

Post 2028 Residential Exchange Program June 27, 2023

9:00 am - Noon

Join the WebEx Meeting

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Meeting Password: WApvNfvk358



Agenda for June 27, 2023

Time	Topic	Presenter(s)
9:00 – 9:10	Introduction	Scott Winner
9:10 – 9:40	PPC's Presentation	Mike Deen
9:40 – 10:25	WPAG's Presentation	Ryan Neale
10:25 – 10:40	<i>BREAK</i>	
10:40 – 11:40	IOUs' Presentation	IOU Reps
11:40 – 11:50	Questions and Feedback	All
11:50 - Noon	Closing Comments and Next Steps	Michael Edwards

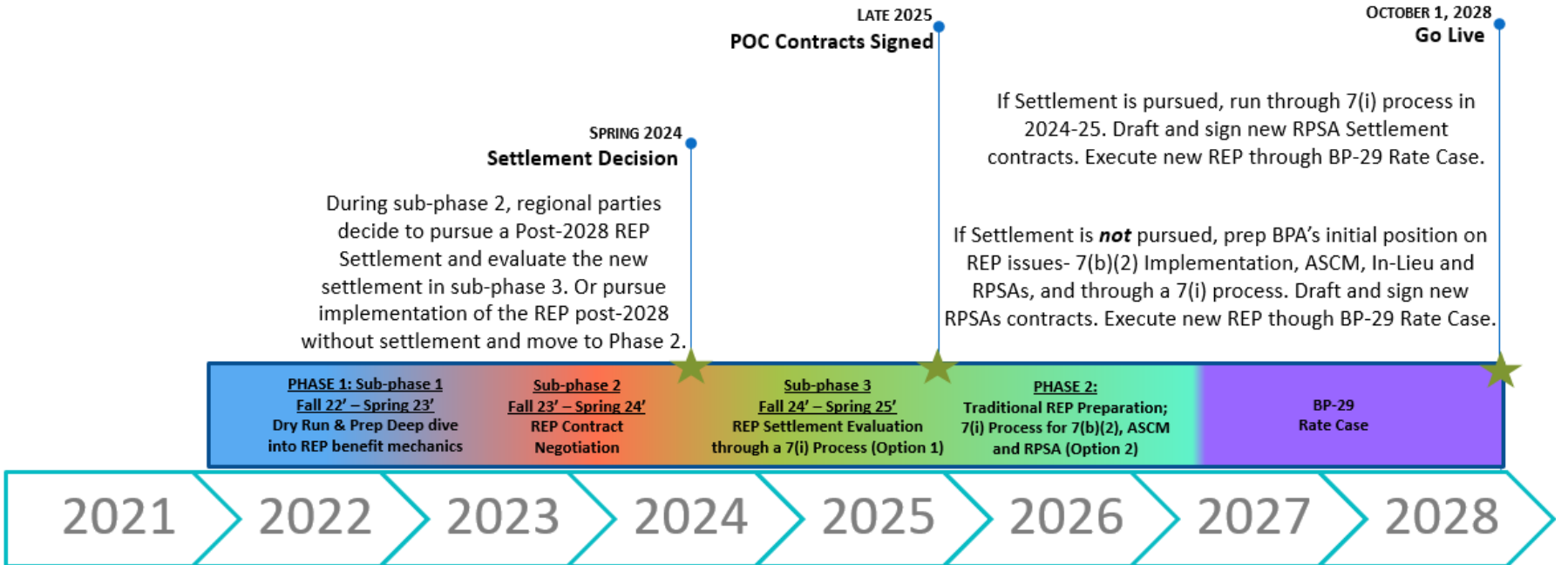




Introduction



Post 2028 Two-Phase Approach Timeline



POC Contract Delivery Readiness
2026 - 2028

Public Process Plan – Two-Phase Approach

- Phase 1 is comprised of three sub-phases designed to support and facilitate regional efforts towards a new REP settlement. If successful, implementation of the REP under new settlement agreements will commence BP-29 (October 1, 2028).
- Sub-phase 2 is framed around supporting discussions between regional partners (IOUs, Publics, PUCs, and other regional stakeholders) towards negotiating a new REP settlement. Sub-phase 2 presumes a shared regional interest on settlement alignment. However, if settlement is not desired we'll shift to move to Phase 2, which will focus on developing a traditional implementation approach for the post 2028 period.

PHASE 1 – SETTLEMENT (2022-2025)

Sub-Phase 1:
REP Dry Run and Preparation
(Fall 2022 – Spring 2023)

Sub-Phase 2:
REP Contract Negotiation
(Fall 2023 –
Spring/Summer 2024)

Sub-Phase 3:
REP Settlement Evaluation
Process and Decision (7i)
(Fall 2024 – Spring 2025)

The settlement phase builds on the foundation established by the 2012 REP Settlement– BPA’s focus and efforts are to facilitate and encourage regional discussions towards a structured settlement of the REP.

PHASE 2 – TRADITIONAL REP PREPARATION PHASE (2026-2029)

If no settlement is reached in 2025, BPA must shift its focus from facilitating and supporting settlement discussions to preparing its positions and policies for the BP-29 rate.

Informational Resources and Contact

- We encourage participants to access educational and background information on REP, which can be found on the [Post-2028 REP](#) external webpage.
 - If parties are seeking additional information not posted here, please email us directly with your inquiry.
- The Post-2028 REP team can be contacted directly via email to: REP2028@bpa.gov.

Sub-phase 2 Workshop Timeline

Month	Planned Dates	Process
June 2023	Tuesday, June 27, 2023 9am – Noon	Customer-led sessions: <ul style="list-style-type: none"> • PPC and WPAG • IOUs
September 2023	Tuesday, September 19, 2023 9am – 3pm	BPA Responses to customer presentations
October 2023	Tuesday, October 17, 2023 9am – 3pm	Sub-phase 2 Kick-off – First Workshop <ul style="list-style-type: none"> • REP Mechanics Recap • Recap of Summer Workshops • Sub-phase 2 Process
November 2023	Tuesday, November 14, 2023 9am – 3pm	Sub-phase 2 – Second workshop
January 2024	Tuesday, January 23, 2024 9am – 3pm	Sub-phase 2 – Third workshop <ul style="list-style-type: none"> • Present REP benefits analysis and scenarios updated with BP-24 inputs

**Workshops dates and may be adjusted as necessary.*



PPC's Presentation

POST
2028
REP





Initial Perspectives on Post-2028 REP Issues

Michael Deen

June 27, 2023

Public Power Council Overview

- Since 1966, PPC has helped consumer-owned NW utilities have a unified voice on key energy issues
- Umbrella trade association for Northwest public power
- Key focus on the FCRPS and the Bonneville Power Administration at the regional and federal levels
- PPC represents more than 100 public power entities across the region— very small to very large
- Affordability and reliability are at our core



Public Power Context

- PPC members are locally governed, non-profit utilities
- Rely on BPA for reliable, economic, and environmentally responsible power supply
- Serving our communities and businesses at cost – including some of the most economically vulnerable communities in the Northwest
- We expect the firm output of the existing federal system to be fully subscribed by public power in the next contract period

Public Power Interest in Post-2028 REP

- REP is a large cost center in Tier 1 rates currently
- Even larger source of uncertainty for post-2028
- Higher wholesale power costs have a direct impact on our communities that are facing many pressures

Adhering to the Northwest Power Act

- PPC's fundamental principle is that the statute must be observed
- The 7(b)(2) rate test is a fundamental component of the Northwest Power Act
- Key implications for settlement or “traditional” implementation of the REP
 - Demonstrate compliance with 7(b)(2), which benefits BPA and customers from legal and financial perspectives
 - Exchanging utilities are not entitled to a particular amount of benefits

Potential Value of Settlement

- Remove large source of rate and legal uncertainty for all parties
 - Consideration will need to be given to absolute fixed amounts versus some level of adaptability to changing circumstances
- Avoid expensive and regionally contentious litigation
- Lower administrative burden for all parties

Durability

- For a settlement to provide value it must be durable, including legally sustainable
- Roadmap for the “Do’s and don’ts” of an REP settlement provided in the *PGE* and *APAC* court decisions
- Settlement must duly consider 7(b)(2), Average System Costs, and eligible loads
- Comes back to adherence to the statute
 - With reasonable latitude for scenarios reflecting future uncertainty

Value Considerations

- FY 2028 Settlement Benefits: \$286.1 million
- BPA Reference Case for FY 2029-2030: \$81.3 million
- Public Power scenario for FY 2029-2030: likely less than \$0
- Given these scenarios, current settlement amounts do not represent a reasonable starting point for serious post-2028 negotiations
- Existing federal resources are likely to be oversubscribed – difficult to envision a settlement involving sale of firm physical power that reduces public power allocation of power at Tier 1 rates or that raises Tier 1 costs

Next Steps

- Generally support BPA's proposed timeline to assess potential settlement along the same timeline as Regional Dialogue Contract development
- Look forward to engaging collaboratively on updated scenario modeling results
 - Appreciate BPA staff's efforts and leadership
- Public Power will be prepared to engage in good faith discussions with BPA, IOUs, regulators, and other stakeholders in the next phase
- Collaborative solutions within the bounds of the statute are desirable if they can be achieved



Initial Perspectives on Post-2028 REP Issues

Questions/Discussion



WPAG's Presentation

POST
2028
REP



Western Public Agencies Group

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WPAG's Perspectives on Post-2028 Residential Exchange Program

June 27, 2023

Presented by:

Ryan Neale
Marsh Mundorf Pratt Sullivan & McKenzie, PSC

Purpose of Today's Presentation

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- **Today's customer led presentations mark a transition from the education/learning phase (Sub-phase 1) of the Post 2028 Residential Exchange Program (REP) process to the negotiation phase (Sub-phase 2)**
- **The twin purposes of this presentation are to share:**
 - First, the six main lessons WPAG learned over the last nine months during Sub-phase 1
 - Second, how WPAG intends to apply those lessons during the negotiation phase (Sub-phase 2)

Lesson #1: The purpose of the REP is to address retail rate disparity, subject to limits

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- The REP is a program designed by Congress more than 40 years ago to address a specific issue and to do so in a specific way
- The issue addressed was the differential in retail rates between residential and small farm customers of the IOUs and preference customers
- While *retail* rate disparity was the underlying issue, Congress chose to address the issue as a wholesale power cost matter
- The REP was not intended to eliminate all retail rate disparity, but to provide IOU residential and small farm customers the benefits of wholesale power costs replicating BPA's preference customer power rates, subject to certain statutory limits

Lesson #2: The purpose of the 7(b)(2) Rate Test is to protect BPA and preference customers

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- **The Rate Test is the mechanism established by Congress to provide financial protection to both BPA and preference customers from the cost of the REP**
 - Intent of the Rate Test is to assure that, notwithstanding the REP, the financial benefits of preference continue to accrue to BPA's preference customers
 - This in turn protects BPA by ensuring that the REP does not put it at an unfair and unintended competitive disadvantage
- **Primary reason Publics agreed to REP was assurance that the Rate Test would protect BPA Public rate from REP costs**
- **Under the Rate Test, preference customers pay REP costs in their rates but only so long as the benefits to them from the Northwest Power Act equal or exceed the cost of the REP**
- **REP benefits are the safety valve, and subject to reduction in the event the costs of the REP to preference customers exceed the benefits they receive under the Northwest Power Act**

Lesson #3: REP benefits are a subsidy when conditions warrant, not an entitlement

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- **The fundamental organizing principle in the statute is that the REP benefits are to give way to protect the financial interests of BPA and its preference customers**
- **REP is not a guarantee of money forever nor in any particular amount**
- **Rather, it's a mechanism to address a specific problem that could deliver varying amounts of money (or none at all) as circumstances warrant over time**
 - Congress clearly intended that REP benefits might fall short of equivalence between residential and small farm customers of the IOUs and publics
 - If Congress intended exact equivalence forever and always then there would be no Rate Test
 - Congress also understood that REP benefits could be reduced or even eliminated in their entirety over time due to changing circumstances
- **Accordingly, REP benefits are a subsidy that can trigger when conditions warrant, they are not an entitlement**

Lesson #4: REP benefits can and do vary based on methodologies and changed circumstances

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- **The Rate Test is affected by the methodological choices BPA makes when implementing the five assumptions, which can change the level of REP benefits**
- **The Rate Test is also affected by changes in circumstances that can result in the increase, decrease, or elimination of REP benefits as conditions change**

Scenario (\$ millions)	FY 2012-13	FY 2022-23	FY 2029-30	FY 2023 Amount Under REP Settlement	FY 2028 Amount Under REP Settlement
Reference Case – Original (2/21/23 Workshop)	\$296.3	\$31.8	\$81.3	\$259	\$286.1
Reference Case – Revised Resource Stack (3/21/23 Workshop)	NA	(\$17.0)	\$18.6	\$259	\$286.1

Lesson #5: Fixed payments under a settlement can differ significantly from the benefits/costs required under the Rate Test

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- **The fixed payments under the 2012 REP Settlement currently exceed the benefits that would have accrued under the statute absent settlement**
- **This is because, unlike REP benefits/costs under the statute, payments under the 2012 Settlement do not change even with extreme changes in circumstances, for example:**
 - The fixed payment under the REP Settlement for FY 2023 = \$259 million
 - BPA's most recent analysis shows that REP payments under BPA's 2008 Implementation Methodology would = (\$17 million) in FY 2023
- **The staggering difference between the fixed annual payment amounts under the 2012 REP Settlement and what would be allowed under the Rate Test is projected to continue through 2028:**
 - The fixed payment under the REP Settlement for FY 2028 = \$286 million
 - BPA's most recent analysis shows that REP payments under BPA's 2008 Implementation Methodology would = \$18.6 million in FY 2028
- **Yes, fixed annual payments based on forecasts will be wrong 100% of the time, but it is an enormous problem when they are off by this much for so long**
 - This is impacting preference customers today
 - Next time it could be the IOUs

Lesson #6: Preference Customers would have fared better under BPA's 2008 Implementation Methodology than under the fixed payments of the 2012 REP Settlement

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- **Prior to the 2012 REP Settlement, the Publics and IOUs each had their own host of arguments challenging BPA's 2008 REP Implementation Methodology and Legal Interpretation**
- **These arguments are reflected in the 29 scenarios that BPA conducted as part of Sub-phase 1**
- **None of these issues have been resolved by the 9th Circuit, but will need to be addressed absent settlement and, potentially, even in the event of settlement depending on the shape and scope of the proposed settlement**
- **However, if settlement is not achieved and litigation becomes necessary, BPA's preference customers would still be better off than they are today if BPA were to prevail on all issues (i.e., if the 9th Circuit upheld BPA's 2008 Implementation Methodology)**
- **This is a factor that WPAG and other publics must weigh heavily in their evaluation of any potential settlement versus other alternatives**

WPAG's Approach to Negotiations

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- **To be acceptable and durable any potential settlement must track the statute**
 - Must duly consider the Rate Test, Average System Costs, and statutory eligible loads
 - Must do a much better job of reflecting how under the Rate Test changes in circumstances over time can significantly change REP benefits/costs
 - Must protect BPA and its preference customers as intended by the Rate Test and to ensure that any settlement does not put BPA at an unfair and unintended competitive disadvantage
- **No interest in another settlement that obligates preference customers to pay \$200+ million more per year for many years than they would be required to pay under the statute**
- **A Post 2028 REP Settlement proposal that simply escalates upward from the current settlement fixed amount for FY 2028 of \$286 million is dead on arrival**

WPAG's Approach to Negotiations Cont'd

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- **WPAG's starting point for resolving REP disputes is to ask, "What does the statute say?"**
- **If the words are clear, that should end the discussion**
- **If the words are open to interpretation, the next question is what did Congress intend by the words**
 - Legislative history and contemporaneous interpretation are there to help us
- **Our (BPA, COU, and IOU) collective success will come as faithful servants of the statute**
- **While the Administrator has discretion in implementing the REP, this does not untether him from the plain words of the statute and Congressional intent**
 - The discretion of the Administrator must be exercised within the confines of the statutory program
- **Administrator's discretion is a two-edged sword, which may allow BPA to do something it wants to do now but which it may be stuck with when changes in circumstances threaten BPA's financial condition and business interests**

Conclusion

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- **Thank you for the opportunity to present today and to BPA staff for their work on this important issue**
- **Looking forward to the beginning of Sub-phase 2 later this year**
- **Prepared to engage in good faith in the next phase to determine whether there is alignment on potentially seeking settlement and, if so, in any resulting negotiation**



IOUs' Presentation

POST
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June 27, 2023 IOU REP Presentation

Each IOU reserves the right to argue any position, including any additional positions, in a future REP proceeding or settlement discussion.



Guiding Principles



Guiding Principles

- A fundamental purpose of the NWPA is allow the residential and small farm consumers served by the region's IOUs to share in the economic benefits of lower cost Federal resources marketed by BPA. (See Senate Report 96-272, page 14, regarding Senate bill 885: a Purpose and major element—To extend the benefits of Federal Columbia River Power System to the residential and farming consumers of investor-owned utilities.)
 - These benefits include the value of carbon intensity and other environmental attributes of Federal resources.

Guiding Principles

- The NWPA Residential Exchange provides for an actual exchange of power through a purchase and sale. (See NWPA 5(c))
- Specifically, NWPA 5(c)(1) provides that –
 - Whenever a Pacific Northwest electric utility offers to sell electric power to the Administrator at the average system cost of that utility's resources in each year, the Administrator shall acquire by purchase such power and shall offer, in exchange, to sell an equivalent amount of electric power to such utility for resale to that utility's residential users within the region.
- Similarly, NWPA 5(b)(1) provides, in relevant part, that –
 - Whenever requested, the Administrator shall offer to sell to each requesting public body and cooperative entitled to preference and priority under the Bonneville Project Act ... electric power to meet ... firm power load ...

Guiding Principles

- BPA sales of power under NWPA 5(c)(1) are system sales of Federal power
 - BPA’s “Whitepaper For ‘Provider Of Choice’ Contract Discussions: Why BPA Is Required To Sell From A Pooled System Of Resources” (located at <https://legacy.bpa.gov/providerofchoice/Documents/BPA%20Whitepaper%20on%20System%20Sales.pdf>) explains that BPA is required to sell power as “system sales”
 - A system sale is a sale to a customer, usually wholesale, from the seller’s system as a whole, without identifying a specific resource as being the creator of the power being sold (Whitepaper at page 1)

Guiding Principles

- BPA sales of power under NWPA 5(c)(1) are system sales of Federal power (cont.)
 - BPA system sales of Federal power under NWPA 5(c)(1) — like those to preference agencies under NWPA section 5(b)(1) to meet their general requirements — include the carbon intensity and other environmental attributes of such power
 - The rates for BPA sales under NWPA 5(c)(1) and BPA sales to preference agencies under NWPA 5(b)(1) are based on the cost of Federal system power (*see* Whitepaper at pages 5-6; *see also* NWPA 7(b)(1)), and such sales share in the environmental attributes of such power.
 - More fundamentally, environmental attributes associated with Federal power from carbon-free generation are an inherent characteristic of that power and are as such included in the sale of that power

Guiding Principles

- Prior to the 2012 REP Settlement, the REP was generally implemented (through settlement or not) as financial payments to utilities
- The 2012 REP Settlement provided for financial payments to IOUs and the transfer of certain environmental attributes (or their value) to IOUs

Guiding Principles

- Under the REP implemented as provided by the NWPA, (i) power equal to the loads of the IOU residential and small farm consumers is to be sold by IOUs to BPA (unless BPA acquires in lieu power as provided in NWPA 5(c)(5)), and (ii) an equal amount of Federal system power is to be sold by BPA to IOUs.
 - NWPA contemplates that residential and small farm consumers share – through an exchange of power – in the benefits of the Federal Columbia River Power System
 - Carbon intensity and other environmental attributes in BPA’s Federal power are a considerable benefit of the FCRPS
 - The carbon intensity and other environmental attributes of Federal power must be reflected in REP benefits received from BPA



REP Scenarios



REP Scenarios

- BPA should develop additional scenarios consistent with the points discussed in the following slides.
 - Scenarios developed to date do not consider the value of carbon intensity and other environmental attributes of BPA power to be provided under the Residential Exchange; scenarios to address this should be developed.

REP Scenarios

- Resource Stack
 - In general, pricing of resources in the resource stack must be examined, justified, and revised as appropriate.
 - Resources in the resource stack
 - can include certain “electric power, including the actual or planned electric power capability of generating facilities”, that is “owned or purchased by public bodies or cooperatives [preference customers]” (NWPA 3(19)(A));
 - cannot include as “resources owned or purchased by [preference customers]” any electric power including the actual or planned electric power capability of generating facilities that the preference customers have sold to other than preference customers and that therefore is not owned or purchased by preference customers;
 - cannot include resources dedicated to regional load of IOUs or preference customers (See NWPA 7(b)(2)(D)(ii));
 - Example: Output from Mid-Columbia dams
 - Output from Mid-Columbia dams sold to non-preference purchasers must be excluded from the resource stack (such output is not a resource “owned or purchased by public bodies or cooperatives”)
 - In any event, Mid-C output dedicated to regional load must be excluded from the resource stack (See NWPA 7(b)(2)(D)(ii))
 - Any Mid-C output included in the resource stack should be priced at market

REP Scenarios

- Treatment of conservation in the 7(b)(2) test
 - Costs of conservation to reduce preference agency general requirements must be removed from Program Case costs and added to (included in) 7(b)(2) case costs (*See NWPA 7(b)(2)*)
 - Even if BPA were to include PF Preference customer conservation load reduction in the resource stack (which it should not), all BPA funded conservation costs should be added to (included in) 7(b)(2) case costs
 - 7(b)(2) loads should not be increased by conservation load reduction
 - Costs of conservation should be expensed in the first year
 - BPA should not include PF Preference customer conservation load reduction in the resource stack

REP Scenarios

- In the 7(b)(2) test, the costs of uncontrollable events must be removed from Program Case costs and added to (included in) 7(b)(2) case costs
 - Examples: PNRR; reserves available for risk; and WNP 1 & 3.
- In the 7(b)(2) test, reserve benefits as a result of the Administrator's actions under the NWPA (such as BPA surplus sales made at a NWPA 7(f) rate) are assumed not to be achieved in the 7(b)(2) case (*See NWPA 7(b)(2)(E)*)
 - Because reserve benefits of surplus sales are assumed not to be achieved in 7(b)(2) case, 7(b)(2) case costs are not offset by the revenues from such sales, and 7(b)(2) case costs are accordingly increased

REP Scenarios

- In the 7(b)(2) test, the stream of annual rates calculated in the Program and 7(b)(2) Cases should be discounted to the beginning of the rate test period before averaging the rate streams.
 - The purpose of the statutory directive to include the ensuing four years beyond the rate period in the 7(b)(2) test is to ensure that the rate period 7(b)(2) rate test trigger in one rate case is similar to the rate test triggers in later rate cases, all else being equal, by discounting rate period anomalies through the inclusion of more normalized forecast years (See REP-12-FS-BPA-01 (2012 REP Settlement Evaluation and Analysis Study), at page 140)
 - Since the early 1980s, BPA has used the concept of the time value of money to support its practice of using its borrowing rate as a discount rate when calculating the 7(b)(2) rate test trigger. (See REP-12-FS-BPA-01 (2012 REP Settlement Evaluation and Analysis Study at pages 139-41)
 - The discount rate used should continue to be the forecast long-term interest rate on Federal debt

REP Scenarios

- NWPA 7(b)(3) allocation of 7(b)(2) rate protection to all loads (other than preference customer general requirements), including surplus sales
 - NWPA 7(b)(3) includes the following: “Any amounts not charged to public body, cooperative, and Federal agency consumers by reason of paragraph (2) of this subsection shall be recovered through supplemental rate charges for all other power sold by the Administrator to all customers.”
 - NWPA legislative history includes the following: “The balance of the revenues not recovered due to the rate limit adjustment is then spread to rates for all other BPA power [i.e., other than power to meet preference customer general requirements] sold, including nonfirm.” (96th Congress Senate Report 1st Session No. 96-272 at page 59.)



ASC Revision Issues



ASC Revision Issues

- ASC must include costs of meeting carbon intensity and other environmental attributes requirements
 - Carbon legislation and state goals will impact IOUs
 - Significant rate pressure for IOU consumers; significant ASC pressure for IOUs

ASC Revision Issues

- Treatment of transmission – costs should be included in ASCs
 - NWPA calls for an exchange of power, through a purchase and sale, which should include transmission for delivery of the power purchased and sold.
 - COU consumers benefit from the Federal generation & transmission system
 - IOU consumers should be able to share in that benefit by including transmission costs in ASCs

ASC Revision Issues

- Major resource additions and removals
 - If no settlement, revert to 2008 ASCM treatment of addition and removal of major resources — allowed when resource goes into service or is removed from service.
 - This requires updates to ASCs (and REP benefits) when resources are added or removed
 - If settlement, continue current settlement treatment of addition and removal of major resources — addition or removal limited to prior to each rate period

Thank You!

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