



Northwest & Intermountain Power Producers Coalition

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By email to: mlmanary@bpa.gov; techforum@bpa.gov; ardeclerck@bpa.gov

Re: Oversupply Management Protocol and Real Power Loss Returns

Dear Michelle:

The Northwest and Intermountain Power Producers Coalition (NIPPC) offers the following comments on BPA's policies related to waiving real power loss return obligations during oversupply conditions.

Mandatory waivers force customers to incur costs above their obligation to return losses

During the meeting on August 22, BPA staff repeatedly asserted that real power loss returns were an obligation customers owed to BPA; and that BPA could unilaterally waive those obligations. This position is inconsistent with contract law principles and the extensive record related to BPA's Environmental Redispatch Program and Oversupply Management Protocol (OMP).

NIPPC concedes that BPA could be correct that it in many instances it can unilaterally waive payment of a debt or performance of an obligation by a customer. In those cases, BPA's waiver of an obligation would benefit the customer. But when BPA unilaterally waives customers' loss return obligations to mitigate OMP, BPA should know that its waiver requires customers' to incur additional costs above their obligation to BPA. BPA only triggers OMP when prices are negative — if prices were zero or positive, BPA would sell its surplus generation at that price. So when BPA "waives" customers' loss returns, it is forcing customers to re-sell that generation into a negative market or incur penalties for over-delivery of generation. BPA's unilateral waivers are not appropriate when they require customers to bear additional costs above the cost of performance of their obligation.

Waivers of loss returns were supposed to be voluntary

BPA's current position on its ability to unilaterally waive real power loss returns is also inconsistent with the record of OMP. Section 1.b of Attachment P indicates that BPA will "waiv[e] real power loss return obligations" prior to initiating displacement of wind generation under OMP. BPA staff has expressed uncertainty whether those waivers were limited to customers who volunteered. The record, however, clearly demonstrates that BPA's ability to

waive loss returns is limited to customers who volunteer. As the Administrator summarized the regional discussion on mechanisms to avoid OMP:

The second provision, requesting agreements to mutually agreeable transactions, is captured by 2.a (sales through bilateral marketing) and 2.b (waiving real power loss return obligations). Bonneville is always seeking other ways to moderate TDG levels through mutual agreements without using the Oversupply Management Protocol, and those are two examples of mutual agreements that Bonneville has utilized.¹

In 2013, the Administrator clearly believed that BPA would only waive real power loss returns when mutually agreed with the customer. BPA staff should not have abandoned this regional understanding.

The information provided by BPA at the meeting on August 22 shows (at page 7) that in 2011 and 2012, BPA did not implement mandatory loss waivers (probably because BPA staff at the time knew waivers of loss returns were supposed to be voluntary). But by implementing mandatory waivers in 2017, BPA was able to avoid over 42,000 MWh of OMP displacement. BPA allocates OMP costs to those generators located within BPA's balancing area which are generating during an OMP event. By issuing mandatory waivers of real power loss returns, BPA was able to reduce substantially the costs borne by customers exposed to OMP charges. But much of those savings came at the expense of other transmission customers who would not normally have been exposed to OMP costs. By implementing mandatory waivers of real power loss returns, BPA forced all customers with transmission schedules on BPA to sell - at the last minute - significant quantities of generation into a negative priced market (as noted above, BPA only triggers OMP when prices are negative).

In his Record of Decision in the OS-14 Oversupply Rate Proceeding dated March 27, 2014, the Administrator considered four alternatives for allocation of OMP costs - two of which are relevant here. The alternative which was adopted allocated oversupply costs to generators within BPA's balancing area that were operating during oversupply event hours. One of the rejected alternatives would have allocated oversupply costs to all customers with scheduled use of BPA's transmission system during oversupply event hours; this "transmission schedule" alternative was in fact BPA staff's supplemental proposal. The Administrator rejected the "transmission schedule" alternative as inconsistent with cost causation principles because it assigned costs to generation outside BPA's balancing area. The Administrator noted that BPA did not have operational control over generation outside BPA's balancing area and was not responsible for displacing those resources. Therefore, generators outside BPA's balancing area did not contribute to oversupply and should not be allocated any OMP costs.

Intentionally or not, BPA's implementation of mandatory loss return waivers represents an end run around the Administrator's decision in OS-14. Transmission customers who schedule their loss return obligations to BPA only to have them "waived" at the last minute may not receive a direct allocation of OMP costs, but they do share the pain of OMP indirectly when they are forced to sell surplus generation at negative prices (because again, OMP is only triggered when market prices are negative) or incur penalties for over-delivery. The Administrator rejected allocating OMP costs based on transmission schedules during an oversupply event. Because

¹ *Iberdrola Renewables, Inc., et al. v. Bonneville Power Admin.*, Docket No. EL11-44-002 Bonneville Power Administration's Request for Approval of Revised Oversupply Management Protocol Exhibit B "BPA's response to comment on Attachment P redline" Issued March 1, 2013 at p. 6. ("BPA Request for Approval of OMP")

loss return schedules are based on transmission schedules 168 hours prior to the oversupply event there is even less direct cost causation than in the alternative the Administrator rejected.

Mandatory waiver of loss return schedules is only effective to reduce OMP costs when the schedule is from a generator outside of BPA's balancing area. If the generator supplying loss return schedules is within BPA's balancing area it is already subject to OMP displacement and cost allocation. BPA only gets OMP relief when the loss return schedule originates from a generator outside of BPA's balancing area (curtailing an import during an oversupply event is as effective as finding additional load). The Administrator noted that BPA does not have operational control or responsibility for generation outside of its balancing area. BPA should not use mandatory loss waivers to do indirectly what it has no authority to do directly.

If BPA continues to assert its ability to issue mandatory waivers of loss return obligations, it may find that it has inadvertently expanded its environmental compliance obligation. As BPA has stated repeatedly:

During certain spring and summer high water conditions, the reservoirs behind the Federal dams on the Columbia River reach their capacity. Bonneville must dispose of excess water either by generating electricity or by spilling water over the dams. The preferred course is to generate electricity. Excessive spill creates gas bubbles in the water that endanger salmon and other aquatic species, some of which are listed as threatened or endangered under the Endangered Species Act. If Bonneville has insufficient load to consume the electricity, however, it must spill.

To protect aquatic species, the states of Oregon and Washington have established spill limitations under the Clean Water Act. In order to adhere to these limitations and avoid harm to aquatic species, at times of high water Bonneville must secure additional load so that it can generate electricity with the excess water and avoid spill. Under its Environmental Redispatch and Negative Pricing Policy ("ER Policy"), Bonneville secured additional load by displacing nonfederal generation in Bonneville's balancing authority area with free federal hydroelectric generation after taking other reasonable actions to reduce water flow.²

BPA argued in defense of its Environmental Redispatch Program that it had no responsibility or ability to displace generation outside of its balancing area.

The limitation to generation in the balancing authority area is based on Staff's understanding that BPA's obligation to take action to mitigate harm to fish and wildlife extends only to resources over which BPA has operational control as the balancing authority; that is, generation in the balancing authority area.³

As noted above, however, mandatory waivers of real power loss returns do effectively displace generation outside of BPA's balancing area. So the question becomes, does BPA's ability to issue mandatory waivers of loss return obligations exist only when OMP is implemented or does BPA have an affirmative obligation to act (through mandatory waivers of real power loss returns) when limits on TDG levels are exceeded even when wind generation is not a factor? Fish

² BPA Request for Approval of OMP at 1-2

³ Administrator's Record of Decision, OS-14 Oversupply Rate Proceeding, March 27, 2014 at p. 18

advocates may argue that BPA should act to mitigate TDG levels by waiving losses even when wind generation levels are at 0MWh.

Mandatory waivers must be triggered early enough to avoid further harm to customers

If BPA does decide to reconsider its earlier determination that it would seek only “mutually agreeable” waivers of real power loss returns, then it must do so in a way that limits the harm to customers. As currently implemented, BPA advises customers of its loss return obligation the day before pre-schedule through the Customer Data Entry system (CDE). As customers begin trading to cover their loss return obligation, customers will be able enter into a transaction with a low cost hydro resource willing to cover their obligation — especially in conditions when OMP is likely to be triggered. When BPA later triggers “mandatory waivers” in Real-Time, customers are suddenly forced to compete with each other to unwind a transaction or find a new buyer for that energy when prices are already negative. And because BPA has triggered a mandatory waiver for all of its customers with a real power loss return obligation, the sudden surplus generation being dumped into the market puts even further downward pressure on prices. BPA’s waiver, rather than being a relief for customers, has the result of forcing them to incur additional costs above their loss return obligation.

The only way BPA can avoid forcing customers to incur additional costs as a result of a mandatory waiver is if it notifies customers prior to the start of trading for the pre-schedule day. Accordingly, BPA should commit to zeroing out customers’ loss return obligations in CDE prior to 3:00 p.m. of the day before pre-schedule. This timeline may result in BPA occasionally misjudging the market conditions. BPA will have to accept that risk. Fortunately for BPA, the risk is likely to have minimal financial consequences. In cases where BPA excused customers from their loss return obligation unnecessarily, prices are still likely to be close to zero. And if BPA fails to trigger mandatory waivers, it can still seek voluntary waivers after the deadline and ultimately fall back on OMP.

Changed circumstances justify revisiting OMP and the Negative Price Policy

Conditions have changed since Environmental Redispatch and OMP were originally conceived. Throughout the course of the Environmental Redispatch and Oversupply Management Protocol litigation, BPA consistently blamed the need for both programs solely on wind generation — specifically that the Production Tax Credits and Renewable Energy Certificates that wind generators received gave those generators the incentive to continue to produce energy even when prices were negative. As BPA staff noted in their presentation on August 22, many other factors are now contributing to BPA’s seasonal oversupply problem. These additional factors include extremely high river flows in the North West and California, the installation of 9000 MW of solar generation in California since 2012, and maintenance outages on the AC Intertie.

At the time of the OS-14 Record of Decision, the Administrator indicated that BPA had over 4500 MW of wind generation connected to its balancing area. By the end of 2017, however, wind projects controlled by Puget Sound Energy, Portland General Electric and Avangrid will have withdrawn from BPA’s balancing area. In 2018, PBA forecasts that it will have only approximately 2500 MW of wind in its balancing area.⁴ Over the next several years, much of the remaining wind fleet connected to BPA will no longer qualify for Production Tax Credits.

⁴ BPA Presentation for Generation Inputs Workshop on May 24, 2016.

As the quantity of wind connected to BPA's system declines, Production Tax Credits expire and other forces — California solar being the most significant — play a greater role in causing oversupply conditions, BPA should revisit both its Negative Pricing Policy and cost allocation under the Oversupply Management Protocol. The original justification for BPA's Negative Pricing Policy was the unprecedented growth in the capacity of wind generation connected to BPA's balancing area and the various incentives that allowed wind to economically generate into a negative priced market. In 2018, the quantity of wind generation on BPA's system will be a fraction of its current level. But California is expected to add another 13GW of solar over the next five years.⁵ Over time, these other larger market forces happening outside of BPA's balancing area are likely to replace wind generation on BPA's system as the primary driver of oversupply events in the North West.

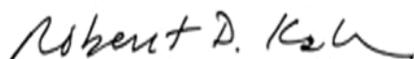
In the OS-14 rate case, BPA staff testified that factors contributing to oversupply costs include weather, load, wind generation, BPA's environmental obligations, and incentives to wind generation.⁶ Now that staff has identified an additional significant factor contributing to oversupply - California solar generation; and as wind represents a comparatively smaller role in causing oversupply events, BPA should consider revisiting its cost allocation methodology for oversupply events. And for the same reasons, BPA should consider revisiting its policy on negative prices.

Financial Settlement of Losses

BPA has suggested that customers could avoid issues with mandatory loss return waivers by electing financial settlement of their losses. BPA currently settles losses in all hours at a 15% premium to the monthly average of daily Firm On Peak prices reported in the ICE Mid-C index. This On-Peak price formula applies even to losses associated with off-peak schedules. If BPA truly seeks to provide customer with a realistic incentive to elect financial settlement it must modify the price it charges for financial settlement. NIPPC suggests that BPA change the price for financial settlement of losses to the price reported in the Powerdex Hourly Mid-C index for the hour of the schedule.

Even if BPA refuses to revisit its negative pricing policy generally, BPA should reconsider its policy on negative prices in this specific context. BPA's arguments underlying its negative pricing policy — that other market participants, knowing that BPA will have must run hydro generation to meet its environmental obligations, could refuse to transact at low prices and wait until prices go negative — will not apply to financial settlement of losses at negative prices. Neither BPA nor the customer will know prior to any given hour what the index price will be — so customers have no ability to take advantage of BPA. If BPA chooses an index price at which to settle loss returns, there is no justification for setting an artificial floor on the price. If the index for an hour reflects a negative price, BPA sustained the benefit in that hour and should return that benefit to customers through the financial settlement mechanism.

Thank you



Robert Kahn

⁵ <http://www.seia.org/state-solar-policy/california>

⁶ Metcalf et al., OS-14-E-BPA-03, at 6-7