



October 17, 2002

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Re: Citizens' Utility Board of Oregon's Comments on BPA's Post-2006 Power Sales Contracts.

The Citizens' Utility Board of Oregon appreciates the opportunity to comment on these matters, which could determine regional policy for the next 20 years.

The Joint Proposal of the Northwest Utilities

We are quick to recognize that the agreement between the investor-owned and the publicly-owned utilities on matters of great importance is a rare and welcome occurrence. We also recognize, however, that the utilities may have institutional interests that vary from those of their customers. It is as customers of your investor-owned customers in Oregon that we write comments explaining our positions and how they may differ from the utilities.

A. We begin with the IOU Financial Benefits. We have advocated that residential and small farm customers of the IOUs should have true parity with residential and small farm customers of publicly owned utilities. We have advocated that IOU residential customers should have access to BPA power rather than financial benefits. The financial benefits, either through the Residential Exchange or through recent settlements of the exchange, treat the IOU residential customer as a cost to the system and thus as a second-class citizen. Worse, these financial benefits are at the mercy and whim of BPA itself, either through manipulation of the 7(b)(2) test inputs or through negotiating leverage.

The exchange benefits package contained in the Joint Proposal, except for an initial power offering to PGE, is wholly financial. This continues the perception that IOU residential customers are a cost to the system. We can live with this stigma as long as the terms of the benefits package satisfies a number of criteria. First, the benefits have to be large enough to represent a fair distribution of the benefits of the Federal Columbia River system. Second, the formula for determining the size of the benefits must be immutable over the 20-year period, and not subject to manipulation: no 7(b)(2) test, no unilateral renegotiation of the terms. Third, as discussed further below, the benefits must be healthy enough to compensate for the loss of historic rights of IOU customers to form publicly-owned utilities and access preference power.

We have examined the Joint Proposal's treatment of the IOU financial benefits. Section VI of the Joint Proposal. The determination of the size of the IOU residential benefits is based on the difference between the Net Slice Costs and the cost of a natural gas turbine plus the cost of gas. We find the formula to be a reasonable approach. The approach creates some equality with preference customers of BPA who are otherwise avoiding building a gas turbine. However, where preference customers are protected by soaring market costs of energy such as we saw in 2001, this mechanism will not give the same level of protection to IOU residential customers. We scoff at those who have opined that the IOU financial benefits package in the Joint Proposal is too rich. It is a modest but reasonable proposal as long as the terms are immutable and the benefits are not allowed to degrade over time at BPA's or any other customer's whim.

B. We find that Joint Proposal's treatment of Service to New Public Agencies is a dramatic departure from historic precedent. III.D. In this proposal, only 75 aMW of preference-priced power is available to a new public agency placing load on BPA. After the 75 aMW are exhausted the remaining load of the new public agency and all other new public agencies are served at cost, i.e. market. This preclusion from preference for new publics lasts until 2026! The residential exchange IOU financial benefits get transferred to a new public when it forms, but the ultimate value of that package compared to the value of preference is unclear at this point. As much as any of the substantial changes to regional policy that the Joint Proposal offers, this radical change in regional policy deserves substantial debate.

The historic right of customers to break away from investor-owned utilities and place load on BPA at preference rates serves two important policy goals. First, it allows the public some level of self-determination with regard to electricity policy. Second, the threat of customers leaving the system has served as an important check on investor-owned utilities and has served to keep IOU rates down, a benefit to both the customer and the region.

We think this prohibition on new publics' access to preference power is a mistake. It flies in the face of the philosophy of public power, it limits choices for customers and it eliminates a mechanism that puts downward pressure on individual and regional costs. Also, for all intents and purposes, it arbitrarily locks in the current public/IOU territories (and their customers) by imposing this prohibition on a particular date with no rational defense of that policy or the date it begins.

At any rate, the IOU residential financial benefits package must be viewed in the context of the loss of the historic right of the people to form a public utility and access the federal system on the same terms as previous public formations.

C. The essential construct of the Joint Proposal, the reliance on a slice of the system to move the resource acquisition obligation from BPA to the individual public utility, sounds like a significant shift in regional policy. In fact, because a sizeable chunk of full requirements load will stay as is, and because after 20 years even the utilities that opted for a slice of the system can return their loads plus 20 years of load growth to BPA, BPA's underlying obligations to acquire resources may not be changing all that much. Because of this reality and because of the need for sound public policy, we feel that certain fundamental aspects of the current system must be retained. BPA should, through contracts implementing this proposal, retain the obligation to invest in energy efficiency and renewables. The Northwest Power Planning Council should continue its role of regional analysis and planning.

The Joint Proposal essentially has a placeholder for an energy efficiency and renewables proposal. These public purposes, always a part of intelligent and least cost resource planning, gained additional respect during the energy crisis of 2000 – 2001. Energy efficiency and renewables can serve to reduce bills, decrease dependence on fossil fuels and thus decrease certain kinds of risk, reduce the need for new generation – both baseload and peak, reduce the need for new transmission facilities, and reduce the electricity infrastructure's impact on the environment. And since, as stated above, BPA's obligation to serve never really goes away, neither should BPA's obligation to acquire energy efficiency and renewables.

CUB supports the Public Interest Proposal to incorporate energy efficiency and renewables into the Joint Proposal. We are part of the working group currently discussing these issues with the utility supporters of the Joint Proposal. We are hopeful that commitments to invest in energy efficiency and renewables can be successfully incorporated into the Joint Proposal. Under any circumstances, these vital public purposes must be an integral part of regional policy especially as it stretches out over 20 years.

An important point for IOUs in Oregon is that once an appropriate level of regional public purpose investment is established in the current process, utilities that come under state laws pertaining to public purpose investments must get credit toward the regional levels. The region last set public purpose targets in the Regional Review in 1996. The Regional Review encouraged states to adopt a 3 per cent public purposes charge. Only Oregon adopted that proposal largely as proposed. As regional targets are reset, those utilities subject to state laws relating to minimum levels of public purpose expenditures should get full credit for those investments. In fact, as Oregon responded to the last regional call for public purpose investment, Oregon should be given wide latitude in how it makes those investments, not just in how much it invests.

Contrary to some unstated assumptions in the Joint Proposal, regional planning is not dead or even in hiatus. The concept of slice seems to assume that these dozens of slice utilities will make their own resource decisions. This would indicate that each of these dozens of utilities will individually conduct some integrated resource planning. It is precisely because these disparate utilities are now beginning to make their own resource

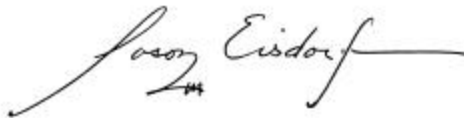
decisions that regional planning and analysis are important. In addition, BPA is not off the hook for resource acquisition over the long term. And finally, the Power Planning Council's analytical staff is the envy of every region of the country and has provided an abundance of high quality research and analysis. The region cannot afford to abandon long-term regional planning, now or over the long-term.

D. Finally, fish and wildlife cannot do worse under any new proposal than they are faring now. In fact, as we are discussing how to carve up the benefits of the Columbia River system for the next 20 years, we must assume that, as part of that new plan, the lot of fish and wildlife must improve. We can view the Columbia River system as providing benefits in the form of low rates, flood control, navigation, irrigation and recreation, but we must remember that the Columbia River also happens to be home for an abundance of fish and wildlife. Any responsible plan to dispense benefits from the river system must first assure that the denizens of that system are fully protected.

We have heard concerns that the slice concept gives greater operational control to individual utilities and that this may have negative consequences for fish. We don't know whether this is the case or not but it does raise the issue. This is an area that must be fully explored in BPA's decision-making process. The Joint Proposal also speaks of utilities having a "meaningful and enforceable" voice in setting BPA's expenditures. While we think BPA's utility customers ought to have input into the establishment of BPA's revenue requirement, we are concerned that the expenditures for both public purposes and fish mitigation and enhancement programs will undergo the funding roller coaster that we have witnessed over the past decade. Public purposes and fish and wildlife expenditures are favorite candidates for the axe when budgetary pressures arise.

To the greatest extent possible, fish and wildlife expenditures and river operations must be designed to protect and restore fish and wildlife. This benefits not only the anadromous residents of our regional resource, it benefits the human residents of the region as well.

Sincerely,

A handwritten signature in black ink that reads "Jason Eisdorfer". The signature is written in a cursive style with a long horizontal flourish extending to the right.

Jason Eisdorfer
Attorney for Citizens' Utility Board of Oregon