

July 1, 2011

Sent via comment@bpa.gov

Bonneville Power Administration
P.O. Box 3621
Portland, OR 97232

RE: Port Townsend Paper Corporation's Request to include its Load in Jefferson County PUD's Contract High Water Mark

On June 2, 2011 BPA published a document requesting comments on a proposal to allow Port Townsend Paper Corporation to be included in the Contract High Water Mark of Jefferson Public Utility District. NRU is providing the following comments on behalf of its 50 BPA Load Following customer members. Individual members may be submitting their own comments, however, our concerns expressed below broadly reflects the sentiment of the organization. NRU supports the formation of new publics under the provisions of the BPA Tiered Rate Methodology. However, the two options described in this paper stray too far from what we believe is fair and established by the Agency's historic practice, and leaves too many unanswered questions regarding Tier 1 service and large industrial loads.

In the June 2nd paper, BPA identifies policy considerations and describes two potential options for Jefferson PUD to provide service to Port Townsend Paper Corporation (PTPC). The first alternative would allow 9.9 aMW to be served at the Tier 1 rate and power over this amount would be served at Tier 2 or by Jefferson PUD with a non-federal resource. The second alternative would allow the entire PTPC load to be served at the Tier 1 rate. As described by BPA, Alternative 1 requires a change to the New Large Single Load policy; Alternative 2 requires a change to the NLSL policy and a revision to the Tiered Rates Methodology.

Any service to PTPC's main mill load should continue at the IP rate, leaving the current NLSL Policy and the TRM unchanged. The alternatives provided by BPA are not described in detail. The likely questions that arise from these alternatives need answers. The long term ramifications of providing for this type of service have not been thoroughly vetted. Nonetheless, our assessment, based on the materials provided, is that NRU does not support either of these options. If BPA intends to pursue either of these general options, as proposed or with modifications, then specific changes to both the NLSL Policy and the TRM should be detailed and the change procedures in the TRM strictly followed.

With regard to Alternative 1, as is stated in the BPA document: "Under this alternative, the current NLSL policy would be revised to allow a public utility and a consumer to incrementally transfer up to 9.9 aMW of load to a public utility and receive service at the PF rate." The following issues would need to be addressed.

- Does this create the potential argument that other DSIs such as Alcoa and Columbia Falls Aluminum could be served in this manner?
- What are the implications for large industrial customers in service territories that adjoin public power service territories? Could they be served in this manner?
- Would this policy change apply only to New Publics or would it apply to New Publics and Existing Publics?
- If the policy change is meant to apply to both New and Existing publics then could this lead to a situation where the new public could bring the first 9.9 aMW in at Tier 1, while the existing public could only bring in this load at Tier 2 if that existing public's load is in excess of its RWHM?
- If all Existing Publics with existing NLSLs could now bring 9.9 aMW annually into Tier 1, would they be afforded the same CHWM adjustment?

Although NRU does not support the alternatives presented, if BPA determines that it will make any form of proposal, or contingent proposal to change the NLSL Policy, it is imperative that there be no distinction whatsoever between a New Public and an Existing Public. BPA's Existing Public customers must be afforded the same opportunities as may be provided to Port Townsend.

With regard to Alternative 2, the same questions arise as for Alternative 1 but to an even greater extent. We see Alternative 2 as providing a significant financial incentive for the formation of new publics simply to serve new large industrial loads. This is not good public policy because the public could be forming for artificial reasons that do not truly reflect the prevailing interests of the full community. We seriously doubt that this proposal, or anything akin to it, would be ratified via the TRM change process. Focusing on this issue may create an unnecessary administrative burden for everyone and divert attention from other pressing matters.

Furthermore, BPA has previously rejected similar proposals to allow DSIs to transfer load to preference customers and be served at the PF rate. In the 2005 Power Supply Record of Decision, BPA considered whether it should change its NLSL policy to allow DSI loads served at BPA's IP rate to transfer and receive service in 9.9 aMW increments from a public body or cooperative with power purchased at the PF rate.¹ BPA found that transfers of former DSI load to a preference customer are not consistent with Section 3(13) of the Northwest Power Act.² BPA examined the Legislative history of the Northwest Power Act and found 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

¹ Bonneville Power Administration's Policy for Power Supply Role for Fiscal Years 2007-2011 Record of Decision (February 2005) at 48 – 53.

² *Id.* at 50.

facility that were under 10 aMW,” and that, “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.”³

BPA also specifically rejected the argument that a DSI could avoid NLSL treatment by being served in less than 10 average megawatt portions. BPA stated that the reason it rejects such a proposal is that,

“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.”⁴

This reasoning is not changed by the fact that Jefferson County PUD is a new public. If BPA allows the PTPC to take service from Jefferson at the PF rate, it will be undoing a long-term policy of the agency and will be engaging in a practice that BPA itself has stated would be inconsistent with the intent of the Northwest Power Act.

For these reasons NRU does not support either of these alternatives for Jefferson County PUD to serve Port Townsend Paper Corporation, and believes either of them would open the door for other disputes within the public power community, and potentially between customer groups. We understand that the existing options for service to PTPC may not be economically attractive to the mill. But frankly, there are a number of NRU members with unique sets of circumstances that would deserve the same consideration for Tier 1 power if the Administrator wanted to broadly revisit these types of issues (a course of action we do not recommend).

Thank you for the opportunity to comment on this proposal. If you need additional information, please let us know.

Sincerely,


John Saven
Chief Executive Officer, NRU

CC: Members of NRU

³ *Id.* at 51.

⁴ *Id.*