sent a letter to the region summarizing public comments received on the Regional Dialogue Policy Proposal. The letter stated there may be follow-up discussions on some Regional Dialogue issues before policy decisions were made in December. A summary of next steps in the decision-making process was included in the letter.

On October 21, 2004, Helen Goodwin, Regional Dialogue project manager, sent a letter to the region that identified four issues on which BPA was open to having further discussions. The four issues were Service to Direct-Service Industries, Future Service to Customers with 5-Year Purchase Commitments that Do Not Contain the Lowest PF Rate Guarantee, Product Availability, and New Publics. These discussions were concluded on November 12, 2004. Summaries of these meetings were posted to BPA's Regional Dialogue Web site. All comments received by November 12, 2004, were considered in the ROD and the National Environmental Policy Act (NEPA) ROD.

An October 21, 2004, letter indicated that a large number of comments was received on Conservation and Renewables and that BPA would continue to work with interested parties on developing a post-2006 conservation program. Subsequently, a Renewables Focus Group was formed to provide feedback on BPA's proposals for the FY 2007-2011 renewables program. The group will continue to work collaboratively to develop suggestions for renewables programs and products.

## **SUMMARY OF KEY ISSUES AND CONCERNS**

BPA developed its Regional Dialogue policy for its power supply role for FY 2007-2011 after considering public comment on its policy proposal and subsequent discussions on the four specified issue areas. The policy incorporates information received from customers, tribes, constituents, industries, and the general public. The Regional Dialogue policy and ROD set the stage for BPA's next power rate case, which will begin in FY 2005 and set power rates for the rate period beginning in FY 2007. It also prepares the way for later discussions that will set long-term policy direction for FY 2012 and beyond.

BPA received over 170 separate written comments from customers, constituent groups, unions, tribes, and individuals and the six regional public meetings. Those separate comments have been organized by subject to reflect the organization of the policy itself.

Most comments were addressed to conservation resources, post-2006 service to the direct-service industries, renewable resources, limiting BPA's long-term load service obligation at lowest cost-based rates for Pacific Northwest requirements loads, controlling costs and consulting with BPA stakeholders, and service to publics with expiring 5-year purchase commitments that do not contain the lowest-PF rate guarantee.

## **SCOPE**

BPA's public involvement on the Regional Dialogue was extensive. An issue-by-issue analysis of the comments received in six public meetings as well as by mail, e-mail, and fax produced about 1,300 total comments by the September 22, 2004, close of comment. Slightly over 30 individual comments were on matters outside the scope of this process.

The majority of comments outside the scope of this process address BPA's fish and wildlife program. Many who provided these comments urged BPA to do more to further the recovery of listed fish under the Endangered Species Act, while others questioned whether the money being spent on the effort was a good use of ratepayer funds. Some comments addressed issues such as summer spill for migrating fish.

Fish and wildlife funding and operations are important issues. Funding levels are being addressed in BPA's upcoming Power Function Review and the memorandum of understanding between BPA and the Northwest Power and Conservation Council. Operations issues are being addressed through the new biological opinion that directs how the Federal hydro system will be operated to assist in the recovery of listed species.

Other comments addressed issues such as BPA's participation in discussions about Grid West and the importance of regional transmission adequacy. A limited number addressed BPA's internal operations, urging changes to BPA's governance and management structure. Another group of comments centered on BPA's unique government-to-government responsibilities relating to the region's tribal groups. Again, all of these comments are important but are outside the scope of this public process.

All comments within the scope of the present process have been reviewed and considered. Comments outside of the scope of this public process have been forwarded to the responsible BPA organization for review and consideration.

## **BPA'S REGIONAL DIALOGUE POLICY**

The Policy is based on BPA's strategic direction that calls on BPA to advance its Pacific Northwest's future leadership in four core values:

1. High reliability;
2. Low rates consistent with sound business principles;
3. Responsible environmental stewardship; and,
4. Clear accountability to the Region.

As stated in Section I, the Policy reflects BPA's decisions to guide the agency's regional power marketing for FY 2007-2011. More specifically, the policy is intended to provide BPA's customers with greater clarity about their Federal power supply so they can plan effectively for the future and make capital investments in long-term electricity infrastructure if they so choose. It is also intended to provide guidance on certain rate matters BPA expects will be addressed in the next rate period, while assuring that the agency's long-term strategic goals and its long-term responsibilities to the region and the Federal taxpayer are aligned. Below is a summary of the Policy.

## **SUMMARY OF POLICY**

For ease of reading, below is a brief summary of the Regional Dialogue Policy that is the basis for the ROD. Please be advised that, where there are differences in wording between this summary and the Policy document, the Policy is the official expression.

### **BPA's Near-Term Strategy**

BPA's near-term strategy is intended to address certain issues that must be resolved for the next rate period that will begin on October 1, 2006.

- **FY 2007-2011 Rights to Lowest-Cost Priority Firm (PF) Rate.** BPA will apply the lowest-cost PF rates to public agency customers whose contracts contain that guarantee throughout the remaining term of the Subscription contracts.
- **Tiered Rates.** Though a tiered rates structure will very likely be needed in conjunction with new long-term contracts, BPA will exclude a tiered PF rate proposal from its FY 2007 initial rate case proposal. BPA has reached this conclusion for the following reasons: First, BPA expects that it will be in load and resource balance for at least the next 3-5 years and can be expected to meet its firm load obligations with little or no new resource purchases. Second, postponing rate tiering allows it to be done in conjunction with development of new contracts so that customers are clear on their rights to power at the lowest-cost rate as the tiered rate proposal is developed.

- **Term of the Next Rate Period.** BPA will set the next rate period for 3 years rather than the current 5 years. The shorter rate period should result in lower rate levels than would be the case if rates were set for a longer period. It will also facilitate a smoother transition to a different rate structure before 2011. BPA plans to conduct a separate rate case to ensure new rates are in place when new contracts take effect.
- **Service to Public Agency Customers with Expiring Five-Year Purchase Commitments that Do Not Contain Lowest PF Rate Guarantee through FY 2011.** Public customers whose contracts do not currently contain the guarantee of the lowest cost-based PF rates for FY 2007-2011 will receive the same rate treatment in FY 2007-2011 as customers whose contracts do contain this guarantee as long as the customers without the guarantee sign a new contract or contract amendment no later than June 30, 2005, that will extend the term of their existing contracts and commit them to purchase firm power in FY 2007-2011. Customers that do not meet the deadline and subsequently request service will not receive the lowest cost-based PF rate guarantee. Such customers will be able to purchase firm power under the PF rate but may be subject to an incremental resource rate or targeted adjustment charge. One customer has an on-ramp contract without the lowest-cost guarantee that will likely give it more, lowest-rate power than it would need to meet its recalculated net requirements. BPA's strong view is that limiting customers to the amount of lowest-cost power they actually need to meet their net requirements is most consistent with BPA's broader decision to limit its total sales at its lowest-cost rates. However, BPA has decided not to limit this customer to its recalculated net requirements because this is not consistent with the existing contract with that customer.
- **Service to New Public Agency Utilities.** As with 5-year contracts, qualifying newly formed public utilities that request service under Section 5(b)(1) of the Northwest Power Act, meet BPA's Standards for Service, and sign contracts by June 30, 2005, will also receive the lowest cost-based rate for the FY 2007-2011 period. Entities forming small public utilities that serve less than 10 aMW of retail load, up to 30 aMW in total, have an additional 6 months (until January 1, 2006) to form their utility and sign a contract to receive service at the PF rate without a targeted adjustment charge. Such new public utilities must take service by October 1, 2006. New public utilities that miss these deadlines will be subject to a targeted adjustment charge that BPA may propose during the next rate period.
- **Annexed Investor-Owned Utility (IOU) Loads.** Consistent with existing contract terms and conditions, in the FY 2007-2009 period, the increase in a public utility's load due to annexation of load that was previously residential or small-farm load served by an IOU will receive its prorated share of benefits through offsetting any incremental-cost charge or rate levied against the public utility up to the aMW amount of its prorated share of benefits during the rate period as if the annexed load had remained an IOU load. Such treatment will apply regardless of whether the annexing public agency customer is new or existing. For purposes of receiving firm power service at the lowest PF rate during the FY 2007-2009 period, a customer must



complete its annexation and notify BPA of the annexed load amount by June 30, 2005. Power service for annexed IOU load requested after June 30, 2005, will be subject to a charge or rate similar to the current TAC charge, beginning in FY 2007.

- **Product Availability.** Any new public customer, or existing customer whose contract expires in FY 2006 that executes a new contract, may select from any of BPA's standard products except Complex Partial (Factoring), Block with Factoring, or Slice. For the following reasons, BPA will not offer contract amendments that would allow changes in the power products and services purchased by 10-year Subscription contract holders, including, but not limited to, changes that would increase the total Slice megawatts currently sold by BPA:
  - BPA hears clearly the strong desire of some customers to buy Slice or change Slice purchase amounts, but these customers will have to wait 2 years, not 5 years, for a new contract if the current schedule for new long-term contracts is met.
  - The effort required to negotiate changes in Slice amounts and purchasers would threaten achievement of the schedule for new long-term contracts in FY 2009, especially given that the opportunity to make changes to Slice purchases would have to be offered to all interested customers.
  - The original Slice decision and contract was for a 10-year term. It is premature to conclude that a different term is reasonable, especially in view of the fact that the first 3 years of experience with Slice have not been evaluated by the region.
  - The ongoing dispute over Slice true-up creates a significant risk of cost-shifts if more Slice is sold.
  
- **Service to Direct Service Industries (DSIs).** Although BPA has no statutory obligation to serve the DSIs, it recognizes that the DSIs have been an important part of the Pacific Northwest (PNW) economy for over 60 years. BPA has determined that it will provide eligible Pacific Northwest DSIs some level of Federal power service benefits, at a known quantity and capped cost, in the 2007-2011 period. Notwithstanding the difficult economics of Pacific Northwest aluminum smelting and the discretionary nature of BPA service to DSI load, BPA believes that the issue of sustaining DSI jobs is compelling. BPA is mindful of the important historic role DSIs have played as BPA customers and in the development of the Federal Columbia River Power System and the importance to local economies of the jobs they provide, which is BPA's primary consideration for any decision to continue to serve DSI load. BPA also recognizes there are rate impacts on other utilities and therefore effects on jobs in other industries associated with continuing to provide service benefits to the DSIs. While no final decision regarding the actual level of service benefits to be provided is being made at this time, it is anticipated that service will be at a substantially reduced level compared to the level contracted for in the current rate period. BPA wishes to further discuss the level of the DSI service benefit, and criteria for eligibility, with PNW regional interests before making final policies and decisions on those issues. After these further discussions, BPA will issue a supplemental policy on this topic.

- **Service to New Large Single Loads (NLSL).** BPA will continue to apply its prior interpretations of Section 3(13) of the Northwest Power Act that aggregates load of a single consumer “associated with a facility” and will not consider multiple contracts or suppliers as disaggregating large loads into 9.9 aMW increments. For most DSIs whose production load or contract demand exceeds 10 aMWs, if any portion of that load is served by the local utility with requirements power purchased from BPA, the load will be an NLSL and the applicable BPA wholesale rate will be a 7(f) rate and not the PF rate. This policy does not preclude BPA from selling surplus firm power consistent with Section 5(f) of the Northwest Power Act to utility customers at a Section 7(f) rate to serve former DSI load. If a consumer directly provides on-site cogeneration or a renewable resource to serve all or a portion of a load associated with a facility that is otherwise an NLSL and the remaining new load or load increase served by the local utility is reduced to 9.9 aMW or less, then that 9.9 aMW portion of the load on the utility will be served at the PF rate.
- **Service to Residential and Small-Farm Consumers of Investor-Owned Utilities (IOUs).** BPA recently signed agreements with all 6 regional IOUs that provide certainty in the amount and manner that benefits will be provided to their residential and small-farm consumers under their Subscription contracts. In the event a court sets aside the new agreements and amendments but leaves the underlying Subscription contracts in place, BPA is providing the IOUs a contingent notice that BPA will provide financial benefits, not power benefits, during FY 2007-2011 under those contracts. If the Subscription contracts are successfully challenged in court, the agency will follow the court’s instructions in negotiating new contracts under the Northwest Power Act.
- **Conservation Resources.** BPA is relying on the current ongoing collaborative planning process to develop a fully defined proposal for conservation that can then be brought to the entire region for consideration. Development of the conservation program will be guided by the five principles proposed by BPA in July 2004, as amended.
- **Renewable Resources.** BPA will engage in an active and creative facilitation role with respect to renewable resource development. Although BPA will still consider acquisition as a viable facilitation option under the appropriate circumstances, the agency’s primary focus will be to reduce the barriers and costs interested customers face in developing and acquiring renewables. BPA is establishing a management target to spend *up to* a net of \$21 million per year to support its facilitation activities. The \$21 million net expense is a measurement of the expected, added costs of our renewable program measured against avoided alternative long-run marginal power costs. The \$21 million comprises the existing \$15 million renewables fund and \$6 million of annual renewables spending that is currently being accomplished through the Conservation and Renewables Discount program.

- **Controlling Costs and Consulting with BPA’s Stakeholders.** For the term of existing contracts (through FY 2011), or until new contracts go into effect if that is earlier, BPA will continue to focus on non-contractual means that promote transparency under BPA’s financial information disclosure policy, allow for public input on agency costs, and demonstrate management of those costs. BPA intends to take the following actions.
  1. Engage customers and non-customers in collaborative forums structured similarly to the Power Net Revenue Improvement Sounding Board and current Customer Collaborative.
  2. Continue to improve BPA’s external financial reporting.
  3. Implement the BPA-wide business process improvement initiative begun in July 2004.
  4. In 2005, conduct an in-depth regional discussion regarding power function cost levels that will be used to set rates for the FY 2007-2009 rate period.

BPA will consider additional actions to address cost control as part of the long-term regional dialogue policy to be decided in January 2006.

### **Long-Term Issues**

BPA is establishing a long-term policy regarding its load obligations to set the stage for the second phase of the Regional Dialogue. BPA’s policy is to limit its sales of firm power to its Pacific Northwest preference customers’ firm requirements loads at its lowest-cost rates to approximately the firm capability of the existing Federal system. We anticipate implementing this policy decision through new long-term contracts and rates to be implemented as early as October 2008. The Regional Dialogue ROD includes a schedule to develop the long-term policies by January 2006, and offer new long-term contracts by December 2006.

## **I. An Integrated Strategy for FY 2007-2011**

### **I. A. FY 2007-2011 Rights to Lowest-Cost Priority Firm (PF) Rate**

#### **Issue 1:**

Should BPA apply the lowest cost-based PF rates contract guarantee throughout the remaining term of the Subscription power sales contracts?

#### **Regional Dialogue Policy Proposal:**

The Regional Dialogue Policy Proposal states,

Most current 10-year Subscription contracts with public utility customers contain a guarantee that BPA will apply the lowest cost-based PF rates throughout the remaining term of the Subscription power sales contracts. Three 5-year contracts also contain this 10-year guarantee.

Upon review, BPA believes this contractual guarantee is clear. Accordingly, even if BPA were to adopt a tiered rate design during the term of the existing contracts, BPA

would not apply a higher-priced PF Tier 2 rate to the purchases of customers whose contracts contain the rate guarantee during the term of the contract.

**Public Comments:**

Only a few comments were received on whether BPA should apply the lowest cost-based PF rates throughout the remaining term of the Subscription power sales contracts. All of the commenters who addressed this issue expressed support for BPA's recommendation. (Inland, RD04-0028; NWasco, RD04-0042; Benton REA, RD04-0046; Glacier, RD04-0064; NRU, RD04-0073; ICNU, RD04-0093; Tacoma, RD04-0103; WPAG, RD04-0105; EWEB, RD04-0127; Cowlitz, RD04-0128.)

**Evaluation and Decision:**

Comment received on this part of the proposal was supportive of BPA's policy proposal. As the proposal states, the contractual guarantee to the lowest cost-based PF rates is clear; therefore, BPA will apply the lowest cost-based PF rates guarantee throughout the remaining term of the Subscription power sales contracts.

**I. B. Tiered Rates**

**Issue 1:**

Should BPA propose a tiered rate construct for the post-2006 rate period?

**Regional Dialogue Policy Proposal:**

The Regional Dialogue Policy Proposal states "BPA believes tiered rates in combination with new contracts are a necessary part of the long-term solution to limit BPA's sales at embedded costs for Pacific Northwest firm requirements loads to the existing system. However, BPA also believes it is not critical to implement tiered rates in FY 2007, because BPA loads and resources are roughly in balance for the FY 2007-2011 period. Accordingly, BPA proposes to exclude tiered rates in its FY 2007 initial rate proposal. Instead, BPA proposes to explore tiered rates as part of an integrated long-term contract and rate solution that would implement the proposed long-term policy of limiting BPA sales at embedded cost for Pacific Northwest firm requirements loads."

**Public Comments:**

Nearly all commenters agreed that BPA should not implement tiered rates in the rate period that will start in FY 2007 and that tiered rates should be explored as an important tool in the longer term to achieve clarity about the division of load obligation between BPA and its customers. (E.g., Inland, RD04-0028; NWasco, RD04-0042; Central Lincoln, RD04-0057; NRU, RD04-0073; ICNU, RD04-0093; Tacoma, RD04-0103; Snohomish, RD04-0104; WPAG, RD04-0105; SUB, RD04-0106; PPC, RD04-0109; NVEC, RD04-0110; PNGC, RD04-0114; Seattle, RD04-0115; EWEB, RD04-0127; Cowlitz, RD04-0128; PNW SUC, RD04-0133.)

Clatskanie PUD and the Pacific Northwest IOUs commented that BPA should not delay development of a long-term price methodology for service to incremental loads at the cost of new resources to serve those loads. The IOUs go on to state: "In the absence of such a rate

methodology there is a significant likelihood that BPA will be exposed to the costs and risks of serving a significant amount of new load at a melded rate. In addition, the absence of such a rate methodology will not provide BPA's customers with adequate incentives to conserve or seek power from alternative sources. BPA's customers need planning clarity in order to develop new resources needed to meet load growth over the next 5 to 20 years." (PNW IOUs, RD04-0107; Clatskanie, RD04-112.)

Both the Umatilla Tribes and the Tulalip Tribes expressed concern that, in the long run, tiered rates could work against new public utilities like tribal utilities. (Tulalip, RD04-0032; Umatilla, RD04-0130.)

### **Evaluation and Decision:**

Comment on this issue focused on important aspects of, and need for, tiered rates. BPA's evaluation of this issue is guided by the strategic direction that BPA's lowest firm power rates reflect the cost of the undiluted Federal Base System (FBS). With that in mind, BPA expects that it will be in a load and resource balance for at least the next 3-5 years and can be expected to meet its firm load obligations with little or no new resource purchases. Consequently, BPA agrees with the majority of comments that expressed the view that tiered rates will not be needed when it establishes its next wholesale firm power rates to be effective in FY 2007. Looking ahead, BPA also agrees with the point made by the IOUs and Clatskanie that a long-term price methodology is needed. Indeed, BPA intends to thoroughly explore the use of a tiered rates mechanism as it applies to future power service. In addition, postponing rate tiering allows it to be done in conjunction with development of new contracts so that customers are clear on their rights to power at the lowest-cost rate as the tiered rate proposal is developed. Therefore, BPA will exclude from its FY 2007 initial rate proposal a tiered PF rate applicable to firm power sold to meet the net firm power load requirements of public agency customers. Tiered rates will be considered as part of an integrated long-term contract and rate solution that will implement the long-term Regional Dialogue policy of limiting BPA sales at the lowest cost based rates for Pacific Northwest firm requirements loads.

### **I. C. Term of the Next Rate Period**

#### **Issue 1:**

Should the next wholesale firm power rate period be 2 or 3 years (establish power rates for 2 years [October 2006-September 2008] or for 3 years [October 2006-September 2009])?

#### **Regional Dialogue Policy Proposal:**

The Regional Dialogue Policy Proposal states that BPA is proposing to limit the next rate period to either 2 or 3 years.

#### **Public Comments:**

Of the 28 comments BPA received on this question, only one disagreed with BPA's proposal to set rates for a period shorter than 5 years. Benton REA disagreed with a proposal to shorten the rate period from 5 years by stating its concern that shorter rates periods not be used "if the reason is simply to reduce BPA's risk exposure, and provide more frequent rate

increases to pass the uncontrolled costs on to the northwest ratepayers.” (Benton REA, RD04-0046)

Six comments supported a shorter (i.e., less than 5-year rate period), but did not express a preference for either a 2- or 3-year rate period. These commenters thought the shorter rate period would promote greater rate stability for customers by reducing risks due to more certainty with respect to BPA’s costs and revenues and minimize or eliminate the use of CRACs. (Central Lincoln, RD04-0057; EWEB, RD04-0127; Idaho Falls, RD04-0023; IERP, RD04-0020; NRU, RD04-0053; Snohomish, RD04-0104.)

Eleven comments expressed preference for 2-year rate periods (as opposed to a 3-year rate period). Generally, these commenters cited reasons similar to those above (greater rate stability, reducing risks). Some commenters expressed a preference for a 2-year rate period, without additional reasons given. (Benton PUD, RD04-0068; Cowlitz, RD04-0128; Whatcom, RD04-0136.) Others suggested that a 2-year rate period would encourage BPA to focus efforts on cost control and cost reductions. (Franklin, RD04-0108; PRM, RD04-0043.) Others commented that 2-year rates allows “ample time” to complete the long-term Regional Dialogue schedule while providing a reasonable deadline for completing the contracting process. (ICNU, RD04-0093; PNGC, RD04-0114.) Tacoma supports 2-year rates to provide a near-term opportunity to implement the long-term contract allocation of the Federal system output and costs at the earliest feasible date. (Tacoma, RD04-0103.) Tacoma also commented that it would support a 3-year rate period if rate certainty can be maintained and BPA’s need for planned net revenues for risk can be eliminated over the FY 2007–2009 period. WPAG expressed preference for a 2-year rate period because of an expectation of a lower rate since a financial cushion for uncertainty in the third year would not be necessary. In addition, the shorter rate period will “force” the region to stay “on task” and focused on a long-term allocation, which increases the likelihood of success in this area. (WPAG, RD04-0105.)

PPC suggested that a 2-year rate period would maximize rate relief “even if” it means having power and transmission rate cases at different times. (PPC, RD04-0109.) Springfield supports a 2-year rate period because of the expected lower rate (than a 3-year rate period) and because it prefers to not have power and transmission rate cases occur at the same time. (SUB, RD04-0106.)

Ten comments expressed a preference for a 3-year rate period. These commenters expressed a desire for a 3-year rate period as opposed to a 5-year rate period because of the expectation that it will result in lower rates. One of the main reasons given to support a 3-year rate period, compared to a 2-year rate period, was a preference to have power and transmission rate cases on the same schedule. (CRPUD, RD04-0031; Glacier, RD04-0064; NRU, RD04-0073; NVEC, RD04-0110; Orcas, RD04-0034.) The other main reason given to support a 3-year rate period was the belief that the negotiations for the new long-term contracts will take that long and that the rate case to implement the new contracts will be fairly complicated. (CRPUD, RD04-0031; Glacier, RD04-0064; NRU, RD04-0073; NVEC, RD04-0110; WA Dept Trade, RD04-0072; PNW SUC, RD04-0133.) PRM also verbally expressed a preference for a 3-year rate period. (PRM, RD04-0019.)

Northern Wasco also supported a 3-year rate period, though not strongly. (NWasco, RD04-0042). Finally, the City of Sumas also supports a 3-year rate period to lessen the administrative burden both for BPA and for Sumas. (Sumas, RD04-0132.)

Two comments were made regarding BPA's rate-making process. ICNU urged BPA to work with its customers to improve BPA's rate-making process. (ICNU, RD04-0093.) PPC noted that it would like to work with BPA in streamlining the rate case procedures and schedule. (PPC, RD04-0109.)

### **Evaluation and Decision:**

BPA appreciates the views expressed on this matter and has decided that it will propose rates to recover costs over a 3-year rate period (FY 2007–2009). In general, either a 2-year or a 3-year rate period will result in lower rates than a 5-year rate period. Some commenters thought that a 2-year rate period would mean lower rates, but under some circumstances, for example if there are low starting reserve levels, a 3-year rate could actually be lower than a 2-year rate. Only one comment expressed support for continuation of 5-year rates. While the concern raised about long-term cost control is addressed in this ROD, other concerns about rate levels and whether BPA utilizes cost recovery adjustment clauses are properly resolved in the formal 7(i) rate setting process. Adjustments to BPA rates due to changes in BPA risks have been part of the current rate CRAC mechanisms and meeting risks or changes in risks is a necessary part of BPA meeting its statutory obligation to recover its costs. A shorter rate period may lessen the need for interim rate adjustment mechanisms during the period.

BPA believes that a 3-year rate period will allow the power and transmission rate cases to come to a common schedule at the earliest point possible. There are several advantages to having concurrent transmission and power rate cases, including the ability to have a single concurrent look with respect to financial and risk policies between the business lines and for pricing of generation inputs between the business lines.

Notwithstanding the above policy decision, BPA is committed to meeting the schedule for developing new long-term power contracts shown in Section II.B. This schedule allows for new contracts to go into effect as early as October 1, 2008, 1 year before the 3-year rate period ends. BPA plans to conduct a separate rate case to ensure new rates are in place when new contracts take affect. Depending on decisions yet to be made, this could result in BPA offering two sets of rates through 2011 (one for Subscription contract holders and one for Regional Dialogue contract holders).

The comments BPA received on the issue of the term of the rate period were fairly unanimous in expressing a desire that BPA promote stable rates through cost control and reduction of rate adjustment mechanisms such as CRACs. As mentioned above, rate levels, level of planned net revenues for risk, and other rate design features such as whether BPA utilizes cost recovery adjustment clauses are issues to be resolved in the formal 7(i) process to set power rates. BPA expects the next 7(i) rate proceeding to begin in September 2005.

BPA will consider the comments about streamlining or improving the rate case process. However, any changes to BPA's existing procedures governing Section 7(i) rate hearings would need to be made in a separate formal public process.

### **I. D. Service to Publics with Expiring Five-Year Purchase Commitments that Do Not Contain Lowest PF Rate Guarantee through FY 2011**

#### **Issue 1:**

Should BPA adopt its policy proposal to offer all of the public customers with expiring 5-year contracts that do not contain the lowest PF rate guarantee an amendment to extend the term of their existing contracts through September 30, 2011, and offer an amendment to customers with PF off-ramps and on-ramp contract options to allow them an early opportunity to cancel or exercise such options?

#### **Regional Dialogue Policy Proposal:**

BPA proposed to offer an amendment to all of the public customers with expiring 5-year contracts that do not contain the lowest PF rate guarantee to extend the term of their existing power products and services contracts through September 30, 2011, and to offer an amendment to customers with PF off-ramps and on-ramp contract options to allow them an early opportunity to cancel such options, which would make their contracts consistent with all of the other 10-year Subscription contracts. The amendment would include language providing the same guarantee of the lowest-cost PF rates (except for New Large Single Loads (NLSL) as other public agency customers have. The guarantee of lowest cost-based PF rates would also be extended to the United States Navy. BPA would calculate the net requirements of those customers, reflect the amount where appropriate in the contract amendment, and provide service for the returning off-ramp or on-ramp load based on the results of the net requirements calculation.

The proposal included the following components: customers must accept BPA's offer within a specified window of time lasting 60 to 90 days and closing no later than June 30, 2005, and BPA would calculate each customer's net requirements and limit post-2006 service at the lowest PF rate to the calculated net requirements. Customers that do not accept BPA's offer during the prescribed time would be subject to a proposed Targeted Adjustment Charge (TAC) or its successor in BPA's next rate case.

#### **Public Comment:**

Comment received on this issue was, for the most part, supportive of the policy proposal. (Wells, RD04-0029; CRPUD, RD04-0031; Orcas, RD04-0034; NWasco, RD04-0042; Benton REA, RD04-0046; Canby, RD04-0047; Flathead, RD04-0048; NRU, RD04-0053; Central Lincoln, RD04-0057; Alcoa, RD04-0067; Benton PUD, RD04-0068; NRU, RD04-0073; Glacier, RD04-0076; Flathead, RD04-0076; WMG&T, RD04-0076; CFAC, RD04-0076; Flathead Board, RD04-0076; WMG&T, RD04-0092; ICNU, RD04-0093; Lincoln Electric, RD04-0100; SUB, RD04-0106; Franklin, RD04-0108; PPC, RD04-0109; CFAC, RD04-0111; Clatskanie, RD04-0112; PNGC, RD04-0114; EWEB, RD04-0127; Cowlitz, RD04-0128; Sumas, RD04-0132; Whatcom, RD04-0136; Hermiston, RD04-0140.) Northern Wasco PUD specifically voiced support for offering the United States Navy the lowest-cost



PF rates to cover its purchase obligations to BPA through FY 2011. (NWasco, RD04-0042.) Alcoa and ICNU commented that BPA should offer the lowest-cost PF rates to all affected customers with expiring 5-year purchase commitments. (Alcoa, RD04-0067; ICNU, RD04-0093.) Tacoma Power stated it could support the policy proposal only to the extent that BPA agreed to refund the total charges and costs to the customers who committed to agreements containing the Stepped-Up Multi-Year (SUMY) load growth products during the FY 2002-2006 period. (Tacoma, RD04-0103; Snohomish, RD04-0153.) PNGC supports aligning the 5- and 10-year customers provided doing so does not result in substantial financial impacts to BPA's other customers. (PNGC, RD04-0114.) Snohomish commented that it generally agrees with the proposal for both customers with expiring contracts or that have on/off ramp provisions because it puts all preference customers on an equal footing for an additional 5 years and allows the region to focus on the many longer-term issues that must be resolved. (Snohomish, RD04-0153.)

Several comments expressed opposition to not allowing customers to select new products, including Slice, after the 5-year contracts expire. (Emerald, RD04-0013; PRM, RD04-0019; Emerald, RD04-0020; NWasco, RD04-0042; PRM, RD04-0043; Emerald, RD04-0071; NRU, RD04-0073; Snohomish, RD04-0104; Franklin, RD04-0108; PPC, RD04-0109; Clatskanie, RD04-0112; PNGC, RD04-0114.) A few commenters urged BPA to cancel the off-ramps early or set the Block purchase early for the customers with options associated with their 10-year contracts. (Alcoa, RD04-0067; ICNU, RD04-0093.) Western Montana G&T agreed with BPA's proposal. (WMG&T, RD04-0092.)

Springfield commented that, as long as product switching is not allowed for all customers and any DSI benefits are small, Springfield agrees with BPA's proposal. (SUB, RD04-0158.)

Many commenters specifically said a net requirement determination should be a condition of offering customers the lowest-cost PF rates. (NRU, RD04-0073; CRPUD, RD04-0031; Benton REA, RD04-0046; NWasco, RD04-0042; Orcas, RD04-0034; Flathead, RD04-0048.) Western Montana G&T (WMG&T) commented that a net requirements determination should be done to ensure that the net load of each utility is at least as large as the amount of power BPA proposes to sell. If a utility wishes to purchase an amount of power greater than its load, that utility should pay a Targeted Adjustment Clause or market-based rate as opposed to the lowest-cost PF rate. (WMG&T, RD04-0092) WMG&T suggested that BPA take the opportunity to develop a process for making net requirements determinations, that are legally defensible, transparent and not onerous. Id.

Tacoma remarked that BPA should be able to manage the load of the 5-year customers without recalculating their net requirements or applying a TAC, given the relatively modest amount of load associated with these customers. (Tacoma, RD04-0152.) Snohomish commented that, while there are other preference customers with power purchase contracts that expire on the same date as Snohomish's, unlike Snohomish, they are full requirements customers and BPA will serve their entire loads at the PF rate irrespective of any net requirements determination. (Snohomish, RD04-0066.) Whatcom commented that extending the contracts but not at the lowest PF rate would constitute implementation of

tiered rates, which BPA has proposed not to do. (Whatcom, RD04-0146.) WPAG commented that Snohomish would end up the sole target of a TAC and would shoulder the bulk of the cost of augmentation for the entire BPA system. (WPAG, RD04-0150.) WPAG commented that submitting customers to a net requirement calculation and imposing a TAC in the event that they do not comply with the requirement to calculate the net requirement will not solve any existing problems; it will only serve to create new controversies. Id.

Snohomish and WPAG proposed that Snohomish commit to purchase its FY 2007-2011 Block from BPA in the annual and monthly shapes outlined in the existing contract. (Snohomish, RD04-0153; WPAG, RD04-0150.) In exchange for the commitment, BPA would serve the Block at the same PF rate as charged to other Block/Slice purchasers without a TAC and without imposing an additional net requirements determination. (Snohomish, RD04-0153.)

Washington Congressman Rick Larsen remarked that Snohomish will be negatively impacted if it is not allowed to buy a Block identical to its FY 2002-2006 Block at the same or similar rate paid by other public utilities. (Larsen, RD04-0172.) He urged BPA to delay its decision on the rate at which to serve Snohomish's FY 2007-2011 Block to give Snohomish and Alcoa time to continue to collaborate on this matter and the DSI service issue. Id.

With regard to calculating net requirements, Snohomish commented that BPA would be treating it differently from other customers by requiring that either Snohomish submit to a new net requirements determination or be subject to a TAC for its existing Block commitment even though Snohomish has a contractual right to extend that commitment. (Snohomish, RD04-0104.) Snohomish commented that it is the only Slice/Block purchaser being subjected to either a new net requirements determination or application of the TAC. (Snohomish, RD04-0153.) Snohomish stated that neither of these actions was contemplated in its power purchase agreement and both are inappropriate. Id.

WPAG commented that using a new net requirement determination to define the amount of power these customers may buy at the lowest cost-based rates in the FY 2007-2011 period is not required by statute or contract and will not change BPA's service obligation since all but one of these customers are full service customers of BPA. (WPAG, RD04-0105.) WPAG added that, since BPA's policy proposal indicates that it expects to be in load/resource balance through FY 2011, these net requirement determinations are not needed for load/resource balance purposes. Id. WPAG further opined that, because Snohomish had lost load in the past but was facing recovery, now would be "a very inopportune time" to subject the utility to a net requirement calculation. Id.

PNGC commented that BPA should apply the lowest PF rate to the Block purchase of the Slice/Block customer in the 5-year group without imposing a net requirement calculation so long as that customer does not seek an increase in its Block product from what it purchased from 2002-2006. (PNGC, RD04-0159.)

Finally, Springfield Utility Board (Springfield) expressed the view that the proposed 60- to 90-day window is too generous. (SUB, RD04-0158.) As long as BPA limits service to new

publics in the manner specified in the July Regional Dialogue Policy proposal, Springfield would support the BPA policy proposal regarding the acceptance window. Id. Snohomish agreed that there needs to be certainty around the load placed on BPA in the FY 2006-2011 period. (Snohomish, RD04-0153) Snohomish commented that it has already given notice to BPA of its intent to extend its current Block purchase amount over 2 years in advance of when contractually required. Id.

### **Evaluation and Decision:**

The comments received on this issue were generally supportive. Some commenters expressed conditional support. For example, Tacoma commented that it would support the proposal only if BPA agreed to refund Tacoma's past Stepped-Up Multi-Year (SUMY) charges paid to BPA pursuant to the WP-02 firm power rates. BPA is cognizant of Tacoma's desire for a refund on its SUMY charge as Tacoma is currently challenging the SUMY charge in the U.S. Court of Appeals for the Ninth Circuit. However, BPA is not persuaded that it is necessary to reach an accord with Tacoma on its SUMY challenge in this policy proceeding.

PNGC expressed concern that there should be no economic impact on BPA's other customers resulting from an extension in the terms of the 5-year contracts. BPA shares PNGC's concern and the rate treatment proposed will be designed to address that concern. Current 5-year contract customers that meet all aspects of the proposal and who obtain the lowest-cost PF rate guarantee will be assured the same rate treatment as existing 10-year contract customers. Cost of service to all of these customers will be included in the lowest-cost PF rate established in the next power rate case. Customers that do not meet all aspects of BPA's offer will not receive the rate guarantee and consequently may be subject to rates and/or charges that recover the costs incurred by BPA to serve them, such as the TAC. A TAC or its successor will reflect the cost and risk entailed in delayed certainty about the size of BPA's purchase obligations for the rate period starting in FY 2007.

BPA received comment that expressed a general opposition to imposing any other rate than the lowest-cost PF rate. For example, Whatcom commented that extending a contract but not applying the lowest PF rate would result in implementation of tiered rates. To clarify, BPA is not proposing to tier the PF rate applicable to the firm power load requirements of public agency customers in the next rate period.

BPA believes that its decision not to perform a net requirements calculation, explained below, will ameliorate much of the concern expressed by Snohomish, WPAG, Congressman Larsen, and others. At the same time, however, BPA believes it is reasonable to seek load certainty and to establish a timeframe during which BPA can determine the amount of load BPA is obligated to serve. In its comments, Snohomish agreed that there needs to be certainty around the load placed on BPA in the FY 2006-2011 period. (Snohomish, RD04-0153)

A few customers commented that BPA should allow 5-year contract customers to select new or different products and services. (Emerald, RD04-0013; PRM, RD04-0019; Emerald, RD04-0020; NWasco, RD04-0042; PRM, RD04-0043; Emerald, RD04-0071; NRU, RD04-

0073; Snohomish, RD04-0104; Franklin, RD04-0108; PPC, RD04-0109; Clatskanie, RD04-0112; PNGC, RD04-0114.) Other comments stated that BPA should cancel the off-ramps early or set the Block purchase early for the customers with options associated with their 10-year contracts. (Alcoa, RD04-0067; ICNU, RD04-0093.) In response to the comments concerning new or different products and services, within the prescribed window a customer with a contract expiring September 30, 2006, can choose a new contract instead of simply amending the term of its existing contract. BPA notes that there are only six customers that fall into this category. Customers within this category that choose to execute a new contract are allowed to select from among the offered core Subscription products, as described in Section I.F. Availability of any BPA product to be offered and purchased under a new contract, of course, depends on the requesting customer's ability to meet required terms and operate under the selected product. As long as the request for a new contract is made within the window, BPA will include the lowest PF rate guarantee language in the new contract. Finally, in response to the comments received that BPA should cancel the off-ramps early or set the Block purchase early for the customers with options associated with their 10-year contracts, BPA cannot take a unilateral action to cancel customer rights to exercise on- or off-ramp options. BPA's proposal is intended to require customers with options to make their decisions within the prescribed window for purposes of giving BPA load certainty. BPA assumes that this will set the Block purchase amount early.

BPA received a number of comments on its proposal to recalculate the firm power load net requirements of each 5-year contract public agency customer and customers exercising PF on- and off-ramp options. Comment received on this proposal expressed two points of view. One is that a net requirements calculation is necessary and should be done as a condition of receiving the lowest-cost PF rate guarantee. (WGM&T, RD04-0092.) The second is that a net requirements calculation is not necessary because all the affected customers, except for one, are full requirements customers whose loads will be served regardless of the net requirements calculation. (Snohomish, RD04-0153.)

As a condition of offering the lowest cost-based PF rates guarantee to public agency customers currently without it, BPA noted in its July 2004 Regional Dialogue proposal that it would calculate the net requirement of customers seeking the guarantee and provide service for the returning off-ramp or on-ramp load based on the results of the net requirements calculation. BPA continues to believe that limiting each customer's BPA firm power purchases to the amount it actually need to meet its net requirements is most consistent with the customer-supported policy of limiting BPA's power sales at lowest-cost rates to the existing system. However, for a number of reasons, BPA does not believe that it is necessary to calculate the net requirements of the affected customers with 5-year purchase commitments outside of the provisions of their existing contracts and has not included this requirement in the final Regional Dialogue Policy. First, BPA is mindful that its current policy on determining net requirements (the 5(b)/9(c) Policy) requires that BPA determine the net requirements of a customer when determining the amount of Federal power for sale under Section 5(b)(1) of the Northwest Power Act. In response to WGM&T's comment about the defensibility of BPA's policy on determining net requirements, the policy was adopted in May 2000 and litigation over the policy was settled. It is currently in effect and provides BPA and its customers guidance on how BPA determines net requirements.

However, BPA will consider methods to improve the transparency of net requirements calculations in the future as suggested by WMG&T. BPA's power sales contracts with its customers require BPA to annually calculate the net requirements load of its customer consistent with the contract and its 5(b)/9(c) Policy. For a 5-year public agency customer that requests a new contract instead of extending the term of its existing contract, BPA will follow its 5(b)/9(c) Policy and offer power to serve the net firm power load requirements of the requesting customer.

Secondly, Snohomish points out that, unlike the other customers who receive full requirements service, Snohomish has a contract for Slice/Block service. Snohomish states that BPA will serve the full requirements customers' entire loads at the PF rate irrespective of any net requirements. We disagree with Snohomish's characterization that the load BPA is obligated to serve is irrespective of the net requirement calculation, but BPA acknowledges for the full service customers that it will serve their actual net requirement loads and no more. It is correct that the applicable rate for firm power service is the PF rate. Because the type of service is full requirements, the power BPA provides these customers is for their actual firm load hour by hour, and BPA is obligated to meet these customers' actual load requirement, whatever it is. Third, as Snohomish points out, Snohomish's Slice service is for 10 years and its block service is for 5 years with a contract right to continue purchasing the same amount of its Block for an additional 5 years. Consistent with the 5(b)/9(c) Policy and under the terms of its Slice/Block contract, Snohomish is already subject to BPA's annual net requirement calculations. Snohomish's contract allows Snohomish to make certain adjustments to its non-Federal resources serving its load on an annual basis, which may affect its net firm power load requirements under the contract.

Springfield commented that a 60- to 90-day window is too generous and that the window should be the same for new publics and expiring 5-year contracts. BPA does not agree that the window is too generous. Snohomish expressed agreement in the need for load certainty. BPA acknowledges receipt of Snohomish's notice to continue purchasing under its firm Block power contract. Public agency customers will have a 60- to 90-day period, specified by BPA, in which to accept BPA's offer. This period will close June 30, 2005. Based on BPA's experience with its customers, it is reasonable to afford public utilities adequate time to ensure necessary board decisions and approvals are made. Board meetings generally only occur once a month. A 60- to 90-day period should provide public agency customers adequate time to make decisions regarding BPA's offer. Finally, as addressed in Section I.E, new public agency utilities will be subject to the same window, except for a limited 30 aMW exception for new small public agency utilities.

After consideration of the above comments, BPA will offer all of the public customers with expiring 5-year contracts that do not contain the lowest-cost PF rate guarantee (1) an amendment to extend the term of their existing power products and services contracts through September 30, 2011, or (2) a new contract, in accordance with Section I.F., Product Availability. BPA will offer an amendment to customers with PF off-ramp contract options to allow them an early opportunity to cancel such options. BPA will offer an amendment to the customer with the PF on-ramp contract option to allow it an early opportunity to exercise its option. The amendments will make the affected customers' contracts consistent with the

other 10-year Subscription contracts. The amendments will include language providing the same guarantee of the lowest-cost PF rates (except for New Large Single Loads (NLSL)) as other public agency customers have. The guarantee of lowest cost-based PF rates will also be extended to the United States Navy.

## **I.E. Service to New Publics and Annexed Investor-Owned Utility (IOU) Loads**

### **Issue 1:**

Should BPA provide flexibility regarding the date by which actions need to be completed by potential new public agency utilities to receive power at the lowest PF rate?

### **Regional Dialogue Policy Proposal:**

For purposes of the FY 2007-2009 period, BPA proposed that, to receive power at the lowest-cost PF rate, new public agency customers need to request firm power service under Section 5(b) of the Northwest Power Act and meet BPA's standards for service. If the criteria were met, the customer would be eligible for rate treatment comparable to other BPA public agency utility customers. Conversely, BPA proposed that new public agency utilities that met BPA's standards for service and requested firm power service from BPA after June 30, 2005, would be served at the PF rate plus a charge or rate that covered any incremental cost incurred by BPA to serve the new public agency load. The charge would be similar to the current Targeted Adjustment Charge (TAC) and would be applicable for the rate period that begins in FY 2007. Long-term applicability of a PF plus incremental cost-based rate to such new public agency utilities will be part of subsequent long-term Regional Dialogue discussions and future rate cases.

### **Public Comments:**

While the majority of the comments supported BPA's proposed policy, there were comments that recommended alternatives: the Montana Public Power Authority, Nez Perce Tribal Executive Committee Confederated Tribes of the Umatilla, ATNI, Umpqua Indian Cooperative, and Oregon Department of Energy commented that the proposal's June 30, 2005, date was unnecessarily restrictive and recommended extending the date. (MTPPA, RD04-0059; MTPPA, RD04-0165; Nez Perce, RD04-0138; Umatilla Tribes, RD04-0156; ATNI, RD04-0033; ATNI, RD04-0160; UIUC, RD04-0039; ODOE, RD04-0102.) The Tulalip Tribes recommended that BPA set aside an amount of power specifically for Tribes. (Tulalip, RD04-0032.) Some parties supportive of the June 30, 2005, date additionally recommended a megawatt cap for service to new publics for the FY 2007-2009 period. (PNGC, RD04-0114; ICNU, RD04-0093; ORECA, RD04-0005.) Montana Public Service Commissioner Tom Schneider expressed concern about the June 30, 2005, deadline and suggested a 75 MW or higher set aside instead. (MPSC, RD04-0166.) Kootenai Electric Cooperative encouraged BPA to provide service to new publics without restriction. (Kootenai Electric, RD04-0141.) Mason County PUD No. 3 and Springfield supported the original policy proposal without change. (Mason 3, RD04-0151; SUB, RD04-158) The IOUs supported the June 30, 2005, deadline for up to 75 MW of new public agency load. (PNW IOUs, RD04-0157.) Montana Public Power Authority requested that BPA confirm that a public body would qualify as a preference customer even if a portion of its service territory lies outside the service area of BPA. (MTPPA, RD04-0059.)

**Evaluation and Decision:**

Most comment expressed support for BPA's proposal; however, several comments expressed concern over the June 30, 2005, date for service to new public agency load at the lowest-cost PF rate. BPA observes that these comments were made by entities that are either currently taking steps to form a utility that will likely qualify for preference or desire to do so in the future. BPA understands the difficulties that may be encountered by entities pursuing legal formation, qualifying for preference, and taking power delivery. Moreover, BPA recognizes the value of the views expressed on this matter and acknowledges this is a very aggressive schedule. BPA is mindful that such entities need the maximum time possible to legally form, qualify for preference, and begin taking power delivery. BPA also recognizes that its need for reasonably early load certainty is not materially impaired if new public entities with a very limited amount load have a later deadline for formation.

Given the above concerns, entities forming small public utilities that serve less than 10 aMW of retail load, up to 30 aMW in total, must form their utility, request service under Section 5(b) of the Northwest Power Act, meet BPA's standards for service criteria, and sign a contract prior to January 1, 2006, to receive service at the PF rate without a targeted adjustment charge. BPA believes this is a reasonable amount of additional time given that formation of new publics has been an issue of wide regional interest for some time. In particular, since 1998 BPA has provided Tribes notice and opportunity to form tribal utilities eligible to receive firm power service at the PF rate. Indeed, many of the entities interested in forming new public utilities have been considering and studying the feasibility of doing so long before BPA made its Regional Dialogue proposal. See Power Subscription Strategy, Administrator's Record of Decision at 22; Power Subscription Strategy, Administrator's Supplemental Record of Decision at 4-6.

Having load certainty by January 1, 2006, provides BPA a basis upon which to establish the rates for service to such known and identified load, hence reducing the cost exposure and risk in serving an entity that is not yet a customer even after a reasonable period of time has passed. Maintaining a date certain limits BPA's risk associated with new public customer loads by assuring loads to be served at the lowest PF rate are known before rate case decisions are made. An entity that forms a new public utility that begins purchasing firm power prior to either June 30, 2005, or January 1, 2006, is subject to BPA's current effective rate schedules and would subject to the applicable TAC until the next rate period.

The Montana Public Power Authority asked whether a public body would qualify as a preference customer even if a portion of its service territory lies outside the BPA service area. While BPA does not presently serve such a public body, BPA would supply firm power under Section 5(b) of the Northwest Power Act to such a public body utility based only on the firm retail consumer load within the Pacific Northwest region, as defined under Section 3(14) of the Northwest Power Act, that is BPA's marketing area. Given that the Montana Public Power Authority is situated in the State of Montana, there exists the possibility that, upon a future redistribution of the Hungry Horse Reservation, additional power could be made available to such a new public body customer. Hungry Horse

Reservation power may be used to supply the retail firm power loads of customers east of the Continental Divide. Presently, the Hungry Horse Reservation is fully sold through 2011.

**Issue 2:**

Should BPA continue to treat annexed load as it does today under existing contract terms and conditions with its customers?

**Regional Dialogue Policy Proposal:**

To the extent an existing public agency utility requests firm power service for load that is annexed from an IOU, BPA proposed that the residential and small-farm load proportion receiving residential exchange benefits through the IOU will offset any applicable incremental cost charge, such as a targeted adjustment clause (TAC), in an amount equal to its proportionate share of benefits received from the IOU. BPA will continue to treat such annexed load as it does today under existing contract terms and conditions with its customers.

**Public Comments:**

The Northwest Energy Coalition asked for clarification that exchange benefits would be made available to both annexed loads and new public agency customers if the loads came from an IOU. (NWECC, RD04-0110.) Benton REA suggested that BPA not provide exchange benefits to a new public agency customer or annexed load. (Benton REA, RD04-0046.) BPA received other suggestions on how it should treat inter-public utility annexations in the longer term (i.e., beyond the conclusion of the next rate period).

**Evaluation and Decision:**

Contrary to Benton's suggestion, BPA's currently effective rates address the provision of exchange benefits to IOUs. If an IOU loses a portion of its underlying residential and small-farm load due to annexation by a public agency customer, it no longer has the right to continue receiving benefits for that portion of its load. Because IOUs receive power and/or financial benefits, BPA decided to apply such benefits as an offset to an otherwise applicable incremental-cost charge or rate such as a TAC. BPA's rate treatment of IOU loads annexed by a public agency customer is addressed in BPA's WP-02 general rate schedule provisions (GRSPs). The TAC provides:

Where a public agency customer annexes residential and small-farm load previously served by an IOU and such load was receiving BPA power or financial benefits through Subscription, the public agency customer will receive by assignment through BPA the right to the IOU's power and/or financial benefits applicable to the annexed load. BPA will deliver an amount of firm power to the annexing public agency customer at the PF-02 rate equal to the amount of benefit (power and/or financial) assigned by the IOU to BPA. Power provided by BPA to the public agency customer to meet the remaining annexed load not covered by the benefits assigned from the IOU will be subject to the TAC. WP-02, GRSPs at 136.

BPA did not propose that it would change how it deals with these benefits in the next rate period. In the FY 2007-2009 period, public agency customers requesting firm power service



for load that is annexed from an IOU and which contains residential or small-farm load that was receiving residential exchange benefits from an IOU prior to June 30, 2005, will receive the prorated share of such benefits during the rate period in the form of an offset to any incremental cost charge or rate applicable to the public agency customers. Such treatment will apply regardless of whether the annexing public agency customer is new or existing. Finally, although not an issue raised in BPA's draft proposal, BPA intends to continue to serve load annexed (excluding NLSLs) from one public utility customer to another public utility customer at the applicable lowest cost PF rate.

With regard to the suggestions BPA received with regard to treating inter-public utility annexations in the longer term (i.e., beyond the conclusion of the next rate period), BPA will wait to address this issue as part of the long-term Regional Dialogue.

**Issue 3:**

Should June 30, 2005, be the date by which load annexation by a public agency customer must be completed for purposes of being served during the FY 2007–2009 rate period at the lowest cost-based rate without being subject to a TAC or successor rate?

**Regional Dialogue Policy Proposal:**

The policy Proposal did not address this matter.

**Public Comment:**

Canby commented that, for utilities, like Canby, that serve the city and annexed areas, it would be helpful to have BPA specify a precise date by which the utilities would need to complete their annexation or possibly face a TAC or successor. Canby queried whether the deadline is the date the contract amendment is signed. (Canby, RD04-0047.)

**Evaluation and Decision:**

Canby's comment raises the question of when load annexation by a public agency customer must be completed in order to be served at the PF rate during the FY 2007–2009 rate period without a TAC or its successor. BPA agrees that specifying a date by which utilities need to complete such load annexation is helpful. Canby queried whether the deadline is the date the contract amendment is signed. BPA believes it is reasonable to adopt the June 30, 2005, date because it marks the close of the load-certainty window. Having certainty that a customer's load annexation is complete by June 30, 2005, provides BPA a basis upon which to include such load within the load that will be served at the lowest cost-based PF rate. Without a June 30, 2005, deadline, BPA would be exposed to the cost risk of serving annexed IOU load at the lowest cost-based PF rate at any time without the load being subject to the TAC, particularly if the cost to serve such load exceeds the cost recovered through the PF rate. Therefore, it is reasonable that BPA apply the June 30, 2005, date because it limits BPA's risk associated with annexed loads by assuring such load is known before rate case decisions are made and provides public agency customers a clear signal for when their annexations would need to be completed.

## **I.F. Product Availability**

### **Issue 1:**

What products should BPA offer to customers whose contracts expire in FY 2006 or new public customers?

### **Regional Dialogue Policy Proposal:**

BPA proposes that any customer whose contract expires in FY 2006 may simply request a contract extension with no product changes under the terms described in Section I.D. above. Any new public agency customer or customer whose contract expires in FY 2006 and who elects to execute a new contract may select its choice of any of the following core requirement products: Full Requirements Service, Simple Partial Requirements Service, Partial Requirements Service with Dedicated Resources, and Block Service (with the optional feature of Shaping Capacity). The terms of the contract will be consistent with the terms described in Sections I.D. and I.E. above.

No customers currently purchase the Complex Partial or Block with Factoring products, and BPA does not intend to offer either of these products in future contracts because of the lack of interest shown and the expected complexity of administering and billing the products.

### **Public Comments:**

The comments received on this issue were diverse and are not easily categorized. Some commenters expressed an initial position in their early comments but later modified their position in subsequent comments.

Several comments supported BPA's proposal. The Oregon Rural Electric Cooperative Association (ORECA, RD04-0005) supported BPA's continuing to offer the full requirements product and availability of basic products when there is no cross-subsidization between classes of product users in the cost of offering the product. Northern Wasco also supported BPA's proposal of products offered to 5-year customers and new public customers. However, they noted that the list of available products should also include the Slice product. (NWasco, RD-04-0042.) WPAG provided a comment of qualified support, noting that the proposal to make core products (other than Complex Partial and Slice) available to customers with expiring contracts should be implemented, as it provides a reasonable range of choice to the customer without imposing unnecessary administrative burden on BPA. (WPAG, RD04-0105.) EWEB supported the BPA policy proposal that existing customers with purchase contracts that expire in FY 2006 can extend those contracts through FY 2011 with no changes. (EWEB, RD04-0127.)

The majority of comments focused on switching to or purchasing the Slice product and did not address the other products offered. Several comments said BPA should allow 5-year customers to switch to the Slice product. ICNU supported allowing publics the flexibility to change the types of products they purchase from BPA. It asserts that this is especially true regarding the Slice product as that is the type of product that will likely result from a fixed allocation process. It also states allowing a greater number of utilities to gain experience

with the risks and rewards of the Slice product should be allowed. (ICNU, RD04-0093.) Snohomish agreed with PPC, PNGC, WPAG and others that publicly owned utilities should be free to choose whatever products from BPA's existing product menu they wish, including Slice during the FY 2007-2011 time period. (Snohomish, RD04-0104.) Cowlitz PUD would not be opposed to BPA allowing a one-time election for a utility desiring to return from a Slice contract to a Requirements contract. (Cowlitz, RD04-0128.)

The PPC stated, "[w]e believe that existing full, partial or block customers should be able to switch among their existing full, partial, and block services." (PPC, RD04-0109.) Clatskanie noted "...product offerings freezes frustrates the continued optimal use of the power system, and stalls the recovery of a struggling economy." Clatskanie argued that long-term contracts must be offered to provide some certainty going forward, but utilities should be allowed to change the product mix and volume they purchase from BPA during any contract term including changing to no purchase from BPA. Those utilities with ongoing contract rights or rights to contract renewal should likewise be able to choose whatever product mix they determine to be appropriate for their customers. If BPA desires a review of any products to determine if the costs of providing the product have been appropriately assigned in the rate setting process, Clatskanie feels that a request be made that the Government Accountability Office (GAO) conduct that review. The GAO has the independence and expertise as well as familiarity with BPA necessary to conduct the review and provide an accurate and trusted determination. (Clatskanie, RD04-0112.)

This Record of Decision addresses these comments and the issue of product switching (specifically Slice) for 5- or 10-year customers in issue number two of this policy ROD below.

### **Evaluation and Decision:**

BPA's proposed list of existing core requirements products available to customers who need new contracts covers a broad range of service types that meet the net firm load requirements for various types of customers. BPA received comments from several of its customers with expiring contracts, including statements that they prefer to stay with their current product selections through FY 2011. No party's comments opposed BPA's proposed product mix offer, although several comments focused on whether BPA should expand the product selection to include the Slice product. BPA proposed not to offer two products included in its Subscription contract process, and no comments stated that BPA should offer either of these products -- Block with Factoring and Complex Partial with factoring. BPA's decision on offering the Slice product is stated in the issue below. The BPA proposal on products offered is needed by some customers and should accommodate the net firm load requirement service of all customers who request service to extend their contracts over the next 5 years through FY2011.

BPA intends to offer new contracts in advance of 2011, but offering these products will put all customers on parity with each other even if they only executed a 5-year contract in 2001. For the reasons stated above, BPA adopts the following policy on the products it will offer other than Slice:

Any new public agency customer or customer whose contract expires in FY 2006 and who elects to execute a new contract may select its choice of service from any of the following core requirement products: Full Requirements Service, Simple Partial Requirements Service, Partial Requirements Service with Dedicated Resources, and Block Service (with the optional feature of Shaping Capacity). The terms of the contract will be consistent with the terms described in Sections I.D. and I.E., above. BPA will not offer Complex Partial (Factoring), or Block with Factoring.

Clatskanie, a Slice purchaser, suggested that BPA request the Government Accountability Office (GAO) to perform a study of the Slice product to see if costs had been appropriately assigned. We do not see a need for such review by GAO. Assignment of costs and BPA cost recovery are assigned to the Administrator by the Northwest Power Act as a matter of rate setting. Review of overall costs and cost recovery is within Federal Energy Regulatory Commission's (FERC's) review, and then those issues and BPA's rate design are subject to review by the United States Court of Appeals for the Ninth Circuit.

**Issue 2:**

Should BPA allow customers with 5-year contracts to elect to purchase the Slice product and, if so, should BPA allow customers with 10-year Slice or other contracts to change the Products Currently Purchased by those Customers?

**Regional Dialogue Policy Proposal:**

BPA understood from discussions with customers that most customers whose contracts expire in FY 2011 want to keep their current BPA product selections. BPA did not propose to offer contracts or amendments that change the power products and services of customers whose contracts expire in FY 2011 (10-year Subscription contract holders). However, one customer with a 5-year contract expressed interest in purchasing Slice in FY 2007, and other customers with 10-year Slice contracts expressed interest in increasing or decreasing the amount of their current Slice contract amount.

BPA did not propose to change the number of Slice customers or the Slice percentage sold in FY 2007.

**Public Comments:**

Comments were received from customers, customer representatives, and three members of Congress regarding whether, and to what extent purchases of the Slice product should be made available to customers with expiring contracts, or whether customer should generally be allowed to switch to the product. Emerald PUD specifically requested that it be allowed to purchase the Slice product in 2006 for the next 5 years until 2011. (Emerald, RD04-0013, RD04-0020.) Emerald stated its full Board supports Emerald's effort to obtain the Slice product and "Slice would bring Emerald into the 21<sup>st</sup> century with resources." Another comment request from Emerald asked BPA to reconsider its initial decision and allow Emerald to sign a Slice contract and sent an analysis from PRM to support its position. (Emerald, RD04-0071.) EWEB stated it believes that new customers or customers with contracts expiring in FY 2006, such as Emerald, that want new contracts should be able to

select from any of the products BPA offered in the original regional Subscription process. (EWEB, RD04-0127.)

Several customers supported the offer of Slice to 5-year contract holders. Franklin PUD suggested customers with expiring contracts should be given the first option to switch to Slice. (Franklin, RD04-0108.) Some customers qualified their support for allowing 5-year contract holders to purchase the Slice product. Canby urged BPA to make a fair and equitable decision. It stated that, if BPA offers additional Slice contracts to one 5-year contract holder, it should also be made available to other 5-year contract holders. (Canby, RD04-0161.) Some parties suggested 5-year contract holders should be able to switch to the Slice product, or a combination of Slice and Block, effective October 1, 2006. (Pend Oreille, RD04-0148; Clatskanie, RD04-0155; Grays Harbor, RD04-0162.) Mason PUD No. 3 suggested the 5-year contract holders should be allowed to switch to Slice in FY 2007. (Mason 3, RD04-0151.) After further consideration, Northern Wasco PUD stated it would support the inclusion of Slice to the list of available products for those customers whose contracts expire in FY 2006 with the following qualifications:

- (1) As long as the original 1,800 aMW limit on Slice purchases is not exceeded.
  - (2) After study it is the determination of BPA that the number of customers actually switching to Slice would not adversely affect the other preference customers.
- (NWasco RD04-0042A.)

Other comments suggested BPA should allow existing Slice customers to modestly increase their Slice percentages and reduce their Block. (PRM, RD04-0019.) In another comment, PRM noted its disagreement with BPA's proposal, and stated Slice should be available to customers if their contracts expire in FY 2006. (PRM, RD04-0043.)

WPAG stated that a BPA decision to prohibit the small number of customers who wish to switch to the Slice product from doing so seems less defensible than its decision to limit the number of products available. (WPAG, RD04-0105.)

Several commenters expressed interest in allowing existing Slice purchasers the flexibility to adjust their purchase amounts between their Block and Slice contracts. They state BPA should consider permitting existing Slice purchasers to adjust their Slice and Block amounts if they can find another Slice customer willing to make a corresponding adjustment. They suggest that permitting such changes would serve the interests of the respective customers and would not change either the number of customers or the total amount of Block or Slice product sold by BPA. They commented that this would offer customers the opportunity to bilaterally adjust the amount of these products after having some experience with them. They assert that there would be no risk to BPA, and it would be of help to the customers. (WPAG, RD04-0105.) Mason PUD No. 3 supported the WPAG position that current Slice customers should be able to adjust their Slice and Block amounts in FY 2007 without changing their total take from BPA. (Mason 3, RD04-0151.) Franklin PUD disagreed with BPA's proposal to disallow product switching on Slice. They assert that the Slice product benefits the region by increasing the size of the "pie." BPA should allow a limited amount of additional Slice product – up to the original 2,000 MW offering. (Franklin, RD04-0108.)

EWEB asserts that customers with contracts expiring in 2011 should have a limited opportunity to change their product purchase mix. Such changes would include, to the extent they could be completed without unanticipated cost shifts (e.g., not negative for BPA or customers), revisions to or a reapportionment of any Slice and Block product service they might have. (EWEB, RD04-0127.) PNGC asserts that modest adjustments to Block/Slice amounts should be entertained for the FY 2007-2011 period. (PNGC, RD04-0114.)

Some parties suggest existing Slice customers should be able to adjust their Slice amounts effective October 1, 2006, either up or down, provided, however, that the maximum net increase of Slice sales by BPA from these current Slice contract holders shall not exceed 10 percent of the total 1,600 MW of current Slice sales. Any change in an individual utility's Slice amount would be offset by a corresponding change in the Block purchase amount so that the total Net Requirement sales to an individual utility are unchanged (i.e., an increase in the Slice amount must be offset by an equal decrease in the Block purchase amount). (Grays Harbor, RD04-0162; Clatskanie, RD04-0155; Pend Oreille, RD04-0148; Franklin, RD04-0108.)

Several commenters suggested that BPA increase Slice sales to no less than 2,000 aMW. Benton PUD disagreed with BPA's proposal on product switching and BPA's assertion that one outcome of the Slice true-up litigation could result in significant cost shifts to non-Slice customers. Benton PUD further suggested that BPA limit additional amounts of Slice sales to existing Slice customers and those wishing to switch to Slice. (Benton, RD04-0068.) PNGC disagrees with the BPA proposal restricting product changes with respect to the Slice product. It suggests BPA should entertain limited increases in Slice sales on a first-come, first-served basis of at least up to the 2,000 aMW limit already authorized. This could take the form of increased Slice amounts for current Slicers or new Slice customers. Any increases beyond this limit could be addressed in new or follow-on contracts. Additionally, BPA should allow changes in product mix between Slice participants, such that utilities seeking to take more Block product and less Slice product could exchange amounts with utilities seeking to take more Slice product and less Block. (PNGC, RD04-0114.) PNGC supports Grays Harbor PUD's comments on this subject, which would allow up to a 10 percent increase in total Slice purchases for existing Slice customers, and allow for new Slice customers all within the existing 2,000 aMW policy cap. The only change advocated by PNGC was each existing Slice customer would have the ability to increase its Slice amount by up to 10 percent. (PNGC, RD04-0159.) The total net increase in Slice amounts to be purchased by the combination of existing and new Slice customers should be allowed but would be limited to 400 MW, restoring BPA's original proposed contract limit on the total Slice amount of 2,000 MW. (Grays Harbor RD04-0162; Pend Oreille, RD04-0148.)

Some customers would have BPA offer more than the Subscription policy limit on the Slice contract of 2000 MW. Both Franklin PUD and Clatskanie PUD felt the total net increase in Slice amounts to be purchased by the combination of existing and new Slice customers should be unlimited. They argue BPA's original limit on the total Slice amount of 2,000 MW was established to allow implementation to be manageable. Also, for the most part

implementation procedures are fully established such that increases in Slice amounts should not be limited. (Clatskanie, RD04-0155; Franklin, RD04-0108.)

NRU states BPA should not increase the amount of Slice sales until the end of the current power sales contracts in FY 2011. NRU states allowing migration to or away from the Slice product could result in cost shifts to other customers. NRU concurs with BPA's approach to conduct an overall review of the Slice product to determine if the product achieved its objectives without shifting costs to other customers. NRU states Slice sales should not be increased until such an analysis has been completed. (NRU, RD04-0073.) After BPA published its interpretation of public comments received, BPA received clarification from NRU on October 7, 2004. NRU's position supports BPA's position on whether a utility with a 10-year contract can switch products in FY 2007 and whether a 10-year contract holder can increase or decrease the amount of Slice under its contract. NRU did not offer a position on the issue of contracts that expire at the end of FY 2006. NRU also did not offer comment on the issue of changing the number of Slice customers or the percentage of Slice sold. (NRU email transmittal 10/7/04.) Many customers supported the position that BPA should not increase the amount of Slice sales until the end of the current power sales contracts that expire after FY2011.

Some parties stated that allowing migration to or away from the Slice product could result in shifts of costs to other customers. (CRPUD, RD04-0031.) Other comments stated BPA should not increase the amount of Slice sales until the end of the current power sales contracts. Allowing migration to or away from the Slice product could result in shifts of costs to other customers. (Benton REA, RD04-0046.) Tacoma agrees with BPA's proposal of no product switching for the upcoming rate period. However, if BPA is persuaded and ultimately agrees to offer product switching for the next rate period, then it must assure that those customers remaining with their existing product lines are held harmless from rate impacts due to product switching. (Tacoma, RD04-0103.)

Some commenters agreed with BPA's proposal to conduct an overall review of the Slice product to determine if the product has achieved its objective without shifting costs to other customers. They suggest sales of Slice should not be increased until such an analysis has been completed. (CRPUD, RD04-0031; Benton REA, RD04-0046; Central Lincoln, RD04-0057.)

Springfield Utility Board does not want BPA to offer changes in products to customers with expiring contracts. Springfield supports BPA's proposal to offer the "same power products and services as the customer currently purchases." To do otherwise would be to offer these specific customers a free option to switch products and services, and, if BPA were to offer such options to customers with 5-year purchase commitments, Springfield would want the same options to switch products and services. (SUB, RD04-0106.)

Cowlitz PUD stated its support for BPA's position on this matter is predicated on BPA's commitment to offering of new 20-year contracts on the schedule contained in Section VII of BPA's proposal. Given that, Cowlitz agrees that customers should not be able to switch to or from Slice contracts while all the existing power sales contracts are in force, that is, through

FY 2011. (Cowlitz, RD04-0128.) The City of Sumas strongly believes that there should be no change in the number of Slice customers or the Slice percentage sold in FY 2007. (Sumas, RD04-0132.)

**Evaluation and Decision:**

In the Federal Register notice for its policy proposal, BPA stated several reasons why it was not proposing to reoffer the Slice product for the FY 2007–2011 period, and not changing the number of customers and amount of the Slice product currently sold. These reasons included:

the major importance placed by BPA and most customers on moving promptly to develop new long-term contracts and rates. BPA is concerned that changing Slice elections by customers within existing contracts, and dealing with the associated inter-customer equity issues and technical issues, would be a complicated undertaking that would become a major diversion from the goal of new long-term contracts. The schedule proposed in this document creates a customer option to move to new contracts in FY 2009. BPA believes that focusing BPA and customer effort on meeting the schedule for those new contracts should be a higher priority than making adjustments to Slice purchases under existing contracts. Additionally, there is ongoing litigation pertaining to the annual true-up of the Slice product whose outcome will be uncertain for some time. BPA's view is that one outcome of this litigation could result in a significant cost shift from Slice customers to non-Slice customers. Increasing the amount of Slice purchases while such a cost shift risk exists is a significant concern. BPA therefore proposes no changes to the number of Slice customers or Slice percentage sold in FY 2007.

138 Fed. Reg. 43404.

Customers and others, including three congressmen, responded on three different fronts. First, Emerald specifically asked to be allowed to purchase Slice for the FY 2007 to 2011 period as a replacement and provided studies and information that asserted the utility would be harmed if it were not allowed to do so. Support of Emerald's proposal include Oregon Senators Ron Wyden and Gordon Smith and Congressman Peter DeFazio. Second, Canby, which also holds a 5-year contract, stated that if BPA were to make the Slice product available to one customer -- Emerald - -then it too wanted to have the choice to take the Slice product. Canby stated it would be inequitable and illegal to not make the product available to it on the same terms. Third, several other customers recommended BPA offer more of the Slice product, ranging from up to 10 percent additional purchases by those customers holding Slice contracts to unlimited offers of the Slice product to any customer that wanted to take it. Customers also proposed that BPA allow current Slice customers to reduce their purchases of the Slice product if they desired. They want this option for service up to or beyond BPA's Subscription policy 2,000 MW limit.

BPA's view is that each of these proposed alternatives to BPA's proposal carries potentially large contract, rate, financial, and litigation risk with it. Further, the recommendations are



contrary to the risk structure of the Slice product, which is a 10-year product developed in Subscription and in BPA's WP-02 rate case on the Slice product.

BPA has been very clear to all its customers that the Slice product is a new product and different product from other requirements products. It is not shaped to meet consumer load and the customer has the obligation to reshape it for its load. As BPA stated in its WP-02 rate case Record of Decision:

By design, Slice is a requirements power product sale, not a sale or lease of any part of the ownership of or operational rights to the FCRPS [Federal Columbia River Power System]. (Subscription ROD, at 85.) Slice is a power sale based upon a Slice purchaser's annual net firm requirements load that is shaped to BPA's generation output from the FCRPS, rather than to the Slice purchaser's load. (Mesa et al, WP-02-E-BPA-32, at 2.) The Slice purchaser will be entitled to a fixed percentage of the generation output from the FCRPS, based upon the size of the Slice purchaser's net firm requirements load. The upper limit of the Slice percentage is determined by . . . the ratio of the customer's annual average net firm regional requirements load to the annual average FELCC [Firm Energy Load Carrying Capability] of the FCRPS resources identified in the Slice contract. (Wholesale Power Rates Study, WP-02-E-05, at 154.)

2002 Final Power Rate Proposal, Administrator's Record of Decision (May 2002) at 16-1.

After many months of careful discussion, BPA's Subscription proposal was for a Slice product that needed to be purchased for at least a term of 10 years. The 10-year duration would balance many risks for both BPA and the customers that purchased Slice, while shorter durations would increase risks of hydro generation, market stability, and downturns in regional economy. On the issue of the term of the contract, BPA stated:

BPA's proposed Slice product is narrowly defined to provide a balanced set of risks and benefits to both BPA and the purchaser. \* \* \* The duration of the product, the commitment to the product by BPA and purchasers, and the periodic true-up mechanism that will be defined for Slice will result in a specific risk profile acceptable to BPA, other customers, and the Treasury. Variations to significant features such as term, cost responsibilities and true-up for actual expenses, would significantly alter that risk profile. \* \* \* The purchase of Slice will require a fixed commitment by the purchaser of no less than 10 years. Arrangements for commitments of shorter durations are not included in the Slice product.

Power Subscription Strategy, Administrator's Record of Decision (December 1998) at 97.

Additionally, BPA's rate case proposal for the Slice product was grounded upon the Slice product being a 10-year purchase, and BPA's rate case studies modeled and analyzed the Slice product as a minimum 10-year purchase commitment. "Slice will be offered to the public preference customers on a contract basis of no less than 10 years." (WP-02-A-02, page 16-1.)

Emerald PUD (Emerald, RD04-0071,) requested a Slice contract for the next 5-year rate period. Canby suggests that if BPA offers Slice to one 5-year purchaser, it must do so for all or face a legal challenge. (Canby, RD04-0161.) Springfield requests to buy Slice if BPA offers it to any 5-year purchaser. Springfield also noted that offering a 5-year Slice product would be a free option for customers and that customers with expiring 5-year contracts should be offered the same products they are currently taking. (SUB, RD04-0106.) Other customers are opposed to BPA allowing 5-year contract holders to take Slice. They expressed concerns such as the potential for shifts of costs to other customers (CRPUD, RD04-0031), the need for a hold harmless provision to protect non-Slice purchasers (Tacoma, RD04-0103), and the need for a thorough analysis of the Slice product before any additional sales (Benton REA, RD04-0046.). They also feel that changing to different products should not occur while the current contracts are in force. (Cowlitz, RD04-0128; Sumas, RD04-0132.)

Increasing the percentage amount of Slice could result in potential significant cost shifts to non-Slice customers. Current litigation by Slice customers may result in a shift of costs, perhaps as much as \$85 million for FY 2002 alone, to non-Slice customers should Slice customers prevail in their claims. Adding more Slice loads would increase the risk of this cost shift to some customers while potentially decreasing costs to others, at least until this dispute is resolved. Among the costs that Slice customers have challenged is their share of BPA's Debt Optimization Program. BPA has taken advantage of very low interest rates in recent years to refinance Energy Northwest debt and extend the retirement date of bonds for nuclear plant construction. These funds have then been used to pay off Federal debt. Currently, debt optimization is saving BPA customers substantial amounts of money every year in BPA's cost of capital borrowing. If completed as planned, the program is an over \$2 billion source of capital for BPA's transmission infrastructure, hydropower improvements, and energy efficiency investments. If Slice customers were to prevail, this highly effective source of rate reduction and capital would be disabled and BPA's capital costs would be higher in the future.

BPA has initiated an evaluation of Slice. The study aims to learn whether Slice is operating consistently with the principles BPA established for Slice when BPA designed the program and began contract negotiations. BPA expects the Slice evaluation to help inform the longer-term issues in the Regional Dialogue, including whether to offer more or a different Slice product in the future. Until the evaluation is complete, BPA cannot make an informed decision to increase the amount of Slice it is currently offering.

It is clear from comments that offering some customers, and not others, the option to switch to Slice or take more Slice would be perceived as unfair to those left without the option. This is an equity issue between customers, which could result in BPA having to consider numerous modification and adjustments to current 10-year contracts as well as the expiring 5-year contracts. As noted by Cowlitz, the intent of this short-term Regional Dialogue policy is to set the stage for an offer of long-term contracts later. Having to balance or rebalance equities, risks, terms, and conditions of service for all customers in the near-term by re-offering Slice now to customers would detract from that long-term effort.

In summary, BPA will not increase the amount of Slice sales before new long-term contracts go into effect in FY 2009, for following reasons:

- BPA hears clearly the strong desire of some customers to buy Slice or change Slice purchase amounts, but these customers will have to wait 2 years, not 5 years, for a new contract if the current schedule for new long-term contracts is met.
- The effort required to negotiate changes in Slice amounts and purchasers would threaten achievement of the schedule for new long-term contracts in 2009, especially given that the opportunity to make changes to Slice purchases would have to be offered to all interested customers.
- The original Slice decision and contract was for a 10-year term. It is premature to conclude that a different term is reasonable, especially in view of the fact that the first 3 years of experience with Slice have not been evaluated by the region.
- The ongoing dispute over Slice true-up creates a significant risk of increased cost-shifts if more Slice is sold.

**Issue 3:**

Should BPA allow customers with contracts that expire in either FY 2006 or FY 2011 the right to acquire non-Federal resources to reduce net requirements?

**Regional Dialogue Policy Proposal:**

BPA proposed a case-by-case consideration of requests from load-following customers to add non-Federal resources to their existing Firm Resource contract declarations. Such actions could assist in relieving BPA's load-serving obligation post-2006 without increasing costs or risks for other customers. BPA will make such a determination after a customer makes a request.

**Public Comments:**

All of the parties who commented agreed BPA should allow load following customers to add firm non-Federal resources on a case-by-case basis to their Exhibit C Net Requirements Tables in their Subscription contracts. (CRPUD, RD04-0031; NWasco, RD-04-0042; Glacier, RD04-0064.) Columbia River PUD further stated that, in order to effectively achieve this flexibility for utilities, BPA and its customers need to resolve the issue of transfers of non-Federal power over General Transfer Agreements (GTAs) as soon as possible. Northwest Requirements Utilities requested BPA to allow flexibility for customers to bring in new resources. (NRU, RD-04-0053.) BPA should allow a customer to acquire conservation and new renewable resources without affecting the utility's contracted-for net requirements. *Id.* Oregon Department of Energy commented that any resulting BPA surplus power should be sold for the benefit of the utility that acquired the non-Federal resource(s). (ODOE, RD04-0102.) WPAG utilities strongly supported the proposal for case-by-case requests from customers that purchase load following products to add non-Federal resources to their supply mix, and stated it will become very important that customers have the flexibility to begin to acquire and use non-Federal resources to serve their load if the Federal system is allocated. (WPAG, RD04-0105.).

**Evaluation and Decision:**

None of the comments raised issues or opposed the proposal to allow a case-by-case decision on the addition of firm non-Federal resources by load following customers. Using a case-by-case approach to determine any additions allows BPA flexibility to address individual customer circumstances and to look at BPA's overall financial and power service obligations. Generally, BPA's Subscription power sales contracts for full and partial service customer do not allow additions of non-Federal resources. The addition of large amounts of resources and the timing of additions can present difficult and important considerations of revenue risk and changes in service. The Administrator has authority under Section 5(b)(1) of the Northwest Power Act to consent to a customer adding a non-Federal resource to provide firm power to the customer's load instead of continuing to take BPA power. Case-by-case does not mean that BPA will give its consent to every request. Nevertheless, BPA views this approach as being more flexible and responsive to potential changes in supply conditions in the near term. The public comments received support the finding that considering requests to add non-Federal resources will, in certain circumstances, help relieve BPA of its load-serving goals. Considering customer requests on a case-by-case basis allows BPA to evaluate the benefit to both BPA and the customer.

BPA does not agree with ODOE's suggestion that "surplus power" from the addition of a resource should be credited back to the customer adding the resource for two fundamental reasons. First, a customer only has the right to take net requirements power service to the extent of its firm consumer load in the region less its firm resources under Section 5(b)(1) of the Northwest Power Act. When a customer adds a firm resource to serve its load and reduces its net requirement, the amount of Federal power the customer has a right to buy is reduced. Second, Section 5(f) of the Northwest Power Act defines BPA "surplus power" as power in excess of BPA's total firm power obligations incurred under Sections 5(b), 5(c), and 5(d). Only after all of those obligations have been met does BPA have any power that is surplus. The upshot of these two provisions is that surplus power is not created when one customer adds a resource. Instead, the Federal power not taken by the customer is power used by BPA to meet its other firm load contract obligations ahead of any surplus power sales. Therefore, no crediting of "surplus" power will occur as a result of a customer adding a resource. Any resulting cost savings to BPA will be retained by BPA for regional benefit.

BPA will consider, on a case-by-case basis, requests from customers to add non-Federal resources to their existing Exhibit C contract declarations if those additions will reduce BPA's FY 2007-2011 load-serving obligation and not increase BPA's costs or risks for other customers. BPA will make such a determination after a customer makes its request. BPA will utilize any Federal power made available by the addition of the non-Federal resources to meet its other firm load contract obligations and will not credit a specific customer that added the non-Federal resource.

**Issue 4:**

Does the reclassification of a customer's service from a full requirements product to a partial requirement product constitute product switching?

**Regional Dialogue Policy Proposal:**

This issue was not included in the Regional Dialogue Policy Proposal.

**Public Comments:**

All of the parties commenting agreed BPA should reclassify a customer's power product when required by the conditions stated in BPA's Power Products Catalog, and this reclassification does not constitute product switching. For example, if a customer no longer has the required amount of non-Federal resources, then movement from a simple partial requirements product to full requirements service should not be foreclosed. (CRPUD, RD04-0031.) NRU generally agreed with BPA's proposal on products but offered the following caveat. BPA should allow a customer to reclassify its product when the circumstances for the reclassification do not constitute product switching. For example, movement from simple partial to full requirements service would not in NRU's statement be product switching. A number of NRU members are identified by the agency contractually as simple partial, when the basic features of their service are essentially full requirements. (NRU, RD04-0073.)

**Evaluation and Decision:**

BPA agrees that there are instances when the additions or change in a full service requirements customer's non-Federal resources, or in the resources of a simple partial requirements customer, would require a change in the customer's contracting basis from full service to simple partial or the reverse. BPA adopted its product classification with the purpose of best matching a customer's load need to the BPA product. BPA's product classification is in part based upon whether the customer has or does not have threshold amounts of non-Federal resource, whether the customer is buying and selling in the wholesale power market, and whether the non-Federal resource can affect BPA's system resources in certain ways. Full requirements service customers generally do not own or operate non-Federal resources or have them only in very small amounts. Simple partial requirements contracts address resources of larger sizes, impacts and applications. Changes in a customer's non-Federal resources affect load, which, if being served under the full or partial product, may require a change in the BPA product, depending upon factors stated in the BPA Product Catalog. Consequently, BPA will consider requests, on a case-by-case basis, to switch from or to Simple Partial and Full Requirements products and may allow such changes so long as BPA's service to net requirements is not substantially affected by a product reclassification or would result in costs shifts. During the near term, BPA will defer these reclassifications until it receives a request for addition of resources per the preceding decision.

**I.G. Service to Direct Service Industries (DSIs)****Issue 1:**

Should BPA continue to provide benefits to the direct service industries?

**Regional Dialogue Policy Proposal:**

Although BPA has no statutory obligation to serve the DSIs, it recognizes that the DSIs have been an important part of the Pacific Northwest economy for decades. BPA is interested in public comment on whether BPA should continue to offer benefits to DSIs.

**Public Comments:**

Numerous comments (Alcoa, RD04-0067; CFAC, RD04-0111; GNA, RD04-0101; Evergreen Aluminum, RD04-0075; Port Townsend Paper, RD04-0045; aluminum workers Wayne Widman, RD04-0041; Dave Toaus, RD04-0119; and others, Congressman Rick Larsen, RD04-0135; and other state and local elected officials, NVEC, RD04-0110; and DSI-dependent businesses such as Beacon Machine, Inc., RD04-0056; KB Alloys, RD04-0026; and others) expressed strong support for continuing BPA power service to the DSIs, or a comparable financial settlement. They cited the dependence of families on high-wage jobs, the central role the DSIs play in local communities, the civic and environmental responsibility of the companies, the national strategic importance of the aluminum industry, and the lack of fairness they saw in “cutting the DSIs off” while others continued to receive low-cost service from BPA. Alcoa (Alcoa, RD04-0067) and Whatcom County PUD 1 (Whatcom, RD04-0146) asked for an interim contract for Alcoa to cover the next rate period while longer-term service issues are discussed and decided.

Golden Northwest Aluminum (GNA, RD04-101) asked for a contract through 2011 while it worked to develop its own power resources. Both Alcoa (Alcoa, RD04-0067) and Port Townsend Paper (Port Townsend, RD04-0045) drew the parallel between extending utility 5-year contracts and the need to extend their own contracts. Alcoa (Alcoa, RD04-0067) also mentioned that a follow-on contract was needed for them to be constructively engaged in the regional discussion on BPA’s long-term role. In addition other comments (Flathead, RD04-0048; NWasco, RD04-0042; Whatcom, RD04-0146; EWEB, RD04-0127; NVEC, RD04-0110) expressed support for continued service to DSIs, with Flathead (Flathead, RD04-0048) noting a preference for local utility service as a solution.

Chelan County PUD (Chelan, RD04-0154) commented it is concerned that Alcoa remain viable so it can continue to provide jobs in the community and also in the Bellingham area. Whatcom County PUD 1 (Whatcom, RD04-0146) pointed out that, because the DSIs are located in less populated rural areas, the fate of the DSIs has significant implications for the local economies. United States senators Maria Cantwell and Patty Murray stated in a letter (Cantwell, et al, RD04-0163) that they would prefer not to have to secure Federal Trade Adjustment Assistance benefits for more Washington state aluminum workers. They believe aluminum worker jobs can be saved with a little “forward thinking” and regional consensus building. They encourage BPA to work with the DSIs and stakeholders to fashion a creative resolution to this issue that is equitable to all parties, and cognizant of the substantial impact on Washington’s economy and workers. A private citizen (Gunderson, RD04-0139) proposed that the local labor force be used to build renewable resources that, in turn would make large blocks of power available to DSI customers.

A second group offered qualified support. NRU (NRU, RD04-0073) said it was only willing to explore service alternatives that did not increase costs or risks to BPA’s preference customers. Mason PUD No. 3 (Mason 3, RD04-0151) asserted that any subsidies to DSIs should be borne by taxpayers not ratepayers and, like WPAG (WPAG, RD04-0105), proposed that DSIs pay for augmentation costs needed to serve them, a cost WPAG noted would be necessary since the FBS would already be fully utilized to serve public utility

customers. Western Montana G&T (WMTG&T, RD04-0092) proposed a “short” contract and Lincoln Electric (Lincoln Electric, RD04-0100) called for service to end in FY 2011. ICNU (ICNU, RD04-0093) expressed support for rolling over existing contracts for the rate period. Franklin PUD (Franklin, RD04, RD04-0108) also limited its support to the next rate period, but only if BPA did not need to augment the system to provide benefits to the DSIs and if DSIs agreed not to seek BPA benefits beyond the next rate period.

A third category of comments expressed opposition to BPA continuing to provide benefits to the DSIs. The PPC (PPC, RD04-0109) and Mason PUD No. 3 (Mason 3, RD04-0151) emphasized the lack of legal mandate for BPA to offer new contracts to DSIs, were doubtful that BPA’s proposal would meet the stated needs of the DSIs, and expressed concern about the costs of service to DSIs driving up their rates and endangering jobs in other electricity intensive industries. Several utilities clearly stated a preference for no DSI service. (Benton REA, RD04-0046; CRPUD, RD04-0031; Clatskanie, RD04-0155; Cowlitz, RD04-0128; Ferry County, RD04-0037; Kootenai, RD04-0141; Sumas, RD04-0132; WPAG, RD04-0105; Tacoma, RD04-0103.) WPAG indicated BPA has no authority to set up a benefit payment program for regional aluminum smelters and will be subject to legal challenge. WPAG opposes any proposal that would allocate Federal power system output to public utilities on the basis of aluminum smelter loads that they may elect to serve. WPAG (WPAG, RD04-0150) and Mason PUD No. 3 (Mason 3, RD04-0151) oppose augmentation of the Federal system for the purpose of serving aluminum smelter loads, if the full costs of such augmentation are not borne directly by the aluminum smelter receiving service.

Kootenai (Kootenai, RD04-141) opposed both long-term firm power sales and financial benefits in-lieu of power sales, and asked that BPA consider the larger Northwest economy and jobs, versus the limited number of jobs provided by aluminum smelters. Mason PUD No. 3 (Mason 3, RD04-0151) indicated that any national strategic importance to the aluminum industry should be recognized through a national subsidy for the industry instead of by a subsidy from other BPA customers and that non-DSI Northwest industries have experienced losses in jobs and market share and have received no reduction in their electric rates to keep them competitive.

Others questioned the merits of continued BPA service, in part because of its cost to other BPA customers, but did not definitively argue that BPA should not serve DSI load. These included: Central Lincoln (Central Lincoln, RD04-0057), Springfield (SUB, RD04-0158), and the PPC (PPC, RD04-0109), although Springfield and PPC clearly stated that benefits should not be provided after FY 2011. For example, the PPC argued that by trying to preserve several hundred jobs at the region’s few remaining aluminum smelters, BPA was endangering thousands of other jobs in the forest products and other electricity-intensive industries. The regional investor-owned utilities (IOU Reps, RD04-0167) neither supported nor argued against continued BPA service to DSI loads, but did make clear their opposition to any change in BPA’s New Large Single Load policy that will allow DSI load to move to local public utility service and receive BPA preference power.

Snohomish County PUD (Snohomish, RD04-0153) supports providing additional time to enable the region to find mutually agreeable solutions to the DSI issues. It also believes allowing an additional 3 months could lead to a mutually acceptable solution.

### **Evaluation and Decision:**

The majority of comments received on the Regional Dialogue policy proposal were on service to the DSIs. There was little, if any, unanimity on the issues raised.

As noted in the Regional Dialogue proposal, BPA recognizes that the agency's ability to affect the viability of the aluminum industry in the Pacific Northwest continues to be limited by factors beyond BPA's control. Global aluminum markets and the construction of new, efficient, lower-cost smelters in other parts of the world have challenged the economics of Pacific Northwest smelters. In addition, BPA has no statutory obligation to serve DSI load. Notwithstanding the difficult economics of Pacific Northwest aluminum smelting and the discretionary nature of BPA service to DSI load, BPA believes that the issue of sustaining DSI jobs is compelling, as underlined by many comments in this process. BPA is mindful of the important historic role DSIs have played as BPA customers and in the development of the Federal Columbia River Power System and, as underscored by many comments, the importance to local economies of the jobs they provide, which is BPA's primary consideration for any decision to continue to serve DSI load. BPA also recognizes there are rate impacts on other utilities and therefore effects on jobs in other industries associated with continuing to provide service benefits to the DSIs.

BPA has decided to provide some level of service benefits in FY 2007-2011 to DSIs that meet certain eligibility criteria. While a number of parties argue against any DSI service, many other parties expressed varying degrees of support for continued service so long as the cost to other BPA customers is both known and capped. This is a fundamental prerequisite for continuing BPA service to the DSIs through the next rate period. In addition, service benefits (in the form of physical power sales or financial payments in lieu of such sales) will be at, or based on, a rate no lower than the Priority Firm power rate and under contractual terms no better than those offered to other BPA customers. BPA believes there is broad but far from unanimous support for BPA service to some DSI load in the next rate period and that committing to some reasonable level of BPA service benefits will significantly enhance the prospects for (though not guarantee) DSI operations and attendant jobs. In summary, BPA will provide a level of service benefits to qualifying DSI load at a known and capped cost and under rate and contract terms no better than available to BPA's public preference customers.

However, BPA is reserving for later decision the actual level of service benefits it will provide, the eligibility criteria it will apply in deciding which DSIs will qualify for such service benefits, and the mechanism or mechanisms it will use to deliver those service benefits.

While no final decision regarding the actual level of service benefits to be provided is being made at this time, it is anticipated that service will be at a substantially reduced level



compared to the level contracted for in the current rate period. BPA wishes to further discuss the level of the DSI service benefit and criteria for eligibility, with Pacific Northwest regional interests before making final policies and decisions on those issues.

Shortly following the issuance of this ROD, BPA will establish a regional process to take further comment from interested parties regarding the level of service benefits to be provided and the eligibility criteria that should be used to determine whether a DSI will qualify for these service benefits. This regional process will provide for written comments and will include one or more noticed meetings. BPA will issue a letter establishing this regional process and describe a BPA proposal with respect to the level of benefits and eligibility criteria.

BPA intends to issue a supplement to this ROD following the conclusion of the comment period in which BPA will issue final policies and decisions regarding the level of DSI service benefits to be offered and eligibility criteria. In addition to comments received in the upcoming regional process, all comments submitted by parties to date on these issues will be evaluated and addressed by BPA when it issues its final decisions in the supplemental ROD.

Subsequently, BPA will work during the summer of 2005 to develop the specifics of the contractual mechanism or mechanisms that will be used to deliver the DSI service benefits. Comments of parties to date on the appropriate mechanism or mechanisms will be evaluated and addressed as part of that effort. These mechanisms, and BPA's specific offer to the DSIs that meet the eligibility criteria and should be offered service, will be shared with the region for review and comment. BPA will attempt to make final decisions on the contract mechanisms and qualifying DSIs in the fall of 2005, subject to any decisions BPA must make in a rate process.

BPA plans to address and decide on longer-term DSI (post-2011) service issues in the long-term regional dialog policy process whose schedule is given below.

## **I. H. Service to New Large Single Loads (NLSL)**

### **Background On Regional Dialogue Policy Proposal:**

The Regional Dialogue Proposal states: "BPA proposes to continue its current NLSL policy with regard to a DSI transferring service to a local utility in 9.9 aMW increments. Any DSI load transferred to local utility service would be an NLSL and subject to the NR rate if served with Federal power unless the DSI qualifies for the cogeneration and renewables exception described below."

This issue was initially raised 3 years ago as the first of three NLSL-related issues. In June 2001, BPA conducted a public process on these issues. Two specific issues, transferability of "contracted for/committed to" (CFCT) status and closing of the window for applying for CFCT status were subsequently decided and explained in a ROD signed by the Administrator on March 27, 2002. BPA reserved the third issue for further public input at a later time.

In that ROD, BPA stated:

At this time BPA has not made a decision on Issue 1. Many comments received in response to Issue 1 raised concerns that went beyond the scope of the notice. In particular, many parties commented that BPA ought to address large load migrations, or the “phasing on” of large load in 9.9 aMW increments, onto public agency utilities, without limiting the issue to one of only DSI load. In fact, under current NLSL Policy, any load of 10 aMW or more at a single facility that becomes a new load of a BPA utility customer, would be subject to an NLSL determination even if such transfers took place at no more than 9.9 aMW in any twelve-month period. Several comments suggested that the issue of future DSI load service should also be addressed as well and that BPA not treat the shifting of incremental DSI load to preference customer service in isolation. As published in 66 Fed. Reg. 212 (November 1, 2001), BPA announced a change in the schedule for NLSL policy review and determined that additional regional discussion would benefit the resolution of Issue 1. The discussion and review of Issue 1 is expected to take place during fiscal years 2002 and 2003; therefore, until Issue 1 and its related issues have been addressed BPA will continue to apply its existing NLSL policy.

New Large Single Load Policy Issue Review, Administrator’s Record of Decision (March 2002) at 2.

In the 2004 public process BPA posed two questions:

- A. Should BPA continue its NLSL Policy which currently provides that DSI load that phases off BPA IP service and phases on to local preference utility service at 9.9 aMW per year would be a NLSL and subject to the NR rate if served with Federal power?
- B. Should BPA expand the Cogeneration and Renewables Option from the 2001 NLSL Policy to include off-site renewable resources?

BPA is now addressing the two issues noted above as A and B, and will also address an additional issue regarding BPA’s treatment of new DSI load above a DSI’s Contract Demand as established in the 1992 Atochem ROD. We review comments received in 2001 as well as this most recent round of comment on the issue from July to October 2004.

During the initial 2001 comment period, June 25, 2001 through August 10, 2001, BPA received 62 comments on the three NLSL issues raised. Forty-Five commenters specifically addressed the issue of DSIs transferring and taking service from a local utility. During the Regional Dialogue comment period July 7, 2004, through October 12, 2004, BPA received an additional 22 comments specifically addressing the NLSL issue. This ROD reflects comments received during both comment periods. Comments received during the 2001 comment period have reference numbers that begin: “NLSL01” and are listed in Appendix B.

**Issue 1:**

Should BPA change its NLSL policy to allow current and former DSI customer production load served at BPA's IP rate, or any other rate, to transfer and receive service in 9.9 aMW increments from a public body, cooperative, or Federal agency customer with power purchased at BPA's PF rate?

**Public Comments:**

*Comments opposed to Changes in BPA's Current NLSL Policy.*

Many customers stated that BPA should not allow a "phasing-on" of former DSI load onto a public utility, which could then buy power from BPA for the large industrial load at the PF rate. Customers stated that allowing 9.9 aMW incremental transfers of former DSI production load would cause the PF rate to increase for the PF service that these customers without large industrial loads were getting from BPA. Transfers of former DSI Contract Demand load to a local preference customer in 9.9 aMW increments was not consistent with Section 3(13) of the Northwest Power Act and not good policy or practice. Three commenters based their opposition to allowing "phasing-in" on the fact that the Act gave DSIs 20 years to prepare for the transition away from BPA direct service, and the fact that they failed to do so does not make it incumbent on BPA to find a way to continue to serve them with Federal power. (Emerald, NLSL01-0012; WMG&T, NLSL01-0014; Clearwater, NLSL01-0024.) Other commenters also opposed any incremental movement of DSIs off BPA and on to local preference utilities. These commenters felt it would be against BPA's statutory authority to allow DSIs to take PF-based service from a preference customer. They did not feel the economic plight of any locality or business was an adequate reason for such a departure from existing BPA policy. (PPC, NLSL01-0040; Benton REA, NLSL01-0011; SUB, NLSL01-0048.)

Five commenters said that the intent of the Northwest Power Act is clear: large industrial loads including DSIs are not supposed to be transferred onto preference utilities that did not serve them in 1979 and receive PF-based service. BPA's current NLSL Policy reflects that Congressional intent and should not be changed. These commenters also pointed out that Congress intentionally limited DSIs to one 20-year contract with BPA at the IP rate with the idea that the DSIs should use that period to arrange for non-Federal power supplies. (Cowlitz, NLSL01-0056; PNGC, NLSL01-0027; PacifiCorp et al, NLSL01-0047; Central Lincoln, NLSL01-0003; PGP, NLSL01-0042.)

Industrial Customers of Northwest Utilities (ICNU) said BPA should not change policy to allow current and former DSI customers to receive power at 9.9 aMW increments at the PF rate. If the policy is to be changed, all industrial customers, including those of IOUs, should be eligible to receive this New Large Single Load exception. No legal or policy distinction exists that would allow BPA to exclude IOU loads and allow DSI loads into the proposed NLSL exception. (ICNU (public meeting comment), NLSL01-0004; ICNU, NLSL01-0035.) Longview Fibre agreed with ICNU by saying that it is important that BPA remember the importance of serving all of its customers fairly and legally and that BPA should not change its policy just for DSIs. (Longview Fibre (public meeting comment), NLSL01-0004.)

The IOUs commented that BPA's role in providing Federal power to serve DSI plants must be clear, and

continuing BPA's New Large Single Load (NLSL) Policy in its current form will help provide that clarity. Moving DSI service to the local utilities would raise a number of issues, and could have unintended consequences for BPA. BPA should not change its NLSL policy to allow DSI load to move to preference agency service and receive the PF rate. BPA's existing NLSL Policy is very important because it has promoted stability regarding BPA's load serving obligations for service to large industrial customers in the region. Generally a new load of 10 a MW or greater is an NLSL and the price for BPA power to serve it is the "New Resources"(7(f)) rate. Movement of DSI loads to local utility service at the PF rate would conflict with BPA's NLSL Policy. BPA should retain its current NLSL Policy with respect to movement of DSI load, or any other large load, to a preference utility. To do otherwise would increase the uncertainty about the load serving obligations of both BPA and its utility customers.

(PNW IOUs, RD04-0157.)

The Western Public Agencies Group (WPAG) reiterated its support for BPA continuing to treat any aluminum DSI load that transfers to a public utility as an NLSL. "If any of the aluminum smelters does elect to seek retail power service from their local utility, they must be categorized as New Large Single Loads and be accorded the rate treatment appropriate to such loads, which is service at the New Resources rate." (WPAG, RD04-0150.) Eugene Water and Electric Board (EWEB) recommended a separate public process but also stated that, "EWEB strongly supports BPA's position that BPA power provided to a NLSL whether it is a DSI or other type of customer, should be charged at the New Resources (NR) rate and not at the Priority Firm (PF) rate. To do otherwise would discriminate against NLSL customers who were previously told this option was not available". (EWEB, RD04-0127.)

Five comments took the position that anything that added to BPA's projected obligation to serve firm load in the coming rate period would shift costs onto other preference customers; and by forcing BPA to acquire resources to serve ex-DSI load at PF would dilute the value of PF. Some also commented that adoption of a DSI-only policy could be subject to challenge because it likely constitutes rate making in violation of Section 7(i) of the Northwest Power Act. (EWEB, NLSL01-0052; Inland, NLSL01-0055; NRU, NLSL01-0025; MPC, NLSL01-0004.)

One commenter stated that any loosening of current policy could be seen to encourage load piracy and pointed out that one of the named reasons for creation of the NLSL concept by Congress was to avoid preference customers enticing industrial loads away from other utilities with cheap federal power. (PGE, NLSL01-0051.) IOUs fear their industrial customers will want to move to public agency utility service if the DSIs are allowed to do so and receive PF-based service. (IOU Reps, RD04-0167.)

Several commenters urged BPA to “stay the course” and not allow DSIs to phase on to PF-based local preference utility. They felt any DSI load that transfers onto its local utility should be served at NR. It was also pointed out that allowing DSI load to transition on to preference customers at PF could endanger tiered rates. (CRPUD, RD04-0031; Last Mile, RD04-0050; Central Lincoln, RD04-0057; NRU, RD04-0073; ODOE, RD04-0102; NVEC, RD04-0110; WPAG, -RD04-0150.)

*Comments in favor of allowing DSI loads to transfer to preference customers in 9.9 aMW increments.*

Some parties’ comments stated that Congress intended for DSIs to be able to migrate onto preference customers at the end of their 1981 power sales contracts.

Port Townsend Paper Corporation (Port Townsend) said BPA should allow current and former DSI customer production load to transfer and receive power service in 9.9 aMW increments. Otherwise it would be counter to Section 3(13) of the Northwest Power Act. Port Townsend stated this load transfer would also be consistent with the language in BPA's Summary of NLSL Policy Practices under Phased-In Load. Not allowing DSIs to transfer and receive power service in 9.9 aMW increments would put them at a disadvantage. (Port Townsend, NLSL01-0009.) Another commenter stated the Act clearly excludes from NLSL status, loads that result in an increase in power requirements of a customer of 10 aMW or less in any consecutive 12-month period. (Alcoa, NLSL01-0034.) This should allow any preference utility to purchase power at the PF rate to meet any new loads of less than 10 aMW. Since Subscription contracts and the TAC were implemented prior to deciding this issue, BPA should provide opportunity for preference customers to sign new or amended contracts and amend its rates. *Id.*

Northern Wasco PUD commented that BPA should allow 9.9 aMW *annual* increases in PF service, not 9.9 aMW in total, saying the PUD wants BPA to do something special for the DSIs. Northern Wasco says BPA has a moral and public duty to continue serving DSI load. (NWasco, RD04-0042.) Some other comments said that allowing DSIs to transition to local utility service held some promise but that the 9.9 aMW stair-step concept would not be enough to provide an amount of power to allow the DSIs to operate. (DSIs & USWA, RD04-0171.)

One comment urged BPA to consider the potential damage caused by de-industrializing the Northwest in order to serve the growing population in the western corridor. By allowing the aluminum industry to purchase affordable power from local utilities, BPA will be contributing to the preservation of jobs and local economies. This commenter also stated that BPA, as it makes NLSL decisions, should consider that actions that affect DSIs also impact small businesses that rely on the aluminum industry. (Garco, NLSL01-0029.) BPA should set policy to make alternative power sources available to Northwest aluminum smelters. Any changes to BPA’s NLSL policy should include mechanisms to allow DSIs to purchase power directly from any power provider, including public and private. Please consider potential impacts to jobs and business already hit hard by the power market crisis. Either provide power to the DSIs or set policy that will permit DSIs to buy power from any other power

provider, including public and private utilities. Individuals and businesses alike should share Pacific Northwest hydropower benefits. Public utilities should be allowed to serve the DSIs with power purchased at PF if they choose to do so. (Moody, NLSL01-0057; Precision, NLSL01-0022; LeBrun, NLSL01-0004; Hayes; NLSL01-0004; Trans-Systems NLSL01-0015; Wyborne, NLSL01-0044; Coeur d'Alenes, NLSL01-0054; Clallam, NLSL01-0039; Dow, NLSL01-0031; Spokane CC, NLSL01-0062; Handy, NLSL01-0013; Handy, NLSL01-0016.)

Klickitat PUD made the point that it was supplying power to Goldendale Aluminum (Goldendale) long before 1979. Klickitat PUD's contract with Goldendale has provided for station service and now for 9.9 aMW of production load. It doesn't provide more favorable treatment to Goldendale than any other electric customer would get. BPA should not discriminate against Klickitat's effort to phase in service to the company with purchases of PF power. Don't try to treat Klickitat worse than new loads on the west side of the Cascades. Klickitat has a statutory obligation to serve load once Goldendale requests service. This is basically a fairness issue. (Klickitat, NLSL01-0004.) In the recent round of comment, Klickitat reiterated that DSIs should be served through their local utility with the utility being able to access any proposed allocation of power made by BPA for the DSI. (Klickitat, RD04-0144.)

Several commenters expressed the view that charging the NR rate for any service to a former DSI load is inconsistent with the Northwest Power Act. Five commenters stated that they have a right in statutes, in BPA policy, and under contract to serve ex-DSI load migrating on to their systems in increments. Several commenters argued that the plain language of the statute requires that non-CFCT load becomes an NLSL only if it increases the power requirements of a BPA customer by 10 aMW or more in a 12-month period and that the Act does not support a policy that ignores actual increases in a BPA preference customer's power requirements and looks only to the total size of the consumer's facility. These commenters directly or indirectly supported a policy that would allow DSI load to phase off BPA service if that were due to BPA not offering service up to the DSI's full 1981 Contract Demand, and to measure only the load above the direct BPA service that was served by the utility irrespective of whether this load were one facility. This limitation of load served by the local utility to less than 10 aMW could be because the amount of load in excess of any direct BPA service was less than 10 aMW or because the DSI limited its load increase on the utility to less than 10 aMW annually by contract. (Madin, NLSL01-0008; Port Townsend, NLSL01-0009; Whatcom, NLSL01-0017; Alcoa, NLSL01-0034; Alcoa, et al, NLSL01-0037; Klickitat, NLSL01-0043; NWasco, NLSL01-0045.)

Klickitat PUD said BPA's 2001 Federal Register Notice posed an overbroad and incorrect question. Rather only preference customer service to DSI production load, for which BPA chooses not to provide IP service, is at issue. (Klickitat, NLSL-043.) Klickitat disagreed with BPA's statement about a "change" in policy saying it was incorrect, and really would be a reversal of BPA policy for BPA to now decide that such load cannot be served at the PF rate. Id. Klickitat believes this issue was settled in Atochem's request for service and that the Northwest Power Act sets clear criteria for determination of when a load is an NLSL. BPA should also give weight to the impacts of loss of DSI loads in rural areas. A change in

BPA policy to make a DSI an NLSL, even if preference customer service is less than 10 aMW in any consecutive 12-month period, should not be applied retroactively to Klickitat's purchases to serve Goldendale. Id.

Northern Wasco urges the Administrator not to adopt a policy that precludes preference customers from serving at the PF rate DSI load that BPA has declined to serve. The policy articulated by BPA is contrary to the Northwest Power Act's definition of NLSL and would violate both the statute and BPA power sales contracts with Northern Wasco. (NWasco, NLSL-0045.) The Act does not support a policy that ignores actual increases in preference customer's power requirements and looks only to the total size of the consumer's facility. BPA's statement of its NLSL policy in its Federal Register Notice is inaccurate. Id. A policy permitting preference customers to serve former DSI load in 9.9 aMW at the PF rate would result in minimal rate impacts during the FY 2001-2006 rate period. A policy that prevents economic service to the Goldendale and Northwest Aluminum Smelters would result in severe economic impacts in Wasco and Klickitat Counties. BPA should not create special barriers to service of former DSI load, or any other large industrial or commercial loads, by preference customers. Id.

Congress never contemplated that BPA would terminate service to DSIs and then treat customers' service to small increments of former DSI load as an NLSL. BPA's proposal would violate its existing contracts with preference customers. BPA has no policy that service to a former DSI load would be an NLSL. BPA's actions are arbitrary and capricious. BPA does not need to treat DSI loads as NLSLs. To the extent BPA is "targeting" two utilities and GNA, this rulemaking is procedurally inappropriate. (Golden et al, NLSL01-0050.)

There is no statutory or valid policy reason to treat DSI load that BPA is not contractually obligated to serve any differently than any other load that was not "contracted for or committed to" in 1979. Non-CFCT load only becomes a NLSL if it increases power requirements of a BPA customer by 10 aMW or more in a 12-month period. BPA has never determined that a load that does not meet with statutory test was an NLSL nor has BPA stated it would deviate from this test in the case of DSI load it prefers not to serve. BPA's statement of the issue with respect to DSI load is plainly misleading. BPA states inaccurately that BPA has a current articulated policy to discriminate against utility service to DSIs and that BPA is now considering changing such policy. It almost seems that BPA seeks to exclude DSIs from any access to the benefits of low cost Federal hydropower, irrespective of the law, and hopes to disguise its action as the maintenance of the status quo. BPA cannot through policy determinations rewrite Section 3(13)(B) of the Northwest Power Act. (Alcoa, et al, NLSL01-0037.)

Whatcom PUD said it is essential that BPA not bar Whatcom from exercising its statutory right to purchase power at the PF rate to serve the Intalco aluminum plant in Ferndale, Washington. Whatcom is entitled not only to purchase BPA power to serve the Intalco load that BPA declined to serve, but also to purchase power at the PF rate to the extent permitted by the Northwest Power Act. If BPA changes its policy to prohibit access to PF power for Whatcom to serve Intalco with annual increases up to 10 aMW that will be contrary to

Whatcom's statutory right. BPA should not develop a policy that places new barriers on this class of service. (Whatcom, NLSL01-0017.) Whatcom asked if there were some way BPA could assign its service to these DSI loads to the local public utility that would get BPA out of "dealing with local area political issues". (Whatcom, RD04-0136.)

### **Evaluation and Decision:**

Comments received during both the 2001 and 2004 comment periods covered a number of aspects of DSI service, including some comments that go beyond the narrow question of DSIs transferring and taking service from local utilities. The comments also reflect a wide range of views and suggest that BPA's current NLSL policy as it applies to current and former production loads of DSIs is complicated and not well understood by customers or the public.

Many comments by public utility customers in both the 2001 and the 2004 comment periods supported BPA's proposal that current or former production load of DSIs should not be able to transfer and take PF-based service from a local utility in 9.9 aMW annual increments. These customers believe that transferring a DSI production load, disaggregated into 9.9 aMW annual increments, to a utility to receive PF-based service is inconsistent with Section 3(13) of the Northwest Power Act, and contrary to the intent of Congress. The IOUs generally agree with these positions of public customers opposed to having BPA change its policy to allow DSI production load to phase in to local utility service at the PF rate. They believe the intent of Congress was to balance the playing field for large loads such that any new or transferring large load over 10 aMW, served by an IOU or a public, would face the NR rate.

A different view is held by some public utilities, including Klickitat, Northern Wasco, and Whatcom. These PUDs, along with the DSIs, commented that the statute allows service at up to 10 aMW per year without the load becoming an NLSL. Klickitat stated it had been serving the DSI non-production load for a long time and for BPA to change its policy would be a reversal. Comments from the DSIs reflect a similar position. They support an interpretation that load becomes a NLSL only if it increases power requirements of a BPA customer by 10 aMW or more in a 12-month period.

BPA's NLSL policy started in 1980 with the negotiations for initial Section 5(g) power sales contracts to implement the newly enacted Northwest Power Act. Beginning then, BPA has made individual determinations for many applications of the statute, such as CFCT loads, load "associated with a facility," the measurement of 10 aMW, the effect loads that transfer from one utility to another has on BPA's service to the utility for the load, and other interpretations and technical questions. BPA collected its determinations and published them in its 2001 NLSL Policy paper. Several of those determinations are applicable to this issue.

Golden Northwest, Alcoa and Kaiser incorrectly argue that BPA has no policy on the transfer of DSI load to a utility and the effect of such a transfer upon the utility's service from BPA. In 1982, a direct-service industry load that BPA had served terminated its contract for service with BPA and executed a service contract with the then Montana Power Company, an investor-owned utility. The Stauffer Chemical load of approximately 60 megawatts was declared to be an NLSL of the Montana Power Company and Montana Power's utility power



sales contract with BPA was amended accordingly. This determination established that a load formerly receiving service from BPA as a DSI became an NLSL, when service was transferred to a local utility.

Regarding the argument that BPA should only consider a load an NLSL if the load results in an increase of 10 aMW or more a year in the utility's load requirement, BPA disagrees for several reasons. First, BPA has always measured load as that load associated with a facility that is the industrial or commercial plant and not the change in the load requirement of the public utility. A utility's power requirement is based on a combination of factors not all of which are directly linked to a single industrial plant load. Second, a standard that uses only the increased, utility power requirement as stated under Section 3(13)(B) would completely ignore the language in the preamble of Section 3(13) which states that it is the load "associated with" a facility or expansion of a facility that is the subject matter of the provision. Third, the NLSL terms included in BPA's utility power sales contracts require metering and measurement of loads at the consumer's facility and not measurement of increases in the utility customer's power requirements, which is an aggregate of the utility's loads.

The DSIs correctly point out that their loads are not CFCT loads under Section 3(13)(A) of the Northwest Power Act. BPA's decisions on CFCT loads that transferred from one utility to another utility for service, is comparable and instructive to this issue. BPA's interpretation of the statute and its policy on CFCT transfers includes measuring the entire load at the consumer's facility as to whether the transfer will result in the consumer placing an additional 10 aMW of power requirements on the BPA customer within 12 consecutive months. If the load at the facility is operating at over 10 aMW when it is transferred, then the load is a NLSL to the new serving utility.<sup>1</sup>

If BPA were to adopt a different standard under 3(13)(B) for purposes of DSI load transfers to a local utility, it would result in two different standards for measuring the size of large industrial loads served by public utilities in the Northwest. It is unreasonable for DSI loads to be measured under the utility power requirement, whereas all other large industrial load, including CFCTs, would be subject to "the load at the facility" standard. BPA declines to introduce such an inconsistency into its determinations. By applying the same measurement standard to all large load, non-CFCT and CFCT, BPA is thereby treating DSI load the same as non-DSI load. BPA is not rewriting Section 3(13)(B) by this consistent policy. BPA will not ignore the language of the preamble of Section 3(13) and change its policy on how and what load is measured.

Regarding Congressional intent, both DSIs and public utilities that may serve them argue that Congress did not intend to make DSI's New Large Single Loads for the portion of those loads that BPA does not serve directly. Golden Northwest stated that Congress never

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<sup>1</sup> There are a few potential exceptions that may affect such a NLSL determination, which BPA addressed in its 2002 policy on load transfers affecting two public utility customers. BPA on a case-by-case basis may consider whether a CFCT status for the load could be retained in the event of a merger of two utilities or if one public utility becomes a successor in interest to a former public utility by buyout and takeover of the entirety of a service area. However, these circumstances do not apply to this DSI load issue.

contemplated that BPA would terminate its DSI service after the first 20-year contract. In contrast, many public customers contend Congress intended that BPA only serve these large industrial loads directly for 20 years, after which these loads were to obtain service from non-Federal sources. WPAG and other public customers and the IOUs argue that there was never any intention that DSI loads would be able to transfer or phase-on service at 9.9 aMW annually to a local preference utility. They state that Congress knew these DSI loads were large loads and would be New Large Single Loads of the local utilities if they could obtain service from those utilities. Some public customer who have existing NLSLs argue that if BPA were to allow former DSI loads to transfer or phase-in onto a local utility, then these other NLSLs should also be able to phase-in or transfer load service. The IOUs adamantly oppose such an interpretation as contrary to statute and as exposing their large loads to “load piracy,” if such transfers were allowed.

For the reasons stated below, BPA does not find the arguments for allowing transfers in small increments based on Congressional intent compelling and will not change its interpretation that the portion of the large industrial loads that were served by BPA as DSI under either 1975 or 1981 contract demand are divisible into 9.9 aMW segments for transfer to local utility service at the PF rate. First, a review of the entirety of Section 3(13) and not just subSection 3(13)(B) shows that any large load in the region that is “associated with an existing facility, a new facility or the expansion of an existing facility” and which is over 10 aMW in 12 consecutive months is a NLSL. There is only one exception to the above, which is contained in subSection 3(13)(A). The exception is for any large load at a facility that was served by a utility as of September 1, 1979, under contract or that had a commitment to be served by the utility. Such load would not be a NLSL, if the BPA Administrator determined that such a contract or commitment existed. All other large loads over 10 aMW when served by a utility would be NLSLs. Because the DSIs were served by BPA and not by a utility, there was no CFCT for any utility service of DSI production load on September 1, 1979. Consequently, DSI production loads do not have the CFCT exception. DSI production facility load, if over 10 aMW would be a NLSL if served by a local utility.

Second, Congress was well aware of the potential for a DSI to take service from a local utility as an alternative to BPA service. As reported by the House Commerce Committee, “[D]irect service industrial customers now may purchase power firm or near firm directly from BPA. In 1978 BPA made direct sales of power to 15 DSIs located in Oregon, Washington, and Montana.” The Committee incorporated a GAO report listing the DSIs receiving power from BPA, and stating each one’s contract expiration date and contract demand amounts. All but two of these loads were over 10 average megawatts. H. Rept. 96-976, 96<sup>th</sup> Cong., 2d Sess., Part I (1980) at 28-29.

In its section-by-section analysis on the NLSL Section (then Section 3(14)), the Commerce Committee also states that in order to be an NLSL “the load must be new to the system or an existing load not previously served by a preference utility.” *Id.* at 51. None of the DSIs were previously served by a preference utility. The Committee then noted, “[t]he definition will serve to induce DSIs to terminate their existing contracts in favor of new long term contracts to be offered under Section 5(d). The DSIs would if they could obtain service, be treated as a new large single load and thus subject to the 7(f) rate.” *Id.*

Similarly, the House Interior Committee report's section-by-section analysis of Section 3(13) states:

Section 3(13) defines 'new large single loads' a term with rate consequences under Sections 5(c) [residential exchange] and 7(b) of the legislation. Under this definition September 1, 1979, is the 'cut-off' date for all categories of new large single loads, . . . Thus, a large single load of a utility is a 'new large single load' if it was not contracted for or committed to by that utility prior to such date.

H. Rept. 96-976, 96 Cong., 2d Sess., Part II (1980) at 39.

The intent expressed above shows that Congress meant to exclude from the Section 3(13) NLSL definition only those loads that were already served by a public utility or which the utility had committed to serve as of September 1, 1979, or which were single loads at a facility that were under 10 aMW. The House Commerce Committee fully understood the size of the DSI loads. As reflected in their report, if a DSI took service from a public utility, it would be a NLSL since its load was both new to the utility and would not be a CFCT load. Further, the loads over 10 aMW would receive Federal requirements power service from a public utility at the 7(f) rate.

Although BPA was directed to offer a new contract to existing DSI customers no legislative history or other contemporaneous statement indicates a Congressional intent that BPA would always continue to offer contracts to the DSIs. Some parties suggest that such intent should be inferred from the legislation. However, Congress gave the BPA Administrator discretion over whether to offer contracts after the initial 20-year contracts expired.

In 1996 DSIs chose to reduce their power purchases from BPA under new contracts due to then market conditions compared to BPA pricing. Reductions in the amount of DSI contract demand service after the initial contracts was certainly a possibility due to changed circumstances, market economics or the Administrator's exercise of discretion. In either case Klickitat PUD argues that only its service to former DSI loads no longer served by BPA is the issue. BPA agrees, but the issue is not over whether these utilities have the right to serve the load with Federal power. BPA will offer service to the utilities for such service. The issue is what BPA rate is applicable to such service.

Third, DSIs and some public utilities argue that the contract demand load no longer served by BPA and that is placed on the utility by the DSI can avoid NLSL treatment by being served in less than 10 average megawatts portions. They argue that disaggregation of this load service into service contracts of 9.9 aMW per year, such as Klickitat PUD and Goldendale Aluminum executed, avoid the ambit of the statute. BPA has previously rejected this contract "carve-up" of large loads into 9.9 aMW increments based on a power sales contract for a very simple reason. If the load served is no longer associated with the installed electric capability at the plant for a DSI, then any large load in the region could by the same artifice divide up and disaggregate any size facility load into 9.9 aMW. For example, a 200 MW load at a single facility could become 20 individual 9.9 aMW loads under 20 separate

contracts executed between the consumer and one or more suppliers. In so doing, a consumer and its utility could avoid any application of Section 3(13). The statute would simply become a nullity under such a BPA policy.

Now we are faced with the issue of how to treat existing production loads of DSIs that were both known to Congress in 1980 and formerly served by BPA and not served by a utility. These are loads recognized to exceed 10 aMW, except for two instances, and are new to the utility when served by the utility because these DSI loads are not CFCT loads of any utility. BPA finds it is consistent with the express language in Section 3(13) that these former DSI production loads or contract demand loads are both over 10 aMW and that they are to be considered NLSLs when served by the utility. If this DSI load or some portion of it takes service from the local utility, such service would be provided by BPA at the 7(f) rate.

The IOUs raised a concern that the transfer of DSI load to a local utility would require BPA to allow transfers of other large industrial or commercial loads in 9.9 aMW increments between an IOU and a public utility. BPA addressed such transfers of non-DSI loads between utility customers in its 2002 NLSL policy ROD. BPA is interested in maintaining consistency in its NLSL Policy as to transfers. BPA's long-standing policy has been to look at the "load associated with a new facility, the existing facility, the expansion of an existing facility" in total to determine whether the resulting service from the utility will exceed 10 aMW.

Under its policy and interpretation of Section 3(13) since 1981, BPA has measured the size of the consumer load "at the facility" in its entirety. When BPA reviewed transfers of large commercial and industrial loads between one utility and another utility, usually transfers from an IOU to a public utility, BPA has looked at the entire consumer load "at the facility" when assessing whether the load becomes a NLSL. In 1982 a former DSI, Stauffer Chemical Company, transferred its service to an IOU, Montana Power Company. BPA measured the entire 80 MW load at the Stauffer facility in declaring it an NLSL of the IOU. As discussed earlier, congressional reports contain the size of loads of the DSIs in the year prior to enactment of the Northwest Power Act. Had Congress intended a portion of these large single loads to be exempt from NLSL treatment, it could easily have included such an exemption in Section 3(13)(A) of the NW Power Act. No such exemption exists and BPA will not infer one. Nor will BPA read only Section 3(13)(B) of the Act as disassociating a portion of these DSI loads from the entire load of the consumer.

Finally, some commenters argue that BPA should not economically harm rural areas of the region by deciding to apply a 7(f) rate to former DSI production load that receives service from a local utility. Several commenters stated that BPA should contribute to the jobs and economy of rural areas by allowing sale of federal power at the PF rate to DSIs. BPA should not contribute to "de-industrialization" of these rural locales. Several public utilities also argued that BPA should do something special for the former DSI loads. They expressed a concern about the potential economic displacement in their communities. State legislators and congressmen stated interests in protecting living wage jobs in the area. On the other hand, several public utilities stated an economic concern regarding the impact on BPA rates of providing service to former DSI production load at the PF rate. They expressed possible

loss of jobs and industry in their own communities from higher BPA rates as a possible result of a decision to allow DSIs to phase on to local public utilities.

BPA appreciates the various concerns expressed above. BPA is also concerned about the economic impact of its rates and policies on energy intensive industries and the communities in which they are located. BPA intends to provide support for local economies in a variety of ways, including its commitment to keeping its base rates as low a possible. At the same time BPA knows that it cannot influence major economic trends in the arena of the metals, chemical, pulp and paper or other products markets.

In 1980 BPA was serving 15 companies, six of which were aluminum production plants and 9 were other metals or manufacturing plants including chemical and pulp and paper production. Today, BPA is providing direct service to one pulp and paper company, Port Townsend Paper, and no chemical production plants. The Kaiser aluminum plant at Tacoma has been dismantled, and the Mead plant has been shut down. The Longview Aluminum plant has been shut down, its equipment has been liquidated and the site has been sold. Golden Northwest has both of its smelters shut down and is undergoing reorganization in bankruptcy. Alcoa is still operating portions of its Ferndale (Intalco) and Wenatchee plants with the latter served by Chelan PUD, which has no power sales contract with BPA. Columbia Falls Aluminum is operating one out of its five production pot lines. Oremet is no longer producing titanium but is manufacturing metal sponge with service from PacifiCorp.

A primary BPA objective is to minimize the need for adding additional resources to the Federal system and to maintain or reduce the cost of service to all of our preference customers. BPA's cost reductions in the past year have provided a measure of rate relief and economic stimulation for all customers, which we want to continue. BPA intends to provide some benefit for qualifying DSIs but not through the mechanism that they and their potential serving utilities have proposed under the NLSL policy.

Therefore, any former DSI production facility loads in the megawatt amounts identified by Congress in its reports on the Act as over 10 aMW, and previously served by BPA under 1981 contracts as contract demand at the IP rate will be NLSLs if transferred to local utility service. These loads will be subject to a 7(f) (NR) rate if served with Federal power.

## **Issue 2:**

Should BPA modify or expand its Atochem Policy at this time?

## **Public comments:**

*Comments favoring use of the Atochem policy to allow DSIs load not served by BPA to move to local preference utilities in 9.9 aMW increments.*

Some comments, including comments opposed to allowing DSIs to transfer to PF-based utility service, argued that if DSI load is allowed to transfer in 9.9 aMW annual increments, non-DSI load should also be allowed to do so. (ICNU, NLSL01-0004; Weyerhaeuser, NLSL01-0005; Emerald, NLSL01-0012; Handy, NLSL01-0013; ICNU, NLSL01-0035; Longview Fibre, NLSL01-0053.) Klickitat PUD said BPA's 2001 Federal Register Notice

posed an overbroad and incorrect question. Only preference customer service to DSI production load for which BPA chooses not to provide IP service is at issue. The PUD disagreed with BPA's statement about a "change" in policy saying it was incorrect and really would be a reversal of BPA policy for BPA to now decide that such load cannot be served at the PF rate. Klickitat feels the issue was settled in Atochem's request for service. The NW Power Act sets clear criteria for determination of when a load is an NLSL. BPA should also give weight to the impacts of loss of DSI loads in rural areas. A change in BPA policy to make a DSI an NLSL, even if preference customer service is less than 10 aMW in any consecutive 12-month period, should not be applied retroactively to Klickitat's purchases to serve Golden Northwest. (Klickitat, NLSL01-0043.)

Several commenters made the point that any BPA policy decision that creates a path for DSI load to move onto local utility service at PF must, in equity, be made available to non-DSI industrial loads that would otherwise be NLSLs if they transferred to a new utility; e.g., going from an IOU to a preference customer. It was also claimed that if BPA fails to find a way for DSIs and other industrial loads to transition onto preference customers at PF, the effect will be to unjustly penalize already distressed industries and localities. (McComas, NLSL01-0059; Klickitat, NLSL01-0004; Golden, et al, NLSL01-0001; Pope and Talbot, NLSL01-0041.)

Several individual commenters urged special consideration for Port Townsend. One commenter believes Port Townsend should be served at the PF rate because the load put on Clallam will be less than 10 aMW, and there is really no increase on the BPA system. (Madin, NLSL01-0008.) Other commenters urged BPA to reconsider and remove what they see as a special penalty that would be imposed on Port Townsend by having to purchase part of Port Townsend's power through another agency at the NR rate. (Hartley, NLSL01-0007; Espy, NLSL01-0028.) One commenter expressed the view that the NLSL penalty could make or break the company and asked BPA to consider the possibility of imposing higher/rates penalties on "New Customers" and not long-term customers such as Port Townsend. (Weidert, NLSL01-0018.) Another urged BPA to consider other avenues before just raising the rate of electricity because Port Townsend is using more than an average house or small business. (Tally, NLSL01-0019.)

### **Evaluation and Decision:**

In its 1992 Atochem Record of Decision, BPA addressed the issue of how new load in excess of a DSI's 1981 power sales Contract Demand would be treated if the DSI took service for new facility load from a local utility. Atochem expressly did not address conversions of production load served as part of existing DSI Contract Demand from BPA service to service from a utility. (Atochem ROD at 29.) In Atochem, BPA concluded that under Section 5(d)(3) of the Northwest Power Act BPA did not need additional reserves and it would not offer expanded service to Atochem as Contract Demand under its DSI contract. BPA also considered potential service by a local public utility and determined that for the new expansion load, Congress' intent was to treat such new load as any other new load occurring

in the region.<sup>2</sup> The status of the end-use company or industry as a DSI was not intended to be a detriment or to deter the company from adding new loads. (Atochem ROD at 7.)

Klickatat stated that the 1992 Atochem decision already decided that load of a DSI that BPA is not serving is to be treated as any other load new to the region. Klickatat and others read Atochem to allow a phase-on of large loads in 9.9 aMW increments even if BPA knows the load at the plant is in total over 10 aMW. The Atochem decision concerned the addition of new load to an existing DSI site and whether BPA could serve the new load directly or, if it were to be served by a local utility, what the treatment of the load would be. BPA decided that the additional new load should be treated as any other load new to the region. However, service to DSI production load that was served as part of the DSI's Contract Demand under its initial 1981 contract Exhibit C, is not service to additional load. Atochem did not decide that public utility service to load formerly served as part of Contract Demand is not an NLSL. Atochem did decide that since BPA could not offer more direct service to the Atochem load under Section 5(d)(1) and since the new Atochem load was not service to an existing DSI's Contract Demand load, then the new load should be treated as any other load that was new in the region.

Allowing DSI load to phase off direct BPA service and on to utility service in 9.9 aMW annual increments would give DSI load access to utility service at the PF rate that is not available to non-DSI load. Under BPA's current NLSL policy, a large single load may not incrementally reduce its service from the utility that has historically served the load and transfer to a different serving utility in 9.9 aMW increments and thereby avoid NLSL status. Allowing "phasing off" one supplier and "phasing on" to another in 9.9 aMW annual increments would be a change from current NLSL policy that, over time, could substantially increase the amount of existing large single load served at the PF rate, would undercut BPA's policy on the transferability of CFCT status, and would be counter to the intent of Congress. This is the case regardless of whether the historically served load was DSI load served by BPA or CFCT load served by a utility. BPA will not adopt a change in its NLSL policy to allow existing large single loads, DSI or non-DSI, to transfer from their current supplier to a different utility supplier in 9.9 aMW annual increments and receive PF-based utility service.

Some comments indicate that DSI facility production load should be able to take 9.9 aMWs of PF-based local utility service if the remainder of the facility load were served with power supplied by others, presumably a contract with a third party or by market purchases. Under BPA's current NLSL policy, a large single load cannot limit its load by contract to less than 10 aMW annual increases on the local utility and thereby avoid NLSL status. BPA policy has been and continues to be that the entire load at a facility is compared against the 10-aMW annual threshold for purposes of determining whether the load is an NLSL. Particularly with development of wholesale power markets, the advent of open transmission access, and the evolving restructuring of the utility industry on the state and national levels, allowing large single loads to avoid NLSL status by limiting via contract the incremental load served by the local utility to 9.9 aMW in a 12-month period could greatly expand the ability of large single loads, both DSI and non-DSI, to receive PF-based local utility service. BPA will continue its

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<sup>2</sup> Atochem made it clear that they had the business option of locating the additional load as either a separate and expanded new load at its Portland DSI plant site or as a new load at a plant site in Tacoma, Washington.

long-standing policy of considering the total load at a facility when determining whether a load is an NLSL. To do otherwise would undermine the intent of the NLSL provisions of the Northwest Power Act.

BPA finds merit in the comments of several commenters regarding the special position of Port Townsend in one specific respect. BPA knows that in 1996 Port Townsend added a new facility at its site to reprocess old corrugated cardboard (OCC) and that this new facility could have taken service from Clallam PUD because the load associated with the new OCC facility was in excess of Port Townsend's (formerly Crown Zellerbach) then Contract Demand. BPA will continue to apply the Atochem decision to any current or former DSI production load that takes service from a local utility and will not penalize Port Townsend for requesting additional service from BPA in 1996 rather than taking service from Clallam PUD at that time. BPA finds that the OCC facility was completed in 1996 and would have been eligible to be served separately from Port Townsend's Contract Demand load by Clallam PUD. As such it represents the only known instance of a separate facility at a DSI that qualifies for non-NLSL local utility service under the Atochem policy. BPA believes that for current or former DSI production load, only load that meets the test of being (1) a production load added to a DSI site after November 16, 1992, (the date of the Atochem ROD) and therefore load that was not part of the DSIs Contract Demand under its initial 1981 contract Exhibit C; and, (2) new load that is a separate production of a different product, is eligible to be served by the local utility under Atochem. The approximate 3 aMWs of production load at Port Townsend's OCC recycle pulp facility is the only DSI load that BPA is aware of that meets the above tests.

**Issue 3:**

Should BPA adopt a renewables and on-site cogeneration option under its NLSL policy based on a similar option contained in the 1981 BPA Utility Power Sales Contracts, expanded to include off-site renewable resources?

**Regional Dialogue Policy Proposal:**

The Regional Dialogue Proposal states: "BPA proposes to adopt an on-site cogeneration and renewables exception to its NLSL policy based on a similar exception contained in the 1981 BPA Utility Power Sales Contracts."

**Public Comments:**

*Comments in favor of the cogeneration and renewable resource option:*

One commenter had unreserved approval for the "green exception." The renewable exception is a useful addition to BPA's NLSL Policy because it encourages and enables renewable resource development in the region while helping provide non-Federal service to DSI loads. (Klickitat, RD04-0144.)

While approving the concept, three commenters asked for the proposal to be changed or expanded. To make this option more beneficial to the development of renewable resources, BPA should match 1 aMW PF for each aMW of renewable or on-site cogeneration, up to 9.9 aMW. BPA should also clarify that the "green exception" is also available to non-DSI



industrial loads in similar situations. (Emerald, RD04-0062.) EWEB stated that if BPA elects to allow service at the lowest PF rate for up to 9.9 aMWs to NLSLs that meet the remaining portion of their load with on-site cogeneration or with renewable resources, this option should be made available to existing NLSL customers, even though their serving utilities may have elected an option previously to not take NLSL service from BPA. EWEB also stated that if the language on cogeneration or renewable resources was adopted many practical issues must be resolved regarding what renewable resources would qualify for this NLSL exemption. EWEB cited a number of examples of cogeneration and renewable resources, including market purchases that are accompanied by a matching amount of green tag or renewable energy certificates. (EWEB, RD04-0127.)

Limiting the “green exception” to no more than 9.9 aMW of PF on a one-time basis means the cogeneration or renewable resource amount needed for a load to qualify may not be economically feasible. Allow 1 aMW of PF for each aMW of cogeneration or renewable, up to 9.9 aMW per year. (P&T, RD04-0125.)

BPA’s proposal comports with existing contracts and with prior actions on NLSL. The proposal offers a mechanism for an economic power supply at a time when the region needs economic expansion and diversification. This policy could be an effective stimulus for development of cost effective renewable and cogeneration. But BPA should not limit cogeneration to on-site resources only; any cogeneration within the distribution utility’s service area should be useable. BPA should allow cogeneration that is in the serving utility's territory, but not on-site of the NLSL under the exception. (Cowlitz, RD04-0128.) One comment urged BPA to exercise flexibility concerning applicability and interpretation of NLSL policy. Current policy lacks clarity regarding cogeneration and renewables. BPA needs to clarify the policy. (Walden, RD04-0137.)

*Comments against allowing a cogeneration or renewable consumer option.*

Two comments came out against the cogeneration and renewables option. Benton REA does not support any continued service to DSIs or a cogeneration and renewable resources exception (for DSIs). Current (NLSL) Policy was implemented to protect current preference customers of BPA from the financial impacts of serving large loads. It was certainly not the intent of the policy allow transition of DSI service to local utilities. (Benton REA, RD04-0046.) Central Lincoln PUD agrees with Benton REA. (Central Lincoln, RD04-0057.)

Several other issues were raised including requiring a “significant” amount of renewables (Last Mile, RD04-0050), allow 9.9 aMW annual increments of PF service if matched aMW for aMW with cogeneration or renewables (P&T, RD04-0125), and BPA should increase a customer’s Slice/block amounts if a end consumer elects to utilize the cogeneration and renewable resources exception (EWEB, RD04-0127.)

### **Evaluation and Decision:**

Most commenters supported BPA’s proposal to provide a renewables and on-site cogeneration consumer option under BPA’ NLSL policy for serving a load which is an

NLSL. Some commenters want BPA to allow customers to equally match green megawatts applied to equal to 9.9 aMW increments for large single loads.

BPA's renewables and on-site cogeneration consumer option starts from the fact that but for the application of cogeneration or renewable resource, the consumer's load is already an NLSL that if served with Federal power, that power would be provided to the utility at the NR rate. BPA appreciates the point that under some circumstances, the amount of cogeneration or renewable needed in order to qualify for 9.9 aMWs of PF service may not be large. However, in other circumstances where the new large single load is 19 aMW or more the consumer would be supplying the majority of the load through either cogeneration or renewable resources. BPA is interested in a reasonably simple, straightforward option for a consumer, which will directly encourage cogeneration on site or the application of renewable resources to present or future large loads in the region. We conclude that the potential increase in administrative complexity of establishing different thresholds for matching megawatt to megawatt for different sizes of commercial and industrial loads is significant, and tracking compliance with those different thresholds over time is not simple. It means moving away from relative simplicity to a complex administrative review of the consumer's resources and loads, which could ultimately discourage rather than encourage a consumer's use of cogeneration and renewable resources, and would increase BPA's administrative costs. Ease of administration and the benefit of simplicity for a consumer who must make economic development decisions argues against a more complex "significant share" of load basis for the option.

In addition, matching MW for MW might result in a policy that provides more incentive to develop cogeneration or renewables, depending on the size of the load but could also result in BPA serving more than 10 aMW of load at the PF rate. This matching alternative could result in BPA taking on substantial additional load service in future rate periods and increasing thereby increasing BPA costs. On the other hand if BPA retained a cap of 9.9 aMW of PF service and combined it with a requirement that the consumer match megawatt for megawatt, then this alternative approach would generally serve to reduce the economic feasibility (by requiring more cogeneration or renewables) of the option for loads between 10 and 20 aMWs, a concern expressed by Emerald in its comments. For these reasons and because BPA does not wish to increase its cost exposure for PF service that could result from a matching of MWs, BPA will not adopt a matching approach in the renewables and cogeneration option.

The consumer renewable resource and on-site cogeneration option was adopted the 1981 utility power sales contracts as an incentive for the development of on-site cogeneration (distributed generation) and the development of on-site renewable resources in the region. It was intended to support the Northwest Power Act's purpose of encouraging conservation and renewable energy. Because it presented the consumer with the ability to reduce the amount of power the consumer would take from the utility in a permanent manner, BPA viewed it as consistent with the purpose of its New Large Single Load policy as well. It was a one-time option to reduce the load a facility placed on the local utility to less than 10 aMW. As such it did not promote the stair stepping of additional increments of facility load onto the local utility at the PF rate. Just as with a matching of megawatts, allowing 9.9 aMW increments of

PF-based service for additional 9.9 aMW increments of cogeneration or renewable has the cost risks for the PF rate noted above and exceeds the amount of incentive BPA initially provided under its 1981 contracts.

Two commenters argued that BPA should allow off-site cogeneration in addition to off-site renewables under the option. The 1981 Power Sales Contract cogeneration and renewables option required that both cogeneration and renewables be “on-site”. The intent and effect was that the load served by the local utility, when the cogeneration and renewable resources were applied on-site and behind the utility meter, would be reduced the load to less than 10 aMWs.

BPA recognizes the fact that renewable resources are more prevalent and available today than in 1981 and Independent Power Producers and marketers are offering renewable resources. Further, some state laws permit a consumer with large load to buy renewable or green resources directly or through a portfolio administered by the local utility. Today, BPA recognizes that the “on-site” requirement would materially reduce the effectiveness of this option in promoting renewable resource development. The nature of renewable resources and likely location of the renewable energy source (wind, geothermal, hydro, biomass, landfill gas, etc.) will not necessarily make the large single load facility site a feasible location for the generation. The practical effect of requiring the renewable resource to be on-site is to potentially defeat the encouragement of those resources.

However, cogeneration resources are part of the facility’s production. Requiring that the cogeneration be on-site does not have the same consequences. Cogeneration is tied directly to the production process of a plant and by its nature involves the simultaneous production of electricity and process heat at the facility site. Large single loads that have process heat requirements, also have a reasonable opportunity to install cogeneration into their production process and avail themselves of the cogeneration option.

In order to further promote the development and use of on site cogeneration and renewable resources in the region, BPA will provide an option to a consumer whose load is an NLSL to apply renewable and on-site cogeneration resources to the load. This option will be available to all consumers with large single loads that are otherwise NLSLs, including existing NLSLs, former DSI load, new loads, increases in loads that exceed 10 aMWs in a 12-month period, or loads changing service from one utility supplier to another utility.

For existing NLSLs served with dedicated NLSL resources, this option does not constitute BPA’s consent for removal of any resource dedicated to the NLSL. BPA’s Section 5(b) and /9(c) Policy of May 2000 requires resources that are dedicated to serving regional load, including NLSLs, to continue to remain dedicated to such service. Consistent with the 5(b) and /9(c) policy, this policy does not require BPA to give consent to remove a resource or agree to amend its power sales contracts for a resource dedicated to serving a NLSL.

If a consumer directly provides a on-site cogeneration or a renewable resource to serve all or a portion of a load associated with a facility which is otherwise a NLSL, and the remaining new load or load increase served by the local utility is reduced to 9.9 aMWs or less, then that 9.9 aMW portion of such load on the utility would be eligible for service at the PF rate. If state law requires that a consumer's purchase of a renewable resource must be through a portfolio from the local serving utility, then the local utility may provide the renewable resource for purposes of this renewables and on site cogeneration option.

The cogeneration or renewable resource must be continuously applied to the load. If the end use consumer or the serving utility on behalf of the end consumer at any time sells, discontinues, displaces or removes a cogeneration resource or the renewable resource or portion thereof from service to the end consumer's load at the facility, then all the load or the increase in load at the facility shall be a NLSL served at the NR rate.

In general, Renewable resources shall be as defined in Section 5.2 of BPA's C&RD Implementation Manual of October 1, 2004. Cogeneration means the sequential production of more than one form of energy such as heat and mechanical energy, or heat and electricity, or mechanical energy and electricity in a process that is directly linked to an industrial production process, such that output of the co-generator varies with the output of the industrial plant concerned. All specific qualifying Renewable and on-site cogeneration determinations shall be at the BPA Administrator's sole discretion.

#### **Issue 4:**

Other Comments Regarding NLSLs

#### **Public Comments:**

Two commenters took the view that BPA should take a broad, equitable view of the application of its NLSL Policy. The U.S. Navy said no changes to the current policies are warranted. From a broader perspective, a phased in approach to level the rates for old and new industries may be timely so that everyone partially enjoys the benefits of the low cost hydropower available and competition would be enhanced. (U.S. Navy, NLSL01-0058.) A Montana state representative said they were happy about the agreement for reasonable power rates for the additional needs of the NLSL at Plum Creek, fluctuations in power prices have caused hardships for my constituents and others in Montana, and that it is imperative that BPA does everything within reason to ensure that needs of families who work in the Northwest, are met. (Brown, NLSL01-0060.)

The State of Oregon was looking for a different method of relief for DSIs. Oregon could support a limited shifting of DSI loads to public agencies not to exceed 100 aMW in total over the next 5 years. Eligibility should be limited to DSIs that have already shifted load to public agencies within the last 5 years. (OPUC/OOE, NLSL01-0049.) One commenter would allow a single lifetime former DSI plant load of not greater than 9.9 aMW to transition onto its local preference utility. (Tacoma, RD04-0103.)

Weyerhaeuser felt the proposal has the appearance of BPA being influenced by the lobby for the DSIs. If the policy is changed, it should be opened to any large customer that wants to add 10 aMW per year. Special treatment to DSIs should be rejected. (Weyerhaeuser, NLSL01-0005.) INCU agreed with the proposal to deny DSIs 9.9 aMW load creep but any allocation process must reserve 75 aMWs for use by NLSL that has CFCT protections. (INCU, RD04-0093.)

EWEB felt that any changes to NLSL policy should be made in a separate policy process. (EWEB, RD04-0127.) WPAG felt the proposal makes little sense. (WPAG, RD04-0105.)

### **Evaluation and Decision:**

WPAG's comment does not provide sufficient detail to enable BPA to respond. As to EWEB's comment that any NLSL policy change should be in a separate proceeding, BPA has already provided two Federal Register Notices in 2001 and 2004 on these NLSL issues and finds that it is administratively convenient and appropriate to resolve these issues in this public process just concluded. Certainly NLSL issues are complex but it is not clear that having those issues addressed apart from other basic power sales issues is a better method. BPA needs to resolve these three issues in order to proceed with its long-term Regional Dialogue proposal.

Regarding Weyerhaeuser and ICNU's concerns that equal treatment be afforded to CFCT loads to transfer to other utility service from their existing service, BPA has previously addressed that issue starting with its Boise Cascade decision in 1982. The transfer of a large CFCT load from its serving utility to another utility does not disadvantage the CFCT in relation to the DSI Contract Demand load transferring to a public utility since both large loads would result in service at the NR rate from a public utility or an IOU. The only possible exceptions to this treatment is potentially where two public utilities merge with each other, or where one public utility take over fully the service area of another public utility as a successor in interest. BPA's 2001 policy and ROD decision noted those possibilities.

As to the State of Oregon's comment on allowing 100 aMW over 5 years as a limit on transfers of DSI load, and Tacoma's single lifetime right of a DSI to transfer to a public utility, those ideas are not supported by language currently in BPA's statutes. Likewise the U.S. Navy's comment on leveling the rate for old and new load might be a good public policy but it is not the rate treatment for NLSLs set by the Northwest Power Act. State Representative Brown's comment regards a power sale made by Pacificorp to Flathead electric for its consumer Plum Creek and Plum Creek's new large single load. It points out that federal power is not the only answer to providing reasonable priced service to such large loads. BPA agrees with the goal of keeping working wage jobs in the region in support of families and the regional economy.

## **I.I. Service to Residential and Small-Farm Consumers of Investor-Owned Utilities (IOUs)**

### **Issue 1:**

In the event a court sets aside the new contracts and amendments described in the Administrator's Record of Decision signed May 25, 2004, but leaves the investor-owned utilities' underlying Subscription Settlement Agreements in place, should BPA provide the IOUs contingent notice that BPA will provide financial benefits, and not power benefits during FY 2007-2011 under the Subscription Settlement Agreements?

### **Regional Dialogue Policy Proposal:**

The Regional Dialogue Policy Proposal states that, in the event a court sets aside the new contracts and amendments described in the Administrator's Record of Decision signed May 25, 2004, but leaves the underlying Subscription contracts in place, BPA will notify the investor-owned utilities that BPA will exercise its Subscription Settlement Agreement right to provide financial benefits, and not power benefits during FY 2007-2011 under those Agreements.

### **Public Comments:**

Most of the comments supported BPA's proposal to provide financial benefits instead of power benefits to the regional investor-owned utilities' residential and small-farm consumers. (Idaho Falls, RD04-0023; CRPUD, RD04-0031; NWasco, RD04-0042; Central Lincoln, RD04-0057; Benton PUD, RD04-0068; NRU, RD04-0073; PPC, RD04-0109; SUB, RD04-0106; PNGC, RD04-0114; EWEB, RD04-0127.) A number of comments supported BPA's recent amendments of the Subscription Settlement Agreements, which prescribe financial benefits during FY 2007-2011. (CRPUD, RD04-0031; NWasco, RD04-0042; Central Lincoln, RD04-0057; Tacoma, RD04-0103; EWEB, RD04-0127.) Citizens Utility Board of Oregon expressed support for BPA's recent amendments but expressed concern that BPA does not recognize the provision of benefits to residential and small-farm consumers as a fundamental part of its mission. (CUB, RD04-0113) Some commenters noted that it was important that residential and small-farm consumers receive benefits. (ODOE, RD04-0102; CUB, RD04-0113.)

Benton REA stated its opposition to BPA's Subscription Settlement Agreements with the IOUs, as amended, but stated it supported the provision of financial benefits instead of power benefits pending the outcome of the litigation. (Benton REA, RD04-0046.) Glacier Electric stated its opposition to BPA's Subscription Settlement Agreements with the investor-owned utilities as originally negotiated but stated its support for the Subscription Settlement Agreements, as amended. (Glacier, RD04-0076.) A number of commenters expressed their view that benefits for residential and small-farm consumers should be based on implementation of the Residential Exchange Program specified in the Northwest Power Act and not the provisions of BPA's Subscription Settlement Agreements, as amended. (Benton REA, RD04-0046; Snohomish, RD04-0104; Clatskanie, RD04-0112.) Western Public Agencies Group declined to comment due to pending litigation. (WPAG, RD04-0105.)

The utility regulatory commissions for Idaho, Oregon, Montana, and Washington (Commissions) oppose BPA's policy proposal to provide benefits during the FY 2007-2011 time period in the form of financial benefits if the courts set aside the recently signed amendments to the Subscription Settlement Agreements. The Commissions cite a partial quotation from BPA's April 2000 Supplemental Subscription ROD as evidence of BPA's intent that all benefits during FY 2007-2011 would be comprised solely of power deliveries. They urge BPA to adopt a proposal of seeking the desires of each investor-owned utility as to actual power or monetary benefits if the contracts are invalidated and working in good faith to fulfill each utility's request. They believe such a proposal would be as effective in meeting BPA's objective of clarifying its power obligations as the BPA proposal and would do so with a greater chance of political sustainability. (PNW SUC, RD04-0133.)

### **Evaluation and Decision:**

As noted above, some commenters argue that benefits for residential and small-farm consumers should be based on implementation of the Residential Exchange Program specified in the Northwest Power Act and not the provisions of BPA's Subscription Settlement Agreements, as amended. (Benton REA, RD04-0046; Snohomish, RD04-0104; Clatskanie, RD04-0112.) This ROD, however, does not revisit or address that issue. Although certain parties may oppose BPA's settlement contracts with the IOUs, BPA's contracts are binding in accordance with their terms and BPA must comply with its existing contractual obligations. As many parties note, their issues regarding BPA's existing contracts are currently in litigation. The issue presented in this public process, therefore, is limited to whether BPA should provide financial benefits instead of power benefits in the event the courts set aside the recent agreements establishing prospective financial benefits but prior contracts establishing service with either financial benefits, or power benefits, or both, remain in effect.

Most commenters supported BPA's proposal to provide financial benefits under the Subscription Settlement Agreements during FY 2007-2011 in the event a court sets aside the new agreements and amendments but leaves the underlying Subscription contracts in place. BPA's proposal is well-founded for several reasons. The agreements and amendments recently signed with the investor-owned utilities provide for financial benefits during FY 2007-2011. These agreements, therefore, place on the investor-owned utilities the responsibility for acquiring resources to serve their loads. Changing the responsibility for acquiring resources if the agreements and amendments were set aside would create uncertainty in resource planning both for BPA and the investor-owned utilities.

During the initial signing of BPA's Subscription contracts with customers, the amount of load placed on BPA exceeded both BPA's existing resources and the amount of additional loads BPA forecasted it would serve in its 2002 rate case. Last minute load placement on BPA forced BPA to acquire resources in a short period of time and in very high priced markets. Similar costs can be avoided for both BPA and the IOU, if a decision on who will serve these loads is made well in advance of October 1, 2006.

Waiting until the conclusion of existing litigation to determine whether BPA should provide power or financial benefits would create several problems. Decisions in the litigation

surrounding the underlying Subscription Settlement Agreements are not expected until spring of 2006. Decisions in litigation over the recent amendments and agreements could occur after the start of FY 2007 in October 2006. Waiting for the outcome of litigation as proposed by the Commissions would leave BPA's decision to the last minute with consequent uncertainty created for both BPA and the IOU. There would be little or no time to negotiate an agreement "in good faith" as proposed by the Commissions.

The Commissions' proposal is based on a quote from the Supplemental Record of Decision for BPA's Subscription Strategy, which states that "BPA intends for this 2,200 aMW to be comprised solely of power deliveries." (Supplemental Record of Decision, April 2000, at 10.) BPA noted, however, that this intent might not be realized. In the same paragraph as the sentence cited by the Commissions, BPA stated that, according to its 1998 Subscription Strategy, it would offer and guarantee 2,200 aMW of power *or* financial benefits for the FY 2007-2011 period. BPA also noted that "[i]n the event of a reduction of Federal system capability and/or the recall of power to serve its public preference customers during the term of the 5-year and 10-year contracts, BPA will either provide [the IOUs] monetary compensation or purchase power to guarantee deliveries." Id.

BPA's 1998 Subscription Strategy also contains the language quoted by the Commissions and the descriptions of when BPA would not provide power to the investor-owned utilities for the FY 2007-2011 period. Power Subscription Strategy, December 21, 1998, at 9. BPA's ROD further explained BPA's intent to provide power during FY 2007-2011, noting that reaching a goal of 2,200 aMW of sales to residential and small farm consumers might be possible due to expiring contracts, after meeting BPA's public agency contract obligations and in the absence of significant reductions in system capability. Power Subscription Strategy, Administrator's Record of Decision (December 21, 1998,) at 52. BPA's ROD thus explicitly noted that such ability was contingent on BPA's preference customer load obligations. Id. at 53, 57-58. BPA currently projects its preference customer load obligations to exceed Federal system resources throughout FY 2007-2011. BPA's contracts with the investor-owned utilities implementing the 1998 Subscription Strategy (as revised by BPA's Supplemental Record of Decision) reflect BPA's ability to determine the amount of power or financial benefits during FY 2007-2011. While the contracts required BPA to consult each investor-owned utility on its desire for firm power or monetary benefits, they placed no obligation on BPA to provide sales of firm power. (Avista Corporation, Contract No. 00PB-12157, Section 4(a)(2); Idaho Power Company, Contract No. 00PB-12158, Section 4(a)(2); PacifiCorp, Contract No. 01PB-12229, Section 4(a)(2); Portland General Electric, Contract No. 00PB-12161, Section 4(a)(2); Puget Sound Energy, Inc., Contract No. 01PB-10885, Section 4(b)(2); and Northwestern Corporation, Contract No. 00PB-12160, Section 4(a)(2).)

In summary, BPA intends to provide the region's six investor-owned utilities -- Avista Corporation, Idaho Power Company, PacifiCorp, Portland General Electric, Puget Sound Energy, Inc., and Northwestern Corporation -- contingent notice that BPA will provide financial benefits and not power benefits during FY 2007-2011 under the Subscription Settlement Agreements in the event a court sets aside the new contracts and amendments described in the Administrator's Record of Decision signed May 25, 2004, but leaves the



underlying Subscription contracts in place. If the Subscription contracts are successfully challenged in court, the agency will act consistent with the court's ruling in negotiating new contracts to provide power or financial benefits to the residential and small-farm consumers of IOUs under the Northwest Power Act.

## **I.J. Conservation Resources**

### **Issue 1:**

Should BPA adopt the five principles in the policy proposal to guide development of conservation?

### **Regional Dialogue Policy Proposal:**

BPA proposes five principles to guide development of the specific elements for conservation. These general principles are:

- Use of the Council's plan to identify the agency's share of cost-effective conservation. BPA has been working closely with Council staff to ensure those targets are a reflection of the true cost-effective conservation potential in the region.
- The bulk of the conservation to be achieved is best pursued and achieved at the local level. There are some initiatives that are best served by regional approaches (e.g., market transformation through the Northwest Energy Efficiency Alliance (NEEA)). However, the knowledge local utilities have of their consumers and their needs reinforces many of the successful energy efficiency programs being delivered today.
- To contribute to meeting the financial challenges facing the region, BPA will seek to meet its conservation goals at the lowest possible cost and lowest possible rate impacts. While only cost-effective measures and programs are a given, the region can benefit by working together to jointly drive down the cost of acquiring those resources. For example, Conservation and Renewables Discount (C&RD) reporting to date indicates a cost for installed conservation measures in the range of \$2.2 million per aMW while Conservation Augmentation (ConAug) is averaging about \$1.3 million per aMW versus NEEA programs, which are costing just under \$1 million per aMW. Regarding the C&RD conservation costs, the \$2.2 million figure excludes the customers' low-income expenditures claimed under the program and is an average cost reflecting that some utilities are booking conservation measure savings at a rate of \$4 million per aMW. The wide variance in cost per aMW offers a significant opportunity for the region to pursue an important cost-saving option.
- BPA funding for local administrative support to plan and implement conservation programs has been essential. In the future, this support should be retained, with the appropriate level of funding open for discussion.
- Financial support for education, outreach, and low-income weatherization are important initiatives that complement a complete and effective conservation portfolio. However, these types of programs often yield no measurable savings or considerably more

expensive energy savings (e.g., low-income weatherization). These program efforts have been successful and should continue to be funded.

**Public Comments:**

Most commenters support the principles. (E.g., Emerald, RD04-0071; PNGC, RD04-0114; NRDC, RD04-0129.) Many public agency utility customer comments stressed the second principle that recognized the importance of getting the conservation savings through local efforts. (E.g., Cowlitz, RD04-0128; NWasco, RD04-0042; WMG&T, RD04-0092; Orcas, RD04-0034; NRU, RD04-0073.)

**Evaluation and Decision:**

BPA's Strategic Direction states:

BPA will continue to treat energy efficiency as a resource and define our goals in terms of megawatts of energy efficiency acquired. Even if we adopt tiered rates, we are very likely to continue to need limited amounts of new resources. We expect conservation to continue to be a cost-effective resource to meet this limited need, with first priority by law. Accordingly, our goal is to continue to ensure that the cost-effective conservation in the load we serve gets developed, since this amount is very unlikely to exceed our total need. We will ensure this amount is developed with the smallest possible BPA outlay. We will do this through a combination of acquisition of conservation, adoption of policies and rates that support others' development or acquisition of cost-effective conservation, and support of market transformation that results in more efficient electric energy use.

None of the comments received suggested that BPA should not adopt its five principles to guide development of the specific elements for conservation. As described in the policy proposal, these principles are consistent with recommendations made by the Northwest Power and Conservation Council. These principles will be used by BPA as guidance during the collaborative process to address the approach to conservation in the future. BPA appreciates utility customer comment regarding the second principle and will take that sentiment into consideration during the collaborative process.

To guide the full development of BPA's conservation acquisition programs in the post-2006 period, BPA adopts the five principles outlined in its policy proposal, which have been edited to align them with decisions discussed later in this ROD and for sake of directness and simplicity. Therefore, BPA will adopt the principles as modified as follows:

- BPA will use the Council's plan to identify the regional cost-effective conservation targets upon which the agency's share (approximately 40 percent) of cost-effective conservation is based.
- The bulk of the conservation to be achieved is best pursued and achieved at the local level. There are some initiatives that are best served by regional approaches (for example, market transformation through the Northwest Energy Efficiency Alliance).

However, the knowledge local utilities have of their consumers and their needs reinforce many of the successful energy efficiency programs being delivered today.

- BPA will seek to meet its conservation goals at the lowest possible cost to BPA. While it is a given that only cost-effective measures and programs should be pursued, the region can also benefit by working together to jointly drive down the cost of acquiring those resources.
- BPA will continue to provide an appropriate level of funding for local administrative support to plan and implement conservation programs.
- BPA will continue to provide an appropriate level of funding for education, outreach, and low-income weatherization such that these important initiatives complement a complete and effective conservation portfolio.

## **Issue 2:**

Should BPA define its share of regional conservation targets to be the proportion that covers all the loads of public agency customers and DSIs?

## **Regional Dialogue Policy Proposal:**

The first principle stated that BPA would use the Council's plan to identify its share of cost-effective conservation.

## **Public Comments:**

A few commenters suggested that BPA include in its responsibility conservation on all public utility loads, including partial requirements customers and DSIs. (NWECC, RD04-0110; NWECC, RD04-0019; Rainey, RD04-0090; NRDC, RD04-0085.) To accomplish this they suggest that a contract mechanism be used to require proportional matching funds to a public utility's non-BPA resources in order to receive BPA funds. This approach was also suggested by others. (WA Dept Trade, RD04-0072; ATNI, RD04-0033.)

## **Evaluation and Decision:**

One of BPA's purposes under the Northwest Power Act is to encourage conservation and efficiency in the use of electric power. BPA pursues this purpose through its contractual relationship with regional customers. These customers place power demands on BPA that are met by the sale and disposition of power and through other means, such as the reduction of that demand for power through conservation. The Act mandates that conservation is a resource that, like other resources, is to be acquired by the BPA Administrator to meet his contractual load serving obligations.

Guiding BPA in developing the Regional Dialogue policy proposal is the strategic direction to ensure that all cost-effective conservation is accomplished on the loads it serves. It is not reasonable, therefore, for BPA to assume responsibility for conservation on IOU or other loads that are not served by the Administrator since this would create cost burdens on the customer loads we serve without achieving a benefit. BPA regards its responsibility to be limited to the approximately 40 percent of the region's load that it serves. The first principle will be edited as follows to make this clear: BPA will use the Council's plan to identify the regional cost-effective conservation targets upon which the agency's share (approximately 40 percent) of cost-effective conservation is based.

BPA appreciates the suggestion made by NWECC that a contract mechanism may provide a way to ensure that utility customers, including partial requirements customers, develop conservation and/or energy efficiency based on their total load. The comment, however, is beyond the scope of the proposal. BPA will take NWECC's suggestion into consideration during the collaborative process.

**Issue 3:**

Should BPA include a rate credit program for conservation after 2006?

**Regional Dialogue Policy Proposal:**

The policy proposal did not explicitly provide that a rate credit program would be included in the post-2006 program design.

**Public Comments:**

Many comments expressed support for the continuation of the Conservation and Renewables Discount (C&RD) or some form of a rate credit in the post-2006 period. (ODOE, RD04-102; Central Lincoln, RD04-0057; PPC, RD04-109; Clatskanie, RD04-0112; Cowlitz, RD04-0128; NRU, RD04-0073; NWasco, RD04-0042; Seattle, RD04-0115.) Widespread expressions of support emphasized the "local control" and flexibility of the previous C&RD program. Some expressed satisfaction with the reported costs of the program. (E.g., Emerald, RD04-0020; Emerald, RD04-0071; PPC, RD04-0109.)

**Evaluation and Decision:**

While the policy proposal did not include within its scope a specific inclusion for continuation of the C&RD or a successor type of rate credit, BPA acknowledges the perceived value of the flexibility and local control in the C&RD. It is understandable that BPA's customers and others desire inclusion of this general type of program, but the exact design of the future programs will be worked out in the regional collaborative conservation planning process. This process is described in the policy proposal. Accordingly, BPA will leave the question of inclusion of a C&RD-type credit to the collaborative process. This provides plenty of time to reach a decision in advance of BPA's FY2007 initial rates proposal.

**Issue 4:**

Should BPA be specific about the level of intended support for low-income programs in the regional dialogue process?

**Regional Dialogue Policy Proposal:**

The fifth principle stated that BPA will continue to provide an appropriate level of funding for education, outreach, and low-income weatherization such that these important initiatives complement a complete and effective conservation portfolio. It did not address the scope or scale of that support.

**Public Comments:**

Some commenters requested that BPA commit to a larger or more specific budget for low-income programs. (NRDC, RD04-0085; NWECC, RD04-0110; CADO, RD04-0123; Ebbeson, RD04-0117; WA Dept Trade, RD04-0072.)

**Evaluation and Decision:**

This level of detail is not within the scope of the Regional Dialogue policy and is properly a matter for discussion and comment in BPA's upcoming Power Function Review. As part of this policy, BPA will re-affirm its commitment to conservation in general and its continued recognition of the importance of low-income programs in the portfolio.

**Issue 5:**

How should conservation savings be treated in future discussions of BPA power supply?

**Regional Dialogue Policy Proposal:**

This issue is not within the scope of this Regional Dialogue proposal.

**Public Comments:**

Some commenters expressed a concern that a disincentive exists related to customer energy efficiency programs that is created by the present uncertainty over how future allocations of BPA lowest cost power will be calculated. (NWECC, RD04-0110; NRDC, RD04-0129.)

They recommend that BPA make it clear that energy efficiency and renewable resource acquisitions by customers made after the approval date of this Policy will not affect the size or value of a future allocation of BPA's lowest rate. (NWECC, RD04-0110.)

**Evaluation and Decision:**

This issue is not within the scope of this Regional Dialogue policy. The policy proposal clearly states that the scope of this proposal is limited to issues that have to be resolved for FY 2007-2011. See 69 Fed. Reg. 43400 (July 20, 2204) Consequently, issues such as the long-term "allocation" of the system are not addressed. Id. Supply of power at BPA's lowest cost-based rate is an issue that will likely be addressed by BPA over the next few months as part of the development of the long-term Regional Dialogue policy. Conservation issues will be part of that discussion. Therefore, this final policy will not provide any direction on this matter.

**Issue 6:**

Should BPA compare directly the costs of ConAug and C&RD?

**Regional Dialogue Policy Proposal:**

The third principle contains, as an example of the varied cost of existing conservation programs, a comparison among the costs of the C&RD, ConAug, and the Alliance's market transformation programs. This principle notes that this wide variance in cost per aMW offers a significant opportunity for the region to pursue an important cost-saving option.

**Public Comments:**

Several commenters expressed concerns about the comparison of the costs of different programs in the policy proposal. (E.g., Emerald, RD04-0071; EWEB, RD04-0127; SUB, RD04-104.) They point out that the programs are designed for different purposes and that the included costs of administration and shared administrative arrangements were overstating the cost of C&RD.

**Evaluation and Decision:**

BPA understands the concerns expressed above but, nonetheless, believes that the examples provided in the policy proposal, while not completely comparable, support BPA's direction to re-examine its existing programs. It is prudent to understand the cost variance among existing programs, and it is prudent to explore alternative approaches for future programs that can reduce the cost of acquiring conservation. However, because the message appears to have been generally understood and the comparison involves a level of detail that is not congruent with the general policy principles in the remainder of the policy document, the specific comparisons will be deleted in the final document.

**Issue 7:**

Should BPA conduct a collaborative planning process to develop a more fully defined approach to conservation programs?

**Regional Dialogue Policy Proposal:**

BPA envisions some form of collaborative planning process in which experienced individuals can develop a fully defined proposal for conservation that can then be brought to the entire region for consideration. This joint planning process can accomplish the blending of appropriate policy guidance with the flexibility to ensure conservation can meet the huge variance of conditions and needs that exist in the region.

**Public Comments:**

Many commenters supported the policy proposal to involve many experienced parties in designing collaboratively an approach to future conservation programs. (E.g., PNW SUC, RD04-0133; NRDC, RD04-0129; Franklin, RD04-0108; WMG&T, RD04-0092; WA Dept Trade, RD04-0072; PPC, RD04-0109.) Most expressed a willingness to participate in such a collaborative process.

**Evaluation and Decision:**

BPA appreciates the support for the collaborative process expressed in comment. BPA also recognizes that the principles provided in the draft policy proposal were not detailed enough to describe a specific approach or set of approaches to carrying out its strategic objective of developing all cost-effective conservation on the load it serves. As envisioned in the draft policy, BPA has convened a regional collaborative of interested utilities, organizations, and individuals to work out recommendations for approaching the program designs needed for the post-2006 conservation programs. This process is open to the public and all persons are welcome.

## **I. K. Renewable Resources**

### **Issue 1:**

Should BPA engage in an active and creative facilitation role with respect to renewable resources development?

### **Regional Dialogue Policy Proposal:**

The Regional Dialogue policy proposal states that BPA proposes to engage in an active and creative facilitation role with respect to renewable resource development. This signals a move away from large-scale renewables acquisition toward a greater focus on finding ways to reduce the barriers and costs interested customers face in developing and acquiring renewables.

### **Public Comments:**

BPA received close to 100 comments on its policy proposal for renewable resources, including many individuals. (Allen, RD04-0078; Schmidt, RD04-0079; Casey, RD04-0038; Ball, RD04-0044; Olson, RD04-0077; Manley-Cozzie, RD04-0118; Ebbeson, RD04-0117; WSD, RD04-0080; Dailey, RD04-0081; Louis, RD04-0087; Bird, RD04-0089; Rainey, RD04-0090; EBARA, RD04-0007.) Many of the comments were in the form of broad support for BPA's efforts to support renewables, (e.g., NCCAC, RD04-0028; Skagit, RD04-0088; Last Mile, RD04-0050; Bluefish, RD04-0029; SRA, RD04-0029; SRA, RD04-0065; ATNI, RD04-0033; Tulalip, RD04-0032) although some comments reflect a concern that BPA is turning its back on its renewables obligations with its new focus on facilitation. (E.g., NWECC, RD04-0110.)

Senator Ron Wyden, Senator Maria Cantwell, and Congressman Earl Blumenauer expressed their appreciation for BPA's past efforts to "support renewables through acquiring good renewables projects, developing helpful products and services for renewable resources, and in seeking changes to transmission system policies that reduce barriers to renewable resources." (Wyden et al, RD04-0002.). In addition, elected officials at the state level offered general support as well (Ericksen, RD04-0076; Beaver, RD04-0028.)

A number of commenters expressed concern over shifting responsibility for renewables development to other utilities. (LCHCS, RD04-0012; LCHCS, RD04-0020; Arthur, RD04-0019; Maloney, RD04-0020.) The Northwest Energy Coalition claimed that shifting responsibility for load growth will result in failure to meet objectives in the Council's Plan. (NWECC, RD04-0110.) NRDC argued that, if BPA limits its acquisition role, renewables may not be developed and resource adequacy could be compromised. (NRDC, RD04-0129.) Renewable Northwest Project, the Bonneville Environmental Foundation, and others claimed that now is not the time for the Agency to scale back its renewables efforts but rather to increase them. (BEF, RD04-0053; RNW, RD04-0053; Ebbage, RD04-0014; Ebbage, RD04-0020.)

Others expressed support and endorsed the comments expressed by NWECC. (CUA, RD04-0028; CUA, RD04-0082; MPIRG, RD04-0076; Advocates, RD04-0091; Whidbey, RD04-0083; SW, RD04-0084; NRDC, RD04-0085; SEA, RD04-0086.)

In a similar vein, some comments expressed that it was too early to take BPA out of the acquisition business (CUB, RD04-0113; LWV, RD04-0019; Umatilla Tribes, RD04-0130; Arthur, RD04-0019.) Mikael Grainey, Lee Byer, John Savage, Ray Baum, Melinda Eden, and Gene Derfler on behalf of the State of Oregon commented that BPA should honor the acquisition standards set out in the Power Act, (ODOE, RD04-0102), while NWECC commented that BPA should diversify its resource base and use its considerable wherewithal to get renewable resources up and running. (NWECC, RD04-0019; NWECC, RD04-0053.) Seattle City Light and others supported meeting future load growth with efficiency and renewables (E.g., Seattle, RD04-0019; CAMP, RD04-0019.)

Several economic development organizations emphasized that the region needs a sustained focus on renewables to make the Pacific Northwest a center of renewables development. (KCLC, RD04-0019; WA Dept Trade, RD04-0072; McKinstry, RD04-0019; McKinstry, RD04-0061; NSEED, RD04-0019; NSEED, RD04-0074; MEIC, RD04-0069; MEIC, RD04-0076.) There was also support from steelworkers who want to see renewables developed to create jobs (NWECC, RD04-0019; NWECC, RD04-0053; USWA, RD04-0019; USWA, RD04-0028; USWA, RD04-0028; Mountaineers, RD04-0019.)

A number of environmental organizations expressed concern about climate change and highlighted the hedge value of renewables against an uncertain environmental future. (Ebbage, RD04-0014; Ebbage, RD04-0020; Powers, RD04-0028.) Climate Solutions commented that BPA should be presiding over the transition from fossil fuels to renewables. (CS, RD04-0019.) Several others urged BPA to set and enforce real renewable targets. (E.g., CADO, RD04-0053; RNW, RD04-0053.)

Emerald PUD emphasized that conservation and renewables are cheaper than other resources. (Emerald, RD04-0020.) NWECC commented that funding levels are not high enough to simultaneously deal with threat of global warming and create economic development in the region. (NWECC, RD04-0110.) Fred Hewitt of the Sierra Club claimed that BPA has the dual responsibility of being an environmental steward and being a utility. (SC, RD04-0053.) The Interfaith Network for Earth Concerns indicated that BPA is more than a low-cost provider and must meet its public responsibilities. (EM, RD04-0053.) These comments were echoed by a number of others encouraging BPA to take a long-term view with respect to its role in renewable resource development.

Finally, many organizations pointed to strong regional support for BPA leadership on renewables (Ebbage, RD04-0014; Ebbage, RD04-0020; CADO RD04-0053; LWV, RD04-0054; RNW, RD04-0053; NWECC, RD04-0110; PSS, RD04-0019.) Other commenters encouraged BPA to make renewables a priority and give the program the budget to get the job done. (RNW, RD04-0053; Zepeda, RD04-0019.)

Whereas many of the above comments encouraged BPA to take the long view and interpret its role as broadly as possible, many of BPA's public agency customers and customer organizations support BPA's proposed facilitation role. They see it as being consistent with BPA's broad objective of limiting sales of firm power to its Pacific Northwest firm



requirements loads at the lowest cost based rate to approximately the firm capability of the existing Federal system. (Central Lincoln, RD04-0057; EWEB, RD04-0020; Flathead, RD04-0076; WPAG, RD04-0105; PPC, RD04-0109; UIUC, RD04-0039.) NRU, Columbia River PUD, and Glacier Electric Cooperative endorsed facilitation but commented that costs need to be spread evenly over all customer classes. (NRU, RD04-0053; NRU, RD04-0073; CRPUD, RD04-0031; Glacier, RD04-0064.)

Among BPA's public agency customers, the divergence in opinion with respect to the facilitation role centered on the question of whether BPA should consider acquisition as a viable facilitation option. One group of customers supported facilitation but not acquisition. (Benton PUD, RD04-0068; Franklin, RD04-0108; ICNU, RD04-0093; WMG&T, RD04-0076; WMG&T, RD04-0092; PRM, RD04-0043.) These customers commented that other facilitation activities and market factors beyond BPA's control will preclude the need for BPA to do any additional acquisition. Others, such as Cowlitz PUD, supported a limited acquisition role. (Cowlitz, RD04-0128, BEF, RD04-0053.) These customer comments contrasted with the comments of other constituents who strongly urged BPA to keep the door open to acquisition (NWECC, RD04-0019; NWECC, RD04-0053) or, more emphatically, to aggressively seek anchor tenancy. (ODOE, RD04-0102; REP, RD04-0019.)

#### **Evaluation and Decision:**

The breadth and depth of comments emerging from the Regional Dialogue policy proposal is a clear indication of how important the topic of renewable resources is to the Pacific Northwest. While some commenters view BPA's transition to facilitation as a move away from BPA's commitment to encouraging the development of renewable resources (e.g., NWECC, RD04-0110), BPA does not agree with that sentiment because active facilitation will provide customers and non-customers support and encouragement to develop renewable resources in the region. Encouragement by BPA does not mean that BPA must be in an active acquisition role. To the contrary, encouragement can take the form of BPA standing ready to offer new and innovative products and services that will support non-Federal entities in the development of renewable resources. BPA believes that these combined efforts will benefit the region.

With natural gas prices and volatility at all-time highs, wind and other renewables have been receiving increased attention by the region's public and investor-owned utilities. Yet these utilities still face considerable barriers in developing renewables. BPA designed its wind integration services in the spirit of facilitation and believes there are many additional ways in which the agency can help customers and others develop renewables in the region. Given BPA's strategic objective of limiting sales at lowest-cost rates to approximately the firm capability of the existing Federal system and the heightened level of renewables activity in the region, we believe that active and creative facilitation is the most appropriate role for the agency in the FY2007-2011 period.

BPA recognizes the concerns raised by many of its utility customers regarding the role of resource acquisition. Some customers commented that other facilitation activities and market factors beyond BPA's control will preclude the need for BPA to do any additional acquisition. (Benton PUD, RD04-0068; Franklin, RD04-0108; ICNU, RD04-0093;

WMG&T, RD04-0076; WMG&T, RD04-0092; PRM, RD04-0043.) BPA does not agree that the market and other facilitation activities will preclude the need for BPA to acquire resources. While BPA moves toward a facilitation role, BPA remains obligated to meet its regional firm power load obligations and will, if needed, acquire power to satisfy its obligations. As the Northwest Power Act directs, BPA is to consider cost-effective conservation and renewable resources before acquiring other conventional resources while fulfilling this obligation. For the foreseeable future, if BPA experiences increased demand for firm power by its requirements customers, BPA will consider the acquisition of power generated by renewable resources to serve those loads. Going forward, the guiding principle behind BPA's facilitation activities will be to maximize the amount of new renewable generation built in the region.

Should BPA find it necessary to acquire power from renewable resources, BPA will take that action in addition to its facilitation activities. However, if direct acquisition is the most cost-effective among competing facilitation alternatives, BPA may choose to acquire by drawing upon available renewable program funds.

**Issue 2:**

Should BPA act as an “anchor tenant” to facilitate renewable resource development?

**Regional Dialogue Proposal:**

The Policy Proposal noted that BPA would consider temporary acquisition as an “anchor tenant” and that direct acquisition places the greatest financial demands on BPA and would be subject to rigorous financial and risk test before approval.

**Public Comment:**

PNGC made several comments. First, PNGC stated that the term “anchor tenant” is a misnomer and that acting as an “anchor tenant” may create unnecessary risk. (PNGC, RD04-0114; PNGC, RD04-0159.) However, PNGC supports BPA being a participant in projects that are expected to be commercially viable in order to serve its obligations. (PNGC, RD04-0159.) Second, BPA should consult fully with its customers before making decisions to add any resources, including renewable resources to the FBS as it is currently defined in contracts as of October 1, 2004. Id. PNGC states that BPA should refrain from further expanding the FBS with renewables or other resources prior to making a long-term allocation of power to its customers. Id. Going forward, BPA should acquire resources only to meet contracted-for load growth when BPA is deficit with the costs of those resources assigned to the customers whose load growth and deficits BPA is obligated to serve. Id.

**Evaluation and Decision:**

BPA understands the views expressed by PNGC and appreciates PNGC's support. BPA agrees that the term “anchor tenant” as used in the proposal may be a misnomer; however, BPA must balance its obligation to meet regional firm power load and its decision to limit the need to acquire resources. BPA will consider limited acquisition as one of several facilitation options but will not adopt an “anchor tenant” role. If a need to acquire power to meet BPA's regional firm power requirement obligation arises, BPA will explore opportunities to purchase output from new renewable resource projects in conjunction with

customers interested in receiving such power. Approaching renewable resource acquisition in this manner, even if no major resource is being acquired, is consistent with Section 6(m) of the Northwest Power Act, which provides that regional utilities be offered participation or ownership in a major resource. The agency will consider other acquisition activities as well if they are the most cost effective among competing facilitation options and can be accomplished consistent with the agency's financial objectives and governing statutes.

BPA acknowledges PNGC's concern over any additions of long-term purchases of resource output from either a renewable resource or other type of resource. As noted by the PNGC, other than conservation, BPA does not foresee a need to acquire on a long-term basis resources to meet its expected firm power load obligations through FY 2011. Finally, PNGC commented that the costs of resources acquired to meet load growth and deficits should be assigned to certain customers. BPA will consider recommendations for this type of rate construct as part of an integrated long-term Regional Dialogue policy of limiting BPA sales at the lowest cost-based rates for Pacific Northwest firm requirements loads.

### **Issue 3:**

How will BPA recover the costs of its Renewables Program?

### **Regional Dialogue Policy Proposal:**

BPA will spend up to a net of \$21 million per year to support its facilitation activities. The \$21 million comprises the existing \$15 million renewables fund and \$6 million of annual renewables spending that is currently being accomplished through the C&RD program that expires at the end of the current rate period. The costs associated with the \$15 million renewables fund will be recovered through BPA's firm power rates. With respect the \$6 million per year currently being spent through the C&RD program, BPA proposes to continue this level of support in addition to the \$15 million net cost but has not concluded whether a C&RD-like mechanism is the best vehicle for use of this level of financial support.

### **Public Comments:**

Several customers commented that the costs of BPA's Renewables Program should be spread evenly over all customer classes. (NRU, RD04-0053; NRU, RD04-0073; CRPUD, RD04-0031; Glacier, RD04-0064.) There were a number of other comments regarding the pricing and selection of facilitation options. Some recommended that facilitation services should be sold at cost. (Benton PUD, RD04-0068; ICNU, RD04-0093.) Tacoma suggested that facilitation efforts should be carefully screened for cost effectiveness and their selection should involve stakeholder input. (Tacoma, RD04-0103.) NRDC recommended customer and other stakeholder input to ensure that facilitation options are adequately explored. (NRDC, RD04-0129.) Finally, some commenters recommended facilitation strategies should be developed to support distributed renewables (IERP, RD04-0020; SC, RD04-0019; Mithun, RD04-0016), and to support continued solar and wind monitoring. (UO, RD04-0017.)

PNGC commented that integration services should not be offered as a system obligation that reduces system output for Slice customers but, rather, from BPA's share of the FBS. (PNGC, RD04-0114.) At the same time, the Bonneville Environmental Foundation expressed

concern over Slicing away system flexibility or taking irreversible actions that would prevent BPA from taking a larger resource role in the future. (BEF, RD04-0053.)

### **Evaluation and Decision:**

Much of the comment expressed views on the cost and benefit of the program funding. Some, such as NRU, are concerned about the spreading of these costs among BPA's customers. Others commented specifically that facilitation efforts should be carefully screened for cost-effectiveness and their selection should involve stakeholder input. BPA appreciates these views and sees the renewables program focus on facilitation as providing long-term benefits to all of its customers and stakeholders. Funding for the renewables program will be set at \$21million, which is a target, or "policy benchmark," that consists of three main components:

- Direct programmatic costs such as RD&D and long-term solar and wind data monitoring, which are recovered as expense items in our cost structure.
- The annual net (or above-market) costs of renewable power acquisitions, as compared with the long-run marginal cost (LRMC) of the most likely conventional generation alternative.
- The renewable component of the C&RD.

The costs of the renewables program are recovered in BPA's posted firm power rates and charged to BPA's customers. In addition, for direct renewables acquisitions, the project output currently is, and will continue to be, shared among all of BPA's requirements customers except as might be provided for under some specific contracts.

Although the costs of BPA's renewables program are recovered through BPA's rates, it is important to note that BPA is not simply planning to spend \$21 million a year and embed the costs into the agency's rates. Rather, BPA will make incremental commitments over time that will eventually exhaust the \$21 million management target/policy benchmark. Prior to each rate period, all committed program and power costs will be embedded into the agency's revenue requirement. Incremental spending commitments between rate periods will be covered through cash reserves and then embedded in rates in the subsequent rate period. We intend to act prudently as we select incremental investments so as not to over commit the agency in the event of a dramatic decrease in the long-run marginal cost of natural gas against which our existing and any future acquisitions will be measured.

While the agency has yet to determine the appropriate LRMC for the next rate period, it is possible that a significant portion of the potential support funds may be subscribed by FY 2007. It is also possible that there will still be considerable room for additional spending, especially if natural gas prices continue their upward trajectory or remain at current, historically high, levels.

BPA expects that costs associated with facilitation services and products can be recovered through charges applied to those services and products. For example, BPA designed its integration services to recover the costs of providing the services, including a risk adjustment. This will be our general approach in the future, although, if unique

circumstances arise in which we may be able to facilitate a considerable amount of new renewable generation by offering discounted integration services and drawing against our available support funds, we will consider such an option.

In response to Tacoma's comment concerning customer input, BPA has been holding meetings with interested customers and other stakeholders to consider which facilitation options will best serve BPA's and the region's renewables objectives. Going forward, we intend to actively solicit customer and stakeholder input as new opportunities and challenges present themselves.

In response to comment that BPA should facilitate support for distributed renewables and include support for continued solar and wind monitoring, BPA is open to facilitation options that enable distributed renewables and plans to continue its long-standing commitments to solar and wind monitoring. These existing monitoring programs provide the region with valuable technical information and data that it otherwise would not have and, hence, assist the region in facilitating the development of renewable resources.

With respect to the comments made by PNGC, BPA evaluated and designed its integration services in such a way that there is no impact on the existing Slice product. It is important to understand that BPA did not sell any portion of the federal system to its customers in the form of the Slice product and does not itself "manage" a slice of this system. The right of customers purchasing the Slice product is to receive energy, capacity, and other services from BPA to serve the net requirement load based on a percentage of output of the Federal system. BPA does not see the provision of integration services as being in conflict with the Slice product, nor does PNGC point to any. The broader and important question of preserving system flexibility for public purposes such as wind integration will be reserved for the discussions about long-term contracts that are scheduled to take place in 2005.

Regarding the future of the renewable component of the C&RD, BPA has not concluded whether a C&RD-like program structured as it currently exists, is the best vehicle for use of this level of financial support. BPA has not eliminated the status quo, but is concerned that the existing spending flexibility between conservation and renewables will interfere with the goals set for conservation. We will be conducting discussions with interested stakeholders on this topic.

## **I. L. Controlling Costs and Consulting with BPA's Stakeholders**

### **Issue 1:**

Should BPA continue to focus on non-contractual means that promote transparency as proposed in the Regional Dialogue policy proposal?

### **Regional Dialogue Policy Proposal:**

BPA proposed specific non-contractual actions: collaborative forums, financial reporting with customer and constituent input, business process improvement, power function review, and criteria for public comment on cost issues in addition to the existing Power Net Revenue Improvement Sounding Board and Customer Collaborative to promote transparency under

BPA's financial disclosure policy, allow for public input on agency costs, and demonstrate management of those costs.

**Public Comments:**

Parties' comments pertaining to cost control were generally supportive of BPA's current efforts and recognized the need to expand on those efforts, but they varied in terms of providing a single solution for long-term cost control.

Many comments expressed support for current efforts and/or efforts outlined in the Regional Dialogue Policy Proposal. (Idaho Falls, RD04-0023; Tulalip, RD04-0032; NRU, RD04-0053; IAMAW, RD04-0053; WA Dept Trade, RD04-0072; Lincoln Electric, RD04-0100; SUB, RD04-0106; NVEC, RD04-0110; CUB, RD04-0113; Seattle, RD04-0115.)

Other commenters supported the continuation and/or expansion of collaborative forums. (Central Lincoln, RD04-0057; Franklin, RD04-0108; NRU, RD04-0073.) PRM expressed the need for additional Customer Collaborative forums to discuss PBL program levels prior to a rate case. (PRM, RD04-0043.) Benton REA and WPAG state that the Customer Collaborative should increase transparency on the issues addressed in that forum, increase staff support on Customer Collaborative issues, as well as put the customers in a position to influence decisions before they are made. (Benton REA, RD04-0046; WPAG, RD04-0105.) Northern Wasco PUD favors a continuation and expansion of scope for the Sounding Board. (NWasco, RD04-00042.) Glacier Electric Cooperative and Bonners Ferry favored increased transparency on fish & wildlife costs. (Glacier, RD04-0064; Glacier, RD04-0076; Bonners Ferry, RD04-0003.)

Several comments expressed a desire for greater enforceability to assure cost control by including contract mechanisms and meaningful dispute resolution provisions. (Wells, RD04-0029; CRPUD, RD04-0031; NRU, RD04-0073; ICNU, RD04-0093; Snohomish, RD04-0104; PPC, RD04-0109; PNGC, RD04-0114; ORECA, RD04-0005; EWEB, RD04-0127; Cowlitz, RD04-0128; Inland, RD04-0028; Whatcom, RD04-0136; Kootenai, RD04-0141.) Both Tacoma and Clatskanie supported a change in governance. (Tacoma, RD04-0103; Clatskanie, RD04-0112.)

Benton REA, WPAG, and the Pacific NW State Utility Commissioners commented that allowing a review of and comment on BPA's revenue requirements during PBL and TBL rate proceedings is a means of increasing transparency. (Benton REA, RD04-0046; WPAG, RD04-0105; PNW SUC, RD04-0133.) Both Benton REA and WPAG viewed BPA's past utilization of Programs in Perspective as an inadequate replacement for including revenue requirement review at rate proceedings and suggested using such regional discussion forums in conjunction with a revenue requirement review. (Benton REA, RD04-0046; WPAG, RD04-0105.)

Finally, the few comments that addressed the non-discretionary cost decision criteria were supportive of its establishment and implementation. (WA Dept Trade, RD04-0072; PNGC, RD04-0114; Tacoma, RD04-0103.)

**Evaluation and Decision:**

BPA recognizes that most parties -- both customers and non-customers -- have a strong desire to influence BPA cost decisions before they are made. None of the comments, however, disagreed with BPA's proposal to continue reliance on non-contractual mechanisms as a means to improve cost transparency for the short-term. In general, the comments received reflect a sentiment that BPA's recent efforts are, for the most part, meeting the needs of our customers and other stakeholders for short-term transparency and cost control, but more work needs to be done before customers will be willing to sign new long-term contracts with BPA.

Some parties commented that "meaningful cost control" is needed for the long term to ensure that rates are kept as low as possible. Other parties expressed a desire that BPA set program cost levels and spending within a Section 7(i) rate setting proceeding, for power and transmission. BPA understands the concern customers have about the long term and the need to develop a fair and manageable mechanism that addresses this concern. The comments, however, did not center on one particular solution. BPA believes it is imprudent to implement any single solution until the problem is clearly defined and understood. We recognize the importance in continuing a regional discussion around the long-term issues. BPA will also consider the interests and concerns of other Federal agencies (including the Department of Energy, Office of Management and Budget, the U.S. Treasury, FERC), as well as credit rating agencies, that might arise regarding the risks to BPA's recovery of costs and its ability to repay the U.S. Treasury. Based on this information, BPA will address the long-term cost control issues in the July 2005 policy proposal.

Therefore, for the short term, BPA will focus its current efforts on using and enhancing non-contractual mechanisms to promote cost control and transparency. In moving forward with the additional "non-contractual" actions, BPA has made some wording changes to each proposed action to clarify BPA's intentions and actions for the short term as follows. On Financial Reporting, BPA's intent is to "continue" improving its external financial reporting instead of making "further" advancements. For Business Process Improvement, BPA is considering the recommendations of the KEMA consultants to seek efficiencies within BPA as a whole. For Power Function Review, BPA is clarifying that this review is an important opportunity for customers and others to provide input on proposed budget and program levels prior to the next rate case. Finally, on Criteria for Public Comment on Cost Issues, BPA has decided against developing such criteria at this time. Instead, BPA believes it is more important as a long-term matter to better define the concerns related to cost control and to work towards a regional solution. BPA may, thereafter, reconsider its proposal to establish decision criteria.

## **II. Long-Term Issues**

### **II. A. Long-Term Policy: Limiting BPA's Long-Term Load Service Obligation at Embedded Cost Rates for Pacific Northwest Firm Requirements Loads**

#### **Issue 1:**

Should BPA adopt its proposed policy direction to limit its sales of firm power to its Pacific Northwest firm requirements loads at its lowest cost-based rates to approximately the firm capability of the existing Federal system?

#### **Regional Dialogue Policy Proposal:**

The Regional Dialogue Policy proposal includes a proposed policy direction to establish a long-term policy to limit its sales of firm power to its Pacific Northwest customers' firm requirements loads at its embedded cost rates to approximately the firm capability of the existing Federal system.

#### **Public Comments:**

Fifty-four comments were received regarding this issue, 40 of which were from customers or customer associations. Comments made in the public meetings were similar to the comments made in writing. Existing customers broadly support the proposed policy whereas prospective customers, including several prospective tribal utilities, and public interest groups raised several concerns.

All customers (public utilities, IOUs, and DSIs) except the Yakama Nation (Yakama) either specifically supported or did not object to BPA's policy proposal to limit its long-term sales at embedded (lowest) cost-based rates to the amount produced by the existing Federal system. (E.g., PPC, RD04-0109; NRU, RD04-0073; Cowlitz, RD04-0128; ORECA, RD04-0005; IF, RD04-0023; Avista, RD04-0028; Alcoa, RD04-0067; PNW IOUs, RD04-0107; PNGC, RD04-0114; Tacoma, RD04-0103; Seattle, RD04-0115.) Most of those who supported this policy proposal also offered specific qualifications or suggestions for how the policy should be implemented. Those qualifications and suggestions are addressed in the next issue, below.

Some tribes, several public interest groups, and individuals expressed specific concerns or objections to the policy proposal, including some who expressed strong reservations about whether BPA's policy proposal was the right course, raising concerns that the policy proposal will result in inadequate resource development or insufficient development of conservation and renewables. The Northwest Energy Coalition, Natural Resources Defense Council, Montana Environmental Information Center, Ecumenical Ministries, and others suggested that the "one utility" planning model is a more appropriate model. (E.g., NVEC, RD04-0110; NRDC, RD04-0129; MEIC, RD04-0069; EM, RD04-0124.) The Community Action Directors of Oregon, Last Mile Electric Cooperative, and the Natural Resources Defense Council questioned whether adequate amounts of conservation and clean new resources would be developed if BPA limits its role or structures its policy without incorporating these objectives. (CADO, RD04-0123; NRDC, RD04-0129, Last Mile, RD04-



0050.) Several suggested that, if the BPA proposal is adopted, it would be critical to establish a regional resource adequacy standard. (CUB, RD04-0113; NWECC, RD04-0110; NRDC, RD04-0129; EM, RD04-0124; WA Dept Trade, RD04-0072.)

The Tulalip Tribes expressed concerns that BPA should function as the Northwest's power broker when demand exceeds supply. (Tulalip, RD04-0032.) The Yakama Nation expressed concern that the proposed policy will result in exposure to future risks as BPA tries to meet all of its customers needs. It also expressed concern that BPA may not be able to meet the objectives of the policy in light of some of the other policies expressed in the proposal. (Yakama, RD04-0131.)

### **Evaluation and Decision:**

Although most customer comments support the policy proposal, many stakeholders raised valid concerns. BPA recognizes that the policy must not result in inadequate resource development within the region, including development of conservation and renewable resources. BPA believes the region can move forward with the development of non-Federal resources involving BPA's customers and others without placing BPA in the role of acquiring resources for the region and melding those costs with existing system costs. Consequently, BPA intends to develop the policy in tandem with the development of regional resource adequacy metrics/standards. BPA believes this will provide clarity regarding what constitutes generation sufficiency to meet the load-serving obligation defined by the long-term Regional Dialogue contracts. In addition, BPA believes this will provide assurance that needed electrical infrastructure will be developed by Northwest load serving entities in a manner consistent with the Northwest Power Act purpose to assure an adequate, economical, and reliable Northwest power supply.

Accordingly, BPA will pursue its proposed policy direction to limit its sales of firm power to its Pacific Northwest firm requirements loads at its lowest cost-based rates to approximately the firm capability of the existing Federal system. This policy will be refined as an integral part of BPA's proposed long-term Regional Dialogue Policy. There are several key reasons BPA considered in adopting this proposal, which are:

- It should help reduce BPA's firm power rates by sharply limiting the past practice of acquiring power and melding its costs with the lower cost of the existing system, thereby "diluting" the low-cost existing system with higher-cost purchases.
- It should limit BPA's risk of having a power supply deficit with too little time to acquire resources as was the case during the West Coast electricity crisis of 2001.
- It should provide greater assurance that necessary electric infrastructure will be developed. Many BPA utility customers and other market participants are willing and able to invest in needed electric infrastructure, suggesting that the capability exists to supply the infrastructure without a continued buy-and-meld role for BPA. But these utilities need clarity about their load responsibilities versus BPA's if they are to move forward on infrastructure investment. This policy will help provide that clarity.

- A closely related benefit is that this policy will help utilities “see” market price signals as they make decisions about new resources, conservation investments, and load additions. This should lead to more efficient decision making throughout the regional electric utility industry.
- This policy does not prevent utility customers from continuing to rely on BPA to serve all or an increasing amount of their net requirements in the future if that is what they choose.
- This policy should increase the certainty that BPA will continue to meet its obligation to repay the U.S. Treasury by creating a higher likelihood that BPA rates stay well below market and fluctuate less with the costs of power purchases.
- There is strong support from BPA’s utility customers for this policy direction. This is important because these utilities will be assuming more of the responsibility for new resource development over time.
- This policy direction is consistent with the recommendations to BPA from the Council in its May 17, 2004, recommendations on “The Future Role of the Bonneville Power Administration in Power Supply.” Likewise, it is consistent with the recommendations of the General Accountability Office in their recent report.

As stated above, BPA intends to address the concerns raised by the comments described above during the next phase of the Regional Dialogue that will be available for public review and comment in July 2005. (See Section IV. B, Schedule.) Specifically, BPA intends to incorporate the issue of resource adequacy into the long-term policy discussions. BPA also intends to address the potential impacts on conservation and renewables to ensure there continue to be appropriate incentives to develop adequate amounts of conservation and renewables.

Finally, BPA is deleting the words “embedded-cost rates” and replacing them with the words “lowest cost-based rates.” BPA is doing this to avoid confusion over the meaning of embedded-cost rates. The term “embedded-cost rates” is not defined in BPA’s governing statutes and policy. In comparison, use of the terms “lowest cost-based rates” is in accord with statutory direction to establish rates as low as possible consistent with sound business principles. See e.g., 16 U.S.C. § 825s; § 838g. In addition, BPA’s current Subscription power sales contracts define the term “lowest PF rates” as the lowest applicable cost-based rates provided under the applicable PF schedule.

**Issue 2:**

Should BPA address and decide at this time issues raised in comments that will likely be addressed during the next phase of the Regional Dialogue?

**Regional Dialogue Policy Proposal:**

BPA proposed a long-term policy direction regarding its load obligations. By itself, this policy is not enough to accomplish all the benefits described above. It is only one step. The policy proposal anticipated that the implementation details would be identified and addressed during the next phase of the Regional Dialogue discussions.

**Public Comments:**

Many commenters who support the policy proposal regarding limiting BPA's long-term load serving obligations expressed views regarding matters on how the policy should be implemented. Several customers expressed support for "allocation," ranging from general support of the concept to specific support for the allocation proposal developed under the auspices of the PPC. (E.g., PRM, RD04-0043; Seattle, RD04-0115; Idaho Falls, RD04-0023; NWasco, RD04-0042; Benton PUD, RD04-0068; Snohomish, RD04-0104; WPAG, RD04-0105; Clatskanie, RD04-0112; Cowlitz, RD04-0128.) Sumas raised concerns about the PPC allocation proposal and noted that it is just one of various methods for allocating BPA's resources. (Sumas, RD04-0132.) Alcoa supported allocation provided that it provides a share for Alcoa. (Alcoa, RD04-0067.) Several customers stated that it would be critical to establish new net requirements for utilities in an equitable manner. (WGM&T, RD04-0092; NRU, RD04-0073; Inland, RD04-0028; Orcas, RD04-0034; Benton REA, RD04-0046; Benton PUD, RD04-0068; Central Lincoln, RD04-0057; Whatcom, RD04-0136.) WGM&T urged development of a new transparent method for determining net requirements. (WGM&T, RD04-0092.) Other customers stated that the proposed policy can only be successful if effective cost control, cost segregation, and governance issues are satisfactorily resolved. (E.g., Whatcom, RD04-0136; PPC, RD04-0109; WPAG, RD04-0105; Benton REA, RD04-0046.) WPAG identified several additional concerns that must be resolved in tandem in order for this policy to be supportable. These include availability of appropriate product choices, the role of conservation and renewables programs, and the ability to acquire and use non-Federal resources to serve load. (WPAG, RD04-0105.) NRU stated that the products and rates offered by BPA to Full Requirements customers must reflect the widespread value of the coordinated operation of the Federal system. (NRU, RD04-0073.) NRU, Columbia River PUD, and Benton REA also noted that successful implementation of this policy will require customer access to other sources of power supply, possibly through pooling, economic passage over non-Federal transmission lines for the delivery of non-Federal power to GTA customers, and protection of allocations from decrements typically resulting from utility non-Federal diversification. (NRU, RD04-0073; CRPUD, RD04-0031; Benton REA, RD04-0046.)

**Evaluation and Decision:**

BPA appreciates the interest expressed in comments to address the multitude of issues associated with carrying out BPA's proposed long-term policy direction to limit its sales of firm power to its Pacific Northwest firm requirements loads at its lowest cost-based rates to approximately the firm capability of the existing Federal system. However, at this point in time all the issues related to BPA's long-term policy will be reserved for future discussions. The long-term policy proposal will be developed in a separate public process that is scheduled begin with the release of a BPA policy proposal in July 2005. Consequently, BPA

will not address and decide issues raised in comments that pertain to implementation of the long-term policy. Such issues will be addressed in the next phase of Regional Dialogue and any ensuing rate case. BPA intends to follow-up with additional discussions regarding these issues before BPA develops that proposal.

**Issue 3:**

Should BPA adopt its proposal that firm power service beyond what the existing system can supply be provided at a higher tiered rate that reflects the incremental cost of purchasing power to meet those additional loads?

**Regional Dialogue Policy Proposal:**

The Regional Dialogue policy proposal states that firm power service beyond what the existing system can supply would be provided at a higher tiered rate that would reflect the incremental cost of purchasing power to meet those additional loads. Such tiered rates would not be implemented until after FY 2009.

**Public Comments:**

BPA received over 15 comments regarding its proposal to tier rates sometime after the next rate period. Most comments were supportive of the concept but also included specific conditions or qualifications. (Inland, RD04-0028; NWasco, RD04-0042; PRM, RD04-0043; NRU, RD04-0073; EWEB, RD04-0127; PNW SUC, RD04-0133.) Yakama expressed particular interest in ensuring that their new tribal utility be served by BPA's PF (lowest tiered) rates. (Yakama, RD04-0131.) The IOUs argued that a tiered rate structure and long-term tiered rate methodology should be established without delay for new loads placed on BPA. They stated further that such a rate structure need not apply to existing preference customers under existing contracts until those contracts expire. (PNW IOUs, RD04-0107.) WPAG, Springfield, Tacoma, and others suggested that BPA not tier rates until existing contracts expire after FY 2011 and that it only be done in conjunction with an acceptable approach to allocation. (WPAG, RD04-0105; SUB, RD04-0106; Tacoma, RD04-0103.) Alcoa stated that its support is contingent on its receipt of BPA's lowest cost based rate (or equivalent financial benefits.. (Alcoa, RD04-0067.)

Two commenters did not support a long-term policy of tiered rates: ICNU stated that BPA should instead create other services (load growth, shaping, etc.) to meet the goal of limiting BPA's long-term load service obligation. (ICNU, RD04-0093.) Seattle stated that any utilities that contract with BPA for more power than their allocation should pay the entire additional cost, but that should not take the form of a two-tiered rate structure. (Seattle, RD04-0115.)

**Evaluation and Decision:**

Because BPA is not proposing to establish tiered rates until after additional policy discussions (including an additional policy proposal), most of the issues raised by commenters will be further explored and addressed in the next phase of the Regional Dialogue and the ensuing rate case. BPA agrees that any tiered rates policy should be implemented after consideration of, and in conjunction with, other related matters.

Some comments expressed the view that BPA should not consider tiered rates as an option to implement BPA's long-term policy to limit its load serving obligations. BPA does not agree with this view. BPA does concur with commenters that urge the serious consideration of tiered rates. Before any final decision is made to establish tiered rates, BPA will seriously consider tiered rates and any other alternative approaches that might be proposed. In its comments, ICNU suggests that BPA should instead create other services (load growth, shaping, etc.) to meet the goal of limiting BPA's long-term load service obligation. BPA is not convinced that this suggestion would be sufficient to meet the goal of limiting BPA's long-term load service obligations, but ICNU can make its case otherwise in future processes. BPA's existing rate structure already includes the types of charges, such as the Load Variance charge, that ICNU suggests BPA should create.

Regarding the concerns raised by the IOUs that BPA should develop a tiered rate policy for new public loads as soon as possible, BPA's decision is to exclude from its FY 2007 initial rate proposal a tiered PF rate applicable to firm power sold to meet the net firm power load requirements of public agency customers. Further, BPA believes that the policy described in Section I.E, Service to New Publics and Annexed IOU Loads, sends the appropriate price signal through FY 2009 to new publics who form after a date certain. The long-term Regional Dialogue proposal will address the policy that will apply to new public utilities after FY 2009.

**Issue 4:**

Should the above policies be implemented through new long-term contracts and rates?

**Regional Dialogue Policy Proposal:**

The Regional Dialogue policy proposal states that it will be necessary to develop new contracts and rates in order to implement the policies regarding limiting BPA's load serving obligations.

**Public Comments:**

BPA received no comments at either the public meeting or in writing that objected to BPA's proposal to develop new contracts and rates. Most comments regarding whether new contracts and rates should be offered were submitted in the context of the schedule for resolving long-term issues and offering new contracts. Although commenters sometimes differed regarding the schedule for when new contracts and rates should be implemented, no one objected to offering new contracts and rates. See Section I.B, Schedule for Long-Term Issue Resolution, for a description of comments received on this issue.

**Evaluation and Decision:**

BPA will pursue the development of new contracts and rates to implement the policy to limit its sales of firm power to its Pacific Northwest firm requirements loads at its lowest cost-based rates to approximately the firm capability of the existing Federal system.

## II. B. Schedule for Long-term Issue Resolution

### Issue 1:

Should BPA adopt its proposed schedule for resolving the long-term issues described in the July policy proposal?

### Regional Dialogue Policy Proposal:

The Regional Dialogue Proposal states that BPA intends to operate on the following schedule for achieving long-term contracts and rates, subject to change based on public comment.

<b>Milestone:</b>	<b>Date:</b>
BPA Administrator Issues Long-Term Regional Dialogue Proposal for Public Review and Comment	July 2005
BPA Administrator Signs Long-Term Regional Dialogue Policy and Record of Decision	January 2006
New Contracts Offered	December 2006
Contract Signature Deadline	April 2007
Earliest Contract Effective Date	October 2008

### Public Comments:

Written comments regarding the proposed schedule for resolving the long-term issues were made by 22 organizations, all but four of which were customers/customer associations. Most (17) commenters agreed with the proposed schedule for long-term issue resolution.

Supporters of the proposed schedule included several public agency customers and customer associations including the PPC, NRU, ICNU, Benton REA, Benton PUD, Columbia River PUD, Cowlitz County PUD, Franklin PUD, and Northern Wasco PUD. (E.g., PPC, RD04-0109; NRU, RD04-0073; ICNU, RD04-0093; Benton REA, RD04-0046; Benton PUD, RD04-0068; CRPUD, RD04-0031; Cowlitz, RD04-0128; Franklin, RD04-0108; NWasco, RD04-0042.) NRU, Benton REA, and Columbia River PUD noted that they would likely retain their current contracts through FY 2011 but expressed support since the policy proposal allows customers the option of retaining their current contract until it expires with FY 2011. (NRU, RD04-0073; Benton REA, RD04-0046; CRPUD, RD04-0031.) Tacoma Power expressed similar support but qualified it further by stating that “Tacoma will not support a parallel service of old and new contracts if those customers that remain under the old contracts are harmed in any way by the implementation of new contracts.” (Tacoma, RD04-0103.) ICNU, WA Dept of Commerce Trade and Economic Development, NRDC, and NWEAC were the only non-customer groups that commented on the schedule and all supported the proposed schedule. (ICNU, RD04-0093; WA Dept Trade, RD04-0072; NRDC, RD04-0129; NWEAC, RD04-0110.)

One customer, Sumas, commented that the proposed schedule is too ambitious. (Sumas, RD04-0132.) Sumas added that “attempting to establish a long-term policy by January 2006 does not seem realistic or necessary. A schedule that adds another year to the process...still leaves time for customers to make decisions regarding their alternate power sources prior to 2011.”

The Pacific Northwest IOUs, PNGC, PRM, Snohomish, and Clatskanie commented that the schedule is not ambitious enough. (PNW IOUs, RD04-0107; PNGC, RD04-0114; PRM, RD04-0043; Snohomish, RD04-0104; Clatskanie, RD04-0112.) Clatskanie described the proposed schedule as “the single overarching flaw” of BPA’s policy proposal and stated that action “needs to be taken beginning in 2006, not in 2011.” (Clatskanie, RD04-0112.) The IOU’s comments do not specifically object to the proposed schedule leading to long-term contracts in October 2008, but emphasized that BPA’s proposed long-term policy regarding tiered rates should be developed immediately through a 7(i) process. The IOUs added that BPA should act without delay to provide long-term clarity by implementing a long-term rate methodology as soon as possible. (PNW IOUs, RD04-0107.) PNGC agreed with BPA’s sense of urgency but urged that the agency consider an even more aggressive schedule with the possibility of contracts to be effective by October 2007 (one year earlier than proposed). (PNGC, RD04-0114.) PRM also suggested that the schedule be accelerated a year by issuing a long-term policy proposal by January 2005 (six months early) and by allowing six months rather than a year between the contract signature deadline and the contract effective date. (PRM, RD04-0043.) Snohomish proposed that new contracts take effect by the end of 2005. (Snohomish, RD04-0104.)

#### **Evaluation and Decision:**

Although most comments supported the proposed schedule, the concerns raised by the five organizations that disagreed with the schedule are understandable. BPA acknowledges the concerns raised by Sumas that the schedule is too ambitious. BPA believes it is important to clarify BPA’s post-2011 load serving obligations as soon as reasonably possible so as to encourage the non-Federal development of electrical energy infrastructure in the region well before 2011. This is also important to many customers who support the proposed schedule.

Regarding the IOU’s suggestion that tiered rates be implemented as soon as possible, BPA has decided to exclude tiered rates from its FY 2007 initial rate proposal. (See Section I.B., Tiered Rates.) However, it is important to ensure that a tiered rates methodology be fully considered before the earliest date new contracts go into effect. For that reason, BPA will fully explore a long-term tiered rates methodology as part of an integrated long-term contract and rate solution that will implement the long-term Regional Dialogue policy of limiting BPA sales at the lowest cost based rates for Pacific Northwest firm requirements loads.

The following is the revised long-term schedule. The schedule is ambitious, but BPA agrees with the perspective of the Council and many customers that the region has a core interest in the earliest practical completion of this process.

**Schedule for Achieving Long-Term Contracts and Rates**

<b>Milestone:</b>	<b>Date:</b>
BPA Administrator Issues Long-Term Regional Dialogue Proposal for Public Review and Comment	July 2005
BPA Administrator Signs Long-Term Regional Dialogue Policy and Record of Decision	January 2006
New Contracts Offered	December 2006
Contract Signature Deadline	April 2007
Complete Establishment of a Long-Term Rate Methodology to Accompany New Contracts	October 2008
Earliest Contract Effective Date	October 2008

Resolving issues and developing new contracts and rates on this schedule will be challenging. Additionally, finding mutually acceptable solutions to very contentious issues will be difficult, especially while other decision processes are running in parallel. Further, the availability of necessary staff and management time will be tight for BPA, Northwest utilities, and others. The other challenges we face are described in the policy accompanying this record of decision.

**Issue 2:**

Should future Regional Dialogue discussions and contract negotiations be held in public forums?

**Regional Dialogue Policy Proposal:**

The Regional Dialogue policy proposal states that long-term Regional Dialogue issues will be addressed first in a public process that culminates in the final long-term Regional Dialogue policy in January 2006, to be followed by contract and rates development. The proposal is silent regarding whether the Regional Dialogue contracts will be negotiated in a public forum or will be negotiated only between BPA and its utility customers.

**Public Comments:**

Three non-customer comments suggested that the process be managed through public forums, not contract discussions. The NWECC commented that, “[t]he resolution of these [long-term] issues will have region-wide impact and cannot be restricted to customers only—they must be resolved in public forums. Thus, while the eventual policy will certainly have to be implemented through contract language, contract negotiations should not be the venue for those discussions.” (NWECC, RD04-0110.) NRDC commented that BPA should involve both customers and other stakeholders in the discussion together. (NRDC, RD04-0129.) The Washington Department of Commerce, Trade, and Economic Development raised a similar concern. (WA Dept Trade, RD04-0072.) NRDC also commented that conservation and renewables should be explicitly included in the discussions regarding allocation and resource adequacy and should not be left until last. (NRDC, RD04-0129.)



### **Evaluation and Decision:**

BPA agrees that long-term issues will have a region-wide impact and that it is appropriate for customers, constituents, tribes, and other stakeholders to be fully involved in development of that policy. Further, BPA agrees that conservation, renewables, and resource adequacy are integral components of any long-term power supply arrangement. BPA intends to include these issues and others in discussions with customers, constituents, tribes, and stakeholders. Additional details regarding how customers and others can be involved in the development of the long-term Regional Dialogue will be provided early in 2005. Following the adoption of its long-term regional dialogue policy, BPA will turn its attention toward contract negotiations and will be guided by that policy. Contract development is scheduled to occur in calendar year 2006. Draft standard contracts will be available for public review before they are finalized.

### **III. Environmental Analysis**

BPA has reviewed the final policy for environmental considerations under the National Environmental Policy Act (NEPA) in a NEPA ROD prepared separately from the Administrator's ROD. BPA has reviewed each of the individual policy issues, as well as the potential implications of these issues taken together. For some issues, there are no environmental effects resulting from implementation of the policy for that issue, and NEPA thus, is not implicated. For other issues, the proposed policy is merely a continuation of the status quo, and NEPA, thus is not triggered.

For the remaining issues, any environmental effects resulting from the policy have already been addressed in the Business Plan Final Environmental Impact Statement, DOE/EIS-0183, June 1995 (Business Plan EIS), and the policy would not result in significantly different environmental effects from those described in this EIS. Furthermore, the policy is adequately covered within the scope of the Market-Driven Alternative identified and evaluated in the Business Plan EIS and adopted by BPA in the August 15, 1995, Business Plan ROD.

Evaluating all of the individual policy issues together, the final policy still does not represent a significant departure from BPA's selected Market-Driven Alternative, and would not result in significantly different environmental effects from those described in the Business Plan EIS. BPA, therefore, has appropriately decided to tier the NEPA ROD for the final policy to the Business Plan ROD, as provided for in the Business Plan EIS and Business Plan ROD. Copies of the NEPA ROD for the final policy are available on BPA's Web site at [www.bpa.gov/power/regionaldialogue](http://www.bpa.gov/power/regionaldialogue) or by contacting BPA's Public Information Center at (800) 622-4520.

### **IV. Conclusion**

Based on our public process, the NEPA considerations in the NEPA ROD for the Regional Dialogue Policy, and the evaluations of the issues in this ROD, BPA has decided to adopt and implement this Regional Dialogue Policy Regarding BPA's Power Supply Role For

Fiscal Years 2007-2011. The Regional Dialogue Policy will provide BPA's customers with greater clarity about their Federal power supply so they can plan effectively for the future and make capital investments in long-term electricity infrastructure if they so choose. It is also intended to preview BPA's likely proposals on certain rate matters that BPA expects will be addressed in the next rate period while assuring that the agency's long-term strategic goals and its long-term responsibilities to the region are aligned. This decision is consistent with BPA's Market-Driven approach for participation in the increasingly competitive electric power market. BPA is responding to customers' need while ensuring the financial strength necessary to produce the public benefits that are of concern to the people of the Pacific Northwest.

Issued in Portland Oregon, on February 4, 2005

/s/ Stephen J. Wright

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**Administrator and  
Chief Executive Officer  
Bonneville Power Administration**

# Appendix A

## List of Commenters

**NOTE: Log numbers in bold are cited in the body of the ROD.**

Log No	Commenter	Affiliation Abbreviation	Affiliation
RD04-0001	Edward Piper	Cowlitz Board	Cowlitz County PUD Board of Commissioners
<b>RD04-0002</b>	<b>Sen. Ron Wyden Sen. Maria Cantwell Rep. Earl Blumenauer</b>	Wyden, et al	<b>U.S. Senate U.S. Senate U.S. Congress</b>
<b>RD04-0003</b>	<b>Steve Boorman</b>	<b>Bonnors Ferry</b>	<b>City of Bonnors Ferry</b>
RD04-0004	Nancy Barnes	WPUDA	Washington PUD Association
<b>RD04-0005</b>	N/A	<b>ORECA</b>	<b>Oregon Rural Electric Cooperative Association</b>
RD04-0006	Terry Fischer	Fischer	Fischer
<b>RD04-0007</b>	<b>Lawrence Molloy</b>	<b>EBARA</b>	<b>EBARA</b>
RD04-0008	Pete Kremen	Whatcom Exec	Whatcom County Executive's Office
RD04-0009	Stan Price	NEEC	Northwest Energy Efficiency Council
RD04-0010	N/A	Alaska	Alaska Distributors Co.
RD04-0011	Alan Duncan	Duncan	Duncan
<b>RD04-0012</b>	<b>Craig Satein</b>	<b>LCHCS</b>	<b>Lane County Housing and Community Services Agency</b>
<b>RD04-0013</b>	<b>Katherine Schacht</b>	<b>Emerald</b>	<b>Emerald PUD</b>
<b>RD04-0014</b>	<b>Roger Ebbage</b>	<b>Ebbage</b>	<b>Ebbage</b>
RD04-0015	Joe Savage	Savage	Savage
<b>RD04-0016</b>	<b>Bert Gregory</b>	<b>Mithun</b>	<b>Mithun Partners</b>
<b>RD04-0017</b>	<b>Frank Vignola</b>	<b>UO</b>	<b>University of Oregon, Department of Physics</b>
RD04-0018	Terry Easterwood	Easterwood	Easterwood
<b>RD04-0019</b>	<b>August 17 Seattle, WA Public Meeting (listed in speaking order)</b>		
	<b>Jorge Carrasco</b>	<b>Seattle</b>	<b>Seattle City Light</b>
	Jack Speer	Alcoa	Aluminum Company of America
	<b>Toni Potter</b>	<b>LWV</b>	<b>League of Women Voters</b>
	Daren Krag	IAMAW	International Association of Machinists and Aerospace Workers
	<b>Joel Hanson</b>	<b>USWA</b>	<b>United Steelworkers of America</b>
	<b>Ed Henderson</b>	<b>Mountaineers</b>	<b>The Mountaineers</b>
	Dave Watkins	HI	Holiday Inn
	Pat Flaherty	IAMAW	International Association of Machinists and Aerospace Workers
	Lee Miley	SU	Seattle University
	Bert Gregory	Mithun	Mithun Partners

<b>Log No</b>	<b>Commenter</b>	<b>Affiliation Abbreviation</b>	<b>Affiliation</b>
	Vicki Henley	IAMAW	International Association of Machinists and Aerospace Workers
	<b>Rich Feldman</b>	<b>KCLC</b>	<b>King County Labor Council</b>
	<b>Joelle Robinson</b>	<b>CS</b>	<b>Climate Solutions</b>
	Sen. Dale Brandland	Brandland	Washington State Senate
	Rep. Doug Ericksen	Ericksen	Washington State House of Representatives
	Chuck Eberdt	Eberdt	The Energy Project
	Jim Edwards	Graybar	Graybar Electric
	<b>Ash Awad</b>	<b>McKinstry</b>	<b>McKinstry Co.</b>
	<b>Don Andre</b>	<b>NSEED</b>	<b>NW Sustainable Energy for Economic Development</b>
	Hugh Diehl	IAMAW	International Association of Machinists and Aerospace Workers
	<b>Bill Arthur</b>	<b>Arthur</b>	<b>Arthur</b>
	Al Foss	SP&R	Seattle Parks & Recreation
	<b>Loren Baker</b>	<b>PRM</b>	<b>Power Resource Managers</b>
	Dennis Heller	NEEC	Northwest Energy Efficiency Council
	Matt Younger	Keen	Keen Engineering
	Eric Hausman	UW	University of Washington
	Bob Cowan	FHCRC	Fred Hutchinson Cancer Research Center
	Jim Walker	FHCRC	Fred Hutchinson Cancer Research Center
	Tom DeBoer	PSE	Puget Sound Energy
	David Kerlick	Kerlick	Kerlick
	Larry Dittloff	WC&TC	WA Convention and Trade Center
	<b>Jeremy Smithson</b>	<b>PSS</b>	<b>Puget Sound Solar</b>
	<b>Sara Patton</b>	<b>NWEC</b>	<b>NW Energy Coalition</b>
	Hamilton Hazlehurst	Vulcan	Vulcan, Inc.
	Vanessa Brower	OCAP	Olympia Community Action Programs
	<b>Andy Silber</b>	<b>SC</b>	<b>Sierra Club</b>
	Jake Fey	WSU	Washington State University Extension Energy Program
	Gary Anicich	Alaska	Alaska Distributors Co.
	<b>Jim DiPeso</b>	<b>REP</b>	<b>Republicans for Environmental Protection</b>
	Tom Brandt	Brandt	Brandt
	Andrew Lofton	SHA	Seattle Housing Authority
	<b>Tony Orange</b>	<b>CAMP</b>	<b>Central Area Motivation Program</b>
	<b>Barbara Zepeda</b>	<b>Zepeda</b>	<b>Zepeda</b>
	Mike Ruby	Ruby	Ruby
	Mike Rousseau	Alcoa	Aluminum Company of America
<b>RD04-0020</b>	<b>August 19 Eugene, OR Public Meeting (listed in speaking order)</b>		

Log No	Commenter	Affiliation Abbreviation	Affiliation
	Jack Speer	Alcoa	Aluminum Company of America
	<b>Katherine Schacht</b>	<b>Emerald</b>	<b>Emerald PUD</b>
	<b>Craig Satein</b>	<b>LCHCS</b>	<b>Lane County Housing and Community Services Agency</b>
	Pat Flaherty	IAMAW	International Association of Machinists and Aerospace Workers
	<b>Roger Ebbage</b>	<b>Ebbage</b>	<b>Ebbage</b>
	<b>Kit Kirkpatrick</b>	<b>IERP</b>	<b>EWEB - Integrated Electric Resource Plan</b>
	Daren Krag	IAMAW	International Association of Machinists and Aerospace Workers
	<b>Joshua Skov</b>	<b>IERP</b>	<b>EWEB - Integrated Electric Resource Plan</b>
	Maeve Sowles	IERP	EWEB - Integrated Electric Resource Plan
	<b>Jim Maloney</b>	<b>Maloney</b>	<b>Maloney</b>
	<b>Dick Helgeson</b>	<b>EWEB</b>	<b>Eugene Water and Electric Board</b>
	Vicki Hanley	IAMAW	International Association of Machinists and Aerospace Workers
	Hugh Diehl	IAMAW	International Association of Machinists and Aerospace Workers
	Steve Weiss	NWEC	NW Energy Coalition
	Rick Crawford	Crawford	Crawford

Written comments			
RD04-0021	Edwina Allen	Allen	Allen
RD04-0022	Gerald Pumphrey	BTC	Bellingham Technical College
<b>RD04-0023</b>	<b>Mark Gendron</b>	<b>Idaho Falls</b>	<b>Idaho Falls Power</b>
RD04-0024	Scott Levy	Levy	Levy
RD04-0025	David Wagner	LDC	LD Consulting, Inc.
<b>RD04-0026</b>	<b>Steve Halpin</b>	<b>KB</b>	<b>KB Alloys</b>
RD04-0027	Barry Hullett	Hullett	Hullett
<b>RD04-0028</b>	<b>August 26 Spokane, WA Public Meeting (listed in speaking order)</b>		
	Jack Speer	Alcoa	Aluminum Company of America
	<b>Julian Powers</b>	<b>Powers</b>	<b>Powers</b>
	<b>Ken Sterner</b>	<b>NCCAC</b>	<b>North Columbia Action Council</b>
	Dave Van Herset	NWES	NW Energy Services
	Vicki Hanley	IAMAW	International Association of Machinists and Aerospace Workers
	<b>Kris Mikkelsen</b>	<b>Inland</b>	<b>Inland Power &amp; Light</b>
	<b>John O'Rourke</b>	<b>CUA</b>	<b>Citizens Utility Alliance</b>
	Rep. Doug Erickson	Erickson	Washington State House of Representatives
	Sen. Dale Brandland	Brandland	Washington State Senate
	Daren Krag	IAMAW	International Association of Machinists and Aerospace Workers

Log No	Commenter	Affiliation Abbreviation	Affiliation
	<b>Cathy Gunderson</b>	<b>USWA</b>	<b>United Steelworkers of America</b>
	<b>Gary McKinney</b>	<b>USWA</b>	<b>United Steelworkers of America</b>
	Gerald Pumphrey	BTC	Bellingham Technical College
	<b>Sen. Neal Beaver</b>	<b>Beaver</b>	<b>Washington State Senate</b>
	Hugh Diehl	IAMAW	International Association of Machinists and Aerospace Workers
	Chase Davis	SC	Sierra Club
	<b>Jeff Schlect</b>	<b>Avista</b>	<b>Avista Corporation</b>
	Ron Johns	SC	Sierra Club
	Mike Rousseau	Alcoa	Aluminum Company of America
<b>RD04-0029</b>	<b>August 31 Boise, ID Public Meeting (listed in speaking order)</b>		
	Sen. Dale Brandland	Brandland	Washington State Senate
	Jack Speer	Alcoa	Aluminum Company of America
	Edwina Allen	Allen	Allen
	Dile Monson	Burley	City of Burley
	Daren Krag	IAMAW	International Association of Machinists and Aerospace Workers
	<b>Tommi Reynolds</b>	<b>Wells</b>	<b>Wells Rural Electric Coop</b>
	Ken Baker	AIC	Association of Idaho Cities
	Pat Flaherty	IAMAW	International Association of Machinists and Aerospace Workers
	<b>Scott Levy</b>	<b>Bluefish</b>	<b>Bluefish</b>
	Hugh Diehl	IAMAW	International Association of Machinists and Aerospace Workers
	Vicki Hanley	IAMAW	International Association of Machinists and Aerospace Workers
	<b>Jeremy Maxand</b>	<b>SRA</b>	<b>Snake River Alliance</b>

Written comments:

RD04-0030	V. Sidney Raines	Raines	Raines
<b>RD04-0031</b>	<b>Kevin Owens</b>	<b>CRPUD</b>	<b>Columbia River PUD</b>
<b>RD04-0032</b>	<b>Stanley Jones, Sr.</b>	<b>Tulalip</b>	<b>Tulalip Tribes of Washington</b>
<b>RD04-0033</b>	<b>J. David Tovey</b>	<b>ATNI</b>	<b>Affiliated Tribes of Northwest Indians</b>
<b>RD04-0034</b>	<b>Randy Cornelius</b>	<b>Orcas</b>	<b>Orcas Power &amp; Light</b>
RD04-0035	Jon Bezona	Bezona	Bezona
RD04-0036	Ron (first name)	Ron	Ron
<b>RD04-0037</b>	<b>Roberta Weller</b>	<b>Ferry County</b>	<b>Ferry County PUD</b>
<b>RD04-0038</b>	<b>Claire Casey</b>	<b>Casey</b>	<b>Casey</b>
<b>RD04-0039</b>	<b>Ron Doan</b>	<b>UIUC</b>	<b>Umpqua Indian Utility Cooperative</b>
RD04-0040	Ron Mann	Mann	Mann
<b>RD04-0041</b>	<b>Wayne Widman</b>	<b>Widman</b>	<b>Widman</b>

<b>Log No</b>	<b>Commenter</b>	<b>Affiliation Abbreviation</b>	<b>Affiliation</b>
RD04-0042	Dwight Langer	NWasco	Northern Wasco PUD
RD04-0042A	Dwight Langer	NWasco	Northern Wasco PUD
RD04-0043	Loren Baker	PRM	Power Resource Managers
RD04-0044	Eldon Ball	Ball	Ball
RD04-0045	Bruce McComas	Port Townsend	Port Townsend Paper Corporation
RD04-0046	Chuck Dawsey	Benton REA	Benton Rural Electric Association
RD04-0047	Dan Seligman	Canby	Canby Utility Board
RD04-0048	Ken Sugden	Flathead	Flathead Electric Coop.
RD04-0049	Tom Brady	Brady	Brady
RD04-0050	Robin Rego	Last Mile	Last Mile Electric Cooperative
RD04-0051	Anne Impero	Impero	Impero
RD04-0052	<b>August 27 Shelton, Washington Meeting</b>		
	Ron Gold	Mason 1	Mason County PUD No 1
	Jack Janda	Mason 1	Mason County PUD No 1
	Dick Wilson	Mason 1	Mason County PUD No 1
	Linda Gott	Mason 3	Mason County PUD No 3
	Bruce Jorgensen	Mason 3	Mason County PUD No 3
	John Whalen	Mason 3	Mason County PUD No 3
	Wyla Wood	Mason 3	Mason County PUD No 3
RD04-0053	<b>September 9 Portland, OR Public Meeting (listed in speaking order)</b>		
	<b>Geoff Carr</b>	<b>NRU</b>	<b>Northwest Requirements Utilities</b>
	<b>Jim Abrahamson</b>	<b>CADO</b>	<b>Community Action Directors of Oregon</b>
	<b>Wayne Hill</b>	<b>EM</b>	<b>Oregon Interfaith Global Warming Campaign-Ecumenical Ministries of Oregon</b>
	Peter Kremen	Whatcom Exec.	Whatcom County Executive's Office
	Gerald Pumphrey	BTC	Bellingham Technical College
	Carol Opatrny	Powerex	Powerex
	<b>Angus Duncan</b>	<b>BEF</b>	<b>Bonneville Environmental Foundation</b>
	Pat Flaherty	IAMAW	International Association of Machinists and Aerospace Workers
	Jack Speer	Alcoa	Aluminum Company of America
	Daren Krag	IAMAW	International Association of Machinists and Aerospace Workers
	Sen. Dale Brandland	Brandland	Washington State Senate
	<b>Hugh Diehl</b>	<b>IAMAW</b>	<b>International Association of Machinists and Aerospace Workers</b>
	<b>Rachel Shimshak</b>	<b>RNW</b>	<b>Renewable Northwest Project</b>
	<b>Sara Patton</b>	<b>NWEC</b>	<b>NW Energy Coalition</b>
	<b>Fred Hewitt</b>	<b>SC</b>	<b>Sierra Club</b>

<b>Log No</b>	<b>Commenter</b>	<b>Affiliation Abbreviation</b>	<b>Affiliation</b>
	Brett Wilcox	GNA	Golden Northwest Aluminum
	Don Bain	Aeropower	Aeropower Services
	Mike Keith	Keith	United Steelworkers of America
	Bob Geary	Geary	United Steelworkers of America
	Vicki Henley	IAMAW	International Association of Machinists and Aerospace Workers
	Mike Rousseau	Alcoa	Aluminum Company of America

Written comments:

<b>RD04-0054</b>	<b>Margaret Noel</b>	<b>LWV</b>	<b>League of Women Voters</b>
RD04-0055	Jake Fey	WSU	Washington State University Extension Energy Program
<b>RD04-0056</b>	<b>Karen Arango</b>	<b>Beacon</b>	<b>Beacon Machine, Inc.</b>
<b>RD04-0057</b>	<b>Bill Fleenor</b>	<b>Central Lincoln</b>	<b>Central Lincoln PUD</b>
RD04-0058	Tom Brady	Brady	Brady
<b>RD04-0059</b>	<b>Mike Kadas</b>	<b>MTPPA</b>	<b>Montana Public Power Authority</b>
RD04-0060	<b>September 3 Helena, MT Meeting</b>		
	Bob Rowe, et al	MT PSC	Montana Public Service Commission

Written comments:

<b>RD04-0061</b>	<b>Ash Awad</b>	<b>McKinstry</b>	<b>McKinstry Co.</b>
<b>RD04-0062</b>	<b>Richard Jackson-Gistelli</b>	<b>Emerald</b>	<b>Emerald PUD</b>
RD04-0063	Ellen Engstedt	Mt Workforce Board	Montana State Workforce Investment Board
<b>RD04-0064</b>	<b>Jasen Bronec</b>	<b>Glacier</b>	<b>Glacier Electric Cooperative</b>
<b>RD04-0065</b>	<b>Jeremy Maxand</b>	<b>SRA</b>	<b>Snake River Alliance</b>
<b>RD04-0066</b>	<b>Ed Hansen</b>	<b>Snohomish</b>	<b>Snohomish County PUD No. 1</b>
<b>RD04-0067</b>	<b>Jack Speer</b>	<b>Alcoa</b>	<b>Aluminum Company of America</b>
<b>RD04-0068</b>	<b>James Sanders</b>	<b>Benton PUD</b>	<b>Benton PUD</b>
<b>RD04-0069</b>	<b>Patrick Judge</b>	<b>MEIC</b>	<b>Montana Environmental Information Center</b>
RD04-0070	Scott Fishkin	Boeing	The Boeing Company
<b>RD04-0071</b>	<b>Alan Zelenka</b>	<b>Emerald</b>	<b>Emerald PUD</b>
<b>RD04-0072</b>	<b>Tony Usibelli</b>	<b>WA Dept Trade</b>	<b>Washington Department. of Commerce, Trade, and Economic Development</b>
<b>RD04-0073</b>	<b>John Saven</b>	<b>NRU</b>	<b>Northwest Requirements Utilities</b>
<b>RD04-0074</b>	<b>Don Andre'</b>	<b>NSEED</b>	<b>NW Sustainable Energy for Economic Development</b>
<b>RD04-0075</b>	<b>Charles Reali</b>	<b>Evergreen</b>	<b>Evergreen Aluminum, LLC</b>
<b>RD04-0076</b>	<b>September 15 Kalispell, MT Public Meeting (listed in speaking order)</b>		
	Karl Skindingsrude	NAPA	NAPA Auto Parts
	Bill Shaw	City of CF	City of Columbia Falls



Log No	Commenter	Affiliation Abbreviation	Affiliation
	Jack Speer	Alcoa	Aluminum Company of America
	<b>Steve Knight</b>	<b>CFAC</b>	<b>Columbia Falls Aluminum Company</b>
	Terry Smith	CFAC	Columbia Falls Aluminum Company
	Myrt Webb	FCA	Flathead County Administrator
	Brian Doyle	CFAC	Columbia Falls Aluminum Company
	Daren Krag	IAMAW	International Association of Machinists and Aerospace Workers
	Dave Toavs	CFAC	Columbia Falls Aluminum Company
	Carol Pike	CFCC	Columbia Falls Area Chamber of Commerce
	<b>Jason Bronec</b>	<b>Glacier</b>	<b>Glacier Electric Cooperative</b>
	Keith Haverfield	CFAC	Columbia Falls Aluminum Company
	<b>Matt Leow</b>	<b>MPIRG</b>	<b>MPIRG</b>
	<b>Patrick Judge</b>	<b>MEIC</b>	<b>Montana Environmental Information Center</b>
	Pat Flaherty	IAMAW	International Association of Machinists and Aerospace Workers
	<b>Rep. Doug Ericksen</b>	<b>Ericksen</b>	<b>Washington State House of Representatives</b>
	<b>Ken Sugden</b>	<b>Flathead</b>	<b>Flathead Electric Coop.</b>
	Hugh Diehl	IAMAW	International Association of Machinists and Aerospace Workers
	<b>William Drummond</b>	<b>WMG&amp;T</b>	<b>Western Montana Electric Generating &amp; Transmission Coop</b>
	Gene Dziza	FB&I	Flathead Business and Industry
	Vicki Henley	IAMAW	International Association of Machinists and Aerospace Workers
	Sen. Jerry O'Neil	O'Neil	Montana State Senate
	Jim Stromberg	CFAC	Columbia Falls Aluminum Company
	Rep. Dee Brown	Brown	Montana State House of Representatives
	Liz Harris	Jobs	Jobs Now, Inc
	<b>Doug Grob</b>	<b>Flathead Board</b>	<b>Flathead Electric Coop., Board of Trustees</b>
	Joe Unterrine	Kalispell CC	Kalispell Chamber of Commerce

Written comments:

<b>RD04-0077</b>	<b>Jeanne &amp; Dan Olson</b>	<b>Olson</b>	<b>Olson</b>
<b>RD04-0078</b>	<b>Paul Allen</b>	<b>Allen</b>	<b>Allen</b>
<b>RD04-0079</b>	<b>Thomas Schmidt</b>	<b>Schmidt</b>	<b>Schmidt</b>
<b>RD04-0080</b>	<b>Chris Herman</b>	<b>WSD</b>	<b>Winter Sun Design</b>
<b>RD04-0081</b>	<b>James Dailey</b>	<b>Dailey</b>	<b>Dailey</b>
<b>RD04-0082</b>	<b>John O'Rourke</b>	<b>CUA</b>	<b>Citizens Utility Alliance</b>
<b>RD04-0083</b>	<b>Marianne Edain</b>	<b>Whidbey</b>	<b>Whidbey Environmental Action Network</b>
<b>RD04-0084</b>	<b>Larry Owens</b>	<b>SW</b>	<b>Solar Washington</b>
<b>RD04-0085</b>	<b>Ralph Cavanagh</b>	<b>NRDC</b>	<b>Natural Resources Defense Council</b>

<b>Log No</b>	<b>Commenter</b>	<b>Affiliation Abbreviation</b>	<b>Affiliation</b>
RD04-0086	David Robison	SEA	Solar Energy Association of Oregon
RD04-0087	Richard Louis	Louis	Louis
RD04-0088	John Smith	Skagit	Housing Authority of Skagit County
RD04-0089	Stonewall Bird	Bird	Bird
RD04-0090	Dorli Rainey	Rainey	Rainey
RD04-0091	Bill Eddie	Advocates	Advocates for the West
RD04-0092	William Drummond	WMG&T	Western Montana Electric Generating & Transmission Coop
RD04-0093	Ken Canon	ICNU	Industrial Customers of Northwest Utilities
RD04-0094	Pete Kremen	Whatcom Exec	Whatcom County Executive's Office
RD04-0095	The comment associated with this log # was not on a Regional Dialogue issue.		
RD04-0096	Steven Stahlberg	CFCC	Columbia Falls Area Chamber of Commerce
RD04-0097	Susan Nicosia	City of CF	City of Columbia Falls
RD04-0098	Rep. Dee Brown	Brown	Montana State House of Representatives
RD04-0099	Howard Gipe	FC	Flathead County Board of Commissioners
RD04-0100	Michael Henry	Lincoln Electric	Lincoln Electric Cooperative, Inc.
RD04-0101	Brett Wilcox	GNA	Golden Northwest Aluminum
RD04-0102	Mikael Grainey, et al	ODOE	Oregon Department of Energy
RD04-0103	Steven Klein	Tacoma	Tacoma Power
RD04-0104	Steven Marshall	Snohomish	Snohomish County PUD No. 1
RD04-0105	Terry Mundorf	WPAG	Western Public Agencies Group
RD04-0106	Robert Schmitt	SUB	Springfield Utility Board
RD04-0107	James Litchfield	PNW IOUs	Pacific Northwest Investor Owned Utilities
RD04-0108	Jean Ryckman	Franklin	Franklin PUD
RD04-0109	C. Clark Leone	PPC	Public Power Council
RD04-0110	Steven Weiss	NWEC	NW Energy Coalition
RD04-0111	Steve Knight	CFAC	Columbia Falls Aluminum Company
RD04-0112	Greg Booth	Clatskanie	Clatskanie PUD
RD04-0113	Jason Eisdorfer	CUB	Citizen's Utility Board of Oregon
RD04-0114	Doug Brawley	PNGC	Pacific Northwest Generating Cooperative
RD04-0115	Jorge Carrasco	Seattle	Seattle City Light
RD04-0116	Liz Frenkel	SC	Sierra Club
RD04-0117	Joe Ebbeson	Ebbeson	Ebbeson
RD04-0118	Terry Manley-Cozzie	Manley-Cozzie	Manley-Cozzie
RD04-0119	Dave Toaus	Toaus	Toaus
RD04-0120	Keith Haverfield	Haverfield	Haverfield
RD04-0121	Brian Doyle	Doyle	Doyle

<b>Log No</b>	<b>Commenter</b>	<b>Affiliation Abbreviation</b>	<b>Affiliation</b>
RD04-0122	N/A	RNW	Renewable Northwest Project
<b>RD04-0123</b>	<b>Jim Abrahamson</b>	<b>CADO</b>	<b>Community Action Directors of Oregon</b>
<b>RD04-0124</b>	<b>Wayne Hill</b>	<b>EM</b>	<b>Oregon Interfaith Global Warming Campaign-Ecumenical Ministries of Oregon</b>
<b>RD04-0125</b>	<b>Wayne Henneck</b>	<b>P&amp;T</b>	<b>Pope &amp; Talbot, Inc.</b>
RD04-0126	Cecil Cole, Jr.	AIT	Applied Industrial Technologies
<b>RD04-0127</b>	<b>Dick Helgeson</b>	<b>EWEB</b>	<b>Eugene Water and Electric Board</b>
<b>RD04-0128</b>	<b>Dennis Robinson</b>	<b>Cowlitz</b>	<b>Cowlitz County PUD</b>
<b>RD04-0129</b>	<b>Sheryl Carter</b>	<b>NRDC</b>	<b>Natural Resources Defense Council</b>
<b>RD04-0130</b>	<b>JD Williams</b>	<b>Umatilla</b>	<b>Confederated Tribes of the Umatilla Indian Reservation</b>
<b>RD04-0131</b>	<b>Jerry Meninick</b>	<b>Yakama</b>	<b>Confederated Tribes and Bands of the Yakama Nation</b>
<b>RD04-0132</b>	<b>David Davidson</b>	<b>Sumas</b>	<b>City of Sumas</b>
<b>RD04-0133</b>	<b>Lee Beyer, et al</b>	<b>PNW SUC</b>	<b>Pacific Northwest State Public Utility Commissioners</b>
RD04-0134	Alfred Nomee	Coeur d'Alene	Coeur d'Alene Tribe
<b>RD04-0135</b>	<b>Rep. Rick Larsen</b>	<b>Larsen</b>	<b>U.S. Congress</b>
<b>RD04-0136</b>	<b>Tom Anderson</b>	<b>Whatcom</b>	<b>Whatcom County PUD No. 1</b>
<b>RD04-0137</b>	<b>Rep. Greg Walden</b>	<b>Walden</b>	<b>U.S. Congress</b>
<b>RD04-0138</b>	<b>Anthony Johnson</b>	<b>Nez Perce</b>	<b>Nez Perce Tribal Executive Committee</b>
<b>RD04-0139</b>	<b>Cathy Gunderson</b>	<b>Gunderson</b>	<b>Gunderson</b>
<b>RD04-0140</b>	<b>Russell Dorran</b>	<b>Hermiston</b>	<b>Hermiston Energy Services</b>
<b>RD04-0141</b>	<b>Robert Crump</b>	<b>Kootenai</b>	<b>Kootenai Electric Cooperative, Inc.</b>
RD04-0142	C. Clark Leone	PPC	Public Power Council
RD04-0143	Kevin Bell	CR	Convergence Research
<b>RD04-0144</b>	<b>Tom Svendsen</b>	<b>Klickitat</b>	<b>Klickitat County PUD No. 1</b>
RD04-0145	Tom Svendsen	Klickitat	Klickitat County PUD No. 1
<b>RD04-0146</b>	<b>Tom Anderson</b>	<b>Whatcom</b>	<b>Whatcom County PUD No. 1</b>
RD04-0147	Joe Nadal, et al	PNGC	Pacific Northwest Generating Cooperative
<b>RD04-0148</b>	<b>Robert Geddes</b>	<b>Pend Oreille</b>	<b>Pend Oreille County PUD</b>
RD04-0149	Robin Rego	Last Mile	Last Mile Electric Cooperative
<b>RD04-0150</b>	<b>Terry Mundorf</b>	<b>WPAG</b>	<b>Western Public Agencies Group</b>
<b>RD04-0151</b>	<b>Jay Himlie</b>	<b>Mason 3</b>	<b>Mason County PUD No. 3</b>
<b>RD04-0152</b>	<b>Steven Klein</b>	<b>Tacoma</b>	<b>Tacoma Power</b>
<b>RD04-0153</b>	<b>Ed Hansen</b>	<b>Snohomish</b>	<b>Snohomish County PUD No. 1</b>
<b>RD04-0154</b>	<b>Janet Jaspers</b>	<b>Chelan</b>	<b>Chelan PUD</b>
<b>RD04-0155</b>	<b>Joe Taffe</b>	<b>Clatskanie</b>	<b>Clatskanie PUD</b>
<b>RD04-0156</b>	<b>Bruce Zimmerman, et al</b>	<b>Umatilla</b>	<b>Confederated Tribes of the Umatilla Indian Reservation</b>

<b>Log No</b>	<b>Commenter</b>	<b>Affiliation Abbreviation</b>	<b>Affiliation</b>
RD04-0157	James Litchfield	PNW IOUs	Pacific Northwest Investor Owned Utilities
RD04-0158	Jeff Nelson	SUB	Springfield Utility Board
RD04-0159	Scott Corwin	PNGC	Pacific Northwest Generating Cooperative
RD04-0160	J. David Tovey	ATNI	Affiliated Tribes of Northwest Indians
RD04-0161	Dan Seligman	Canby	Canby Utility Board
RD04-0162	Richard Lovely	Grays Harbor	Grays Harbor PUD
RD04-0163	Sen. Maria Cantwell Sen. Patti Murray	Cantwell, et al	U.S. Senate U.S. Senate
RD04-0164	Ray Wiseman	Yakama	Confederated Tribes and Bands of the Yakama Nation
RD04-0165	Alec Hansen, et al	MTPPA	Montana Public Power Authority
RD04-0166	Tom Schneider	MPSC	Montana Public Service Commission
RD04-0167	Don Kari, et al	IOU Reps	IOU Representatives
RD04-0168	Jim Dolan	Pacific	Pacific County PUD No. 2
RD04-0169	Jean Ryckman	Franklin	Franklin PUD
RD04-0170	Jack Speer, et al	DSIs & CUB	Direct Service Industries and Citizens Utility Board
RD04-0171	Brett Wilcox, et al	DSIs & USWA	Golden Northwest and United Steel Workers of America
RD04-0172	Rep. Rick Larsen	Larsen	U.S. Congress

## Appendix B

### List of Commenters: 2001 NLSL Comment Period

**NOTE: Log numbers in bold are cited in the body of the ROD.**

Log No.	Commenter	Affiliation Abbreviation	Affiliation
<b>NLSL01-0001</b>	<b>Eric Redman</b>	<b>Golden, et al</b>	<b>Heller Ehrman White &amp; McAuliffe (on behalf of Golden Northwest, Northwest Aluminum Company, and Goldendale Aluminum Company)</b>
NLSL01-0002	Dana Peck	Mid Columbia Econ	Mid-Columbia Economic Development District
<b>NLSL01-0003</b>	<b>Paul Davies</b>	<b>Central Lincoln</b>	<b>Central Lincoln PUD</b>

#### July 10, 2001 Public Meeting Comments

NLSL01-0004	Sarah Thomas	Thomas	Thomas
	<b>Dana Peck</b>	<b>Klickitat</b>	<b>Klickitat County PUD No 1</b>
	<b>Ed LeBrun</b>	<b>LeBrun</b>	<b>United Steelworkers of America 8147</b>
	<b>Gil Hayes</b>	<b>Hayes</b>	<b>United Steelworkers of America 9170</b>
	Mark Sigfrinius	Sigfrinius	Sigfrinius
	<b>Irion Sanger</b>	<b>ICNU</b>	<b>Industrial Customers of Northwest Utilities</b>
	<b>Richard Parker</b>	<b>Longview Fibre</b>	<b>Longview Fibre</b>
	<b>Mark Stauffer</b>	<b>MPC</b>	<b>Montana Power Company</b>
<b>NLSL01-0005</b>	<b>Stu Card</b>	<b>Weyerhaeuser</b>	<b>Weyerhaeuser</b>
NLSL01-0006	Brian Skeahan & Dwight Langger	Klickitat et al	Kickitat County PUD No 1 & Northern Wasco County PUD
<b>NLSL01-0007</b>	<b>David Hartley</b>	<b>Hartley</b>	<b>Hartley</b>
<b>NLSL01-0008</b>	<b>Chuck Madin</b>	<b>Madin</b>	<b>Madin</b>
<b>NLSL01-0009</b>	<b>Bruce McComas</b>	<b>Port Townsend</b>	<b>Port Townsend Paper Corporation</b>
NLSL01-0010	John Summers	Summers	Summers
<b>NLSL01-0011</b>	<b>Charles Dawsey</b>	<b>Benton REA</b>	<b>Benton Rural Electric Association</b>
<b>NLSL01-0012</b>	<b>Alan Zelenka</b>	<b>Emerald</b>	<b>Emerald PUD</b>
<b>NLSL01-0013</b>	<b>Thomas Handy</b>	<b>Handy</b>	<b>Handy</b>
<b>NLSL01-0014</b>	<b>William Drummond</b>	<b>WMG&amp;T</b>	<b>Western Montana Electric Generating &amp; Transmission Coop</b>
<b>NLSL01-0015</b>	<b>James Williams</b>	<b>Trans-Systems</b>	<b>Trans-Systems, Inc</b>
<b>NLSL01-0016</b>	<b>Thomas Handy</b>	<b>Handy</b>	<b>Handy</b>
<b>NLSL01-0017</b>	<b>Tom Anderson</b>	<b>Whatcom</b>	<b>Whatcom County PUD No. 1</b>
<b>NLSL01-0018</b>	<b>Jim Weidert</b>	<b>Weidert</b>	<b>Weidert</b>

Log No.	Commenter	Affiliation Abbreviation	Affiliation
<b>NLSL01-0019</b>	<b>Joe Tally</b>	<b>Tally</b>	<b>Tally</b>
NLSL01-0020	John Scelfo	Spur	Spur Industries Inc.
NLSL01-0021	Daniel Wenstrom	Precision	Precision Machine and Supply, Inc.
<b>NLSL01-0022</b>	<b>Wenstrom</b>	<b>Precision</b>	<b>Precision Machine and Supply, Inc</b>
NLSL01-0023	Steven Eldrige	Umatilla Electric	Umatilla Electric Cooperative
<b>NLSL01-0024</b>	<b>K. David Hagen</b>	<b>Clearwater</b>	<b>Clearwater Power Company</b>
<b>NLSL01-0025</b>	<b>John Saven</b>	<b>NRU</b>	<b>Northwest Requirements Utilities</b>
NLSL01-0026	Rep. Billy Tauzin	Tauzin	Member of Congress
<b>NLSL01-0027</b>	<b>Douglas Brawley</b>	<b>PNGC</b>	<b>Pacific Northwest Generating Cooperative</b>
<b>NLSL01-0028</b>	<b>Frank Espy</b>	<b>Espy</b>	<b>Espy</b>
<b>NLSL01-0029</b>	<b>James Welsh</b>	<b>Garco</b>	<b>Garco Construction</b>
NLSL01-0030	N/A	ORECA	Oregon Rural Electric Cooperative Association
<b>NLSL01-0031</b>	<b>Larry Dow</b>	<b>Dow</b>	<b>Dow</b>
NLSL01-0032	Mike Jostrom	Plum Creek	Plum Creek Timber Co.
NLSL01-0033	James Ewers	Inland Empire	Inland Empire Distribution Systems, Inc.
<b>NLSL01-0034</b>	<b>Jack Speer</b>	<b>Alcoa</b>	<b>Aluminum Company of America</b>
<b>NLSL01-0035</b>	<b>Melinda Davidson</b>	<b>ICNU</b>	<b>Industrial Customers of Northwest Utilities</b>
NLSL01-0036	N/A	Douglas	Douglas PUD
<b>NLSL01-0037</b>	<b>Paul Murphy</b>	<b>Alcoa et al</b>	<b>Aluminum Company of America, Golden Northwest Aluminum Co., and Kaiser Aluminum and Chemical Corp.</b>
NLSL01-0038	Roger Braden	Chelan	Chelan PUD
<b>NLSL01-0039</b>	<b>Ken Morgan</b>	<b>Clallam</b>	<b>Clallam County PUD No. 1</b>
<b>NLSL01-0040</b>	<b>C. Clark Leone</b>	<b>PPC</b>	<b>Public Power Council</b>
<b>NLSL01-0041</b>	<b>Wayne Henneck</b>	<b>P&amp;T</b>	<b>Pope &amp; Talbot, Inc.</b>
<b>NLSL01-0042</b>	<b>Ray Kindley</b>	<b>PGP</b>	<b>Public Generating Pool</b>
<b>NLSL01-0043</b>	<b>Tom Svendsen</b>	<b>Klickitat</b>	<b>Klickitat County PUD No. 1</b>
<b>NLSL01-0044</b>	<b>Mark Wyborney</b>	<b>WPAG</b>	<b>Western Public Agencies Group</b>
<b>NLSL01-0045</b>	<b>Nancy Baker</b>	<b>NWasco</b>	<b>Northern Wasco PUD</b>
NLSL01-0046	Terry Mundorf	WPAG	Western Public Agencies Group
<b>NLSL01-0047</b>	<b>Pamela Jacklin, Marjorie Thomas, Phil Obenchain</b>	<b>PacifiCorp, et al</b>	<b>PacifiCorp, Montana Power, Idaho Power</b>
<b>NLSL01-0048</b>	<b>Jeff Nelson</b>	<b>SUB</b>	<b>Springfield Utility Board</b>
<b>NLSL01-0049</b>	<b>Roy Hemmingway, Roger Hamilton, Joan Smith, John Savage</b>	<b>OPUC/OOE</b>	<b>Oregon Public Utilities Commission &amp; Oregon Office of Energy</b>
<b>NLSL01-0050</b>	<b>Eric Todderud &amp; Eric Redman</b>	<b>Golden, et al</b>	<b>Heller Ehrman White &amp; McAuliffe (on behalf of Golden Northwest, Northwest Aluminum Company, and Goldendale Aluminum Company)</b>

Log No.	Commenter	Affiliation Abbreviation	Affiliation
NLSL01-0051	Lyn Williams	PGE	Portland General Electric
NLSL01-0052	James Wiley	EWEB	Eugene Water and Electric Board
NLSL01-0053	Richard Parker	Longview Fibre	Longview Fibre
NLSL01-0054	Jim Coulson	Coeur d'Alenes	The Coeur d'Alenes Company
NLSL01-0055	Kris Mikkelsen	Inland	Inland Power & Light
NLSL01-0056	Dennis Robinson	Cowlitz	Cowlitz County PUD
NLSL01-0057	Roberta Moody	Moody	Moody
NLSL01-0058	Chris Drury	US Navy	United States Navy
NLSL01-0059	Bruce McComas	McComas	McComas
NLSL01-0060	Rep. Dee Brown	Brown	Montana State House of Representatives

NLSL01-0061: Duplicate of Log #0033

NLSL01-0062	Rich Hadley	Spokane CC	Spokane Chamber of Commerce
NLSL01-0063	Rick Charbonneau	Charbonneau	Charbonneau