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Nathaniel J. Davis, Sr.,

Deputy Secretary.

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DEPARTMENT OF ENERGY

Bonneville Power Administration

[BPA File No.: BP-12]

Fiscal Year (FY) 2012-2013 Proposed Power Rate Adjustments Public Hearing and Opportunities for Public Review and Comment

AGENCY: Bonneville Power Administration (BPA), Department of Energy (DOE).

ACTIONS: Notice of FY 2012-2013 Proposed Power Rate Adjustments.

SUMMARY: BPA is holding a consolidated rate proceeding, Docket No. BP-12, to establish power and transmission rates for FY 2012-2013. The purpose of this **Federal Register** Notice is to provide notice of the proposed power rates and the rates for control area services and certain ancillary services (listed below, Section IV.C.). BPA will issue a separate **Federal Register** Notice to provide notice of the proposed transmission rates and the rates for the other ancillary services.

The Pacific Northwest Electric Power Planning and Conservation Act (Northwest Power Act) provides that BPA must establish and periodically review and revise its rates so that they are adequate to recover, in accordance with sound business principles, the costs associated with the acquisition, conservation, and transmission of electric power, including amortization of the Federal investment in the Federal Columbia River Power System (FCRPS) over a reasonable number of years and BPA's other costs and expenses. The

Northwest Power Act also requires that BPA's rates be established based on the record of a formal hearing, and for transmission rates only, that the costs of the Federal transmission system be equitably allocated between Federal and non-Federal power utilizing the system. By this notice, BPA announces the commencement of a rate adjustment proceeding for proposed power rates, control area services rates, and certain ancillary services rates that will be effective on October 1, 2011.

In the near future, BPA will begin a Residential Exchange Program (REP) Settlement Proceeding, Docket No. REP-12. This separate docket will provide a forum to review the terms and conditions of a proposed 17-year settlement of litigation regarding BPA's implementation of the REP. Even though the proposed REP settlement involves issues interrelated with the establishment of power rates for the FY 2012-2013 rate period, BPA has chosen to exclude certain issues from the development of power rates in the BP-12 rate proceeding and address them in the REP-12 proceeding. Specifically, the REP-12 proceeding will address whether BPA should adopt the REP settlement, issues regarding the terms of the REP settlement, the implementation of the section 7(b)(2) rate test, the implementation of the section 7(b)(3) allocation, the forecast of utilities' Average System Costs (ASC), the amount and application of the remaining Lookback balance, and the allocation of REP costs to BPA's power rates. The REP-12 proceeding will conclude prior to the publication of final studies and the issuance of the Record of Decision (ROD) in BP-12. The final decisions in REP-12 will be incorporated into the final studies and power rate calculations in BP-12. See section II.D.12.

DATES: Anyone wishing to become a party to the BP-12 proceeding must provide written notice, via U.S. Mail or electronic mail, which must be received by BPA no later than 3 p.m. on November 24, 2010.

The BP-12 rate adjustment proceeding begins with a prehearing conference at 9 a.m. on November 19, 2010, in the BPA Rates Hearing Room, 2nd floor, 911 NE 11th Avenue, Portland, Oregon 97232.

Written comments by non-party participants must be received by February 18, 2011, to be considered in the Administrator's ROD.

ADDRESSES: 1. Petitions to intervene should be directed to: Hearing Clerk—L-7, Bonneville Power Administration, 905 NE 11th Avenue, Portland, Oregon

97232, or may be e-mailed to rateclerk@bpa.gov. In addition, copies of the petition must be served concurrently on BPA's General Counsel and directed to both Mr. Peter J. Burger, LP-7, and Mr. Barry Bennett, LC-7, Office of General Counsel, 905 NE 11th Avenue, Portland, Oregon 97232, or via e-mail to pjburger@bpa.gov and bbennett@bpa.gov (see section III.A. for more information regarding interventions).

2. Written comments by participants should be submitted to the Public Engagement Office, DKE-7, Bonneville Power Administration, P.O. Box 14428, Portland, Oregon 97293. Participants may also submit comments by e-mail at: <http://www.bpa.gov/comment>. BPA requests that all comments and documents intended to be part of the Official Record in this rate proceeding contain the designation BP-12 in the subject line.

FOR FURTHER INFORMATION CONTACT: Ms. Heidi Y. Helwig, DKC-7, Public Affairs Specialist, Bonneville Power Administration, P.O. Box 3621, Portland, Oregon 97208; by phone toll free at 1-800-622-4520; or via e-mail to hyhelwig@bpa.gov.

Responsible Officials: Mr. Raymond D. Bliven, Power Rates Manager, is the official responsible for the development of BPA's power rates, and Ms. Rebecca E. Fredrickson, Transmission Rates Manager, is the official responsible for the development of BPA's ancillary and control area services (ACS) rates.

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Part I—Introduction and Procedural Background

Section 7(i) of the Northwest Power Act, 16 U.S.C. 839e(i), requires that BPA's rates be established according to certain procedures, including publication in the **Federal Register** of this notice of the proposed rates; one or more hearings conducted as expeditiously as practicable by a Hearing Officer; opportunity for both oral presentation and written submission of views, data, questions, and arguments related to the proposed rates; and a decision by the Administrator based on the record. BPA's rate proceedings are further governed by BPA's Procedures Governing Bonneville Power Administration Rate Hearings, 51 FR

7611 (1986), which implement and expand the statutory requirements.

This proceeding is being conducted under the rule for general rate proceedings, section 1010.4 of BPA's Procedures. The proposed schedule below applies to power rates and the ancillary and control area services rates that are covered by this **Federal Register** Notice. A final schedule will be established by the Hearing Officer at the prehearing conference.

Prehearing/BPA Direct Case.	November 19
Intervention Deadline	November 24
Clarification	December 6–10
Motions to Strike	December 13
Data Request Deadline.	December 13
Answers to Motions to Strike.	December 20
Data Response Deadline.	December 20
Parties File Direct Case.	January 21
Clarification	February 1–4
Motions to Strike	February 7
Data Request Deadline.	February 7
Answers to Motions to Strike.	February 14
Data Response Deadline.	February 14
Close of Participant Comments.	February 18
Litigants File Rebuttal	March 1
Clarification	March 7–8
Motions to Strike	March 9
Data Request Deadline.	March 9
Answers to Motions to Strike.	March 16
Data Response Deadline.	March 16
Cross-Examination	March 28–April 1
Initial Briefs Filed	May 2
Oral Argument	May 12
Draft ROD Issued	June 14
Briefs on Exceptions	June 24
Final ROD—Final Studies.	July 25

Section 1010.7 of BPA's Procedures prohibits *ex parte* communications. The *ex parte* rule applies to all BPA and DOE employees and contractors. Except as provided below, any outside communications with BPA and/or DOE personnel regarding the merits of any issue in BPA's rate proceeding by other Executive Branch agencies, Congress, existing or potential BPA customers (including Tribes), or nonprofit or public interest groups are considered outside communications and are subject to the *ex parte* rule. The rule does not apply to communications relating to: (1) Matters of procedure only (the status of the rate proceeding, for example); (2) exchanges of data in the course of business or under the Freedom of

Information Act; (3) requests for factual information; (4) matters for which BPA is responsible under statutes other than the ratemaking provisions; or (5) matters which all parties agree may be made on an *ex parte* basis. The *ex parte* rule remains in effect until the Administrator's Final ROD is issued, which is scheduled to occur on or about July 25, 2011.

Part II—Scope of 2012 Rate Proceeding

A. Joint Rate Proceeding

BPA is holding a wholesale power rate proceeding. As noted above in the summary, BPA will issue a separate **Federal Register** Notice to provide notice of the proposed transmission rates and rates for the remaining ancillary services (Scheduling, System Control, and Dispatch Service and Reactive Supply and Voltage Control from Generation Sources Service).

B. 2010 Integrated Program Review

BPA began its 2010 Integrated Program Review (IPR) process in May 2010. The IPR process is designed to allow people interested in BPA's program levels an opportunity to review and comment on all of BPA's expense and capital spending level estimates in the same forum prior to the use of those estimates in setting rates. Concurrent with the IPR, BPA held regional conversations about risk mitigation and debt management practices.

The 2010 IPR focused on FY 2012 and 2013 program levels for BPA's Power Services and Transmission Services as well as a review of FY 2011 program levels. BPA held 19 technical workshops and two general manager meetings at which proposed spending levels were presented for each of BPA's programs. BPA carefully reviewed and considered the 26 written comments and numerous oral comments on FY 2012 and 2013 program levels that were provided during this public process.

On October 27, 2010, BPA issued the Final Close-Out Letter and accompanying final report for the IPR, which summarizes the comments received and outlines BPA's responses. The report also summarizes comments and BPA's responses on the regional conversations about risk mitigation and debt management. In the Final Close-Out Letter and report, BPA established the program level cost estimates for both power and transmission rates that are used in the Initial Proposal. BPA does not anticipate additional public review of proposed spending levels. However, an abbreviated IPR process may be held if conditions warrant. BPA would conduct this process separately from the

rate proceeding to share updates and solicit feedback from customers and constituents before the final program levels are incorporated into the final rates.

C. Rate Case Workshops

In preparation for the BP-12 rate proceeding, BPA held several public rate case workshops with customers and interested parties from March through September 2010. During the workshops, BPA staff presented and discussed information about costs, load and resource forecasting, generation inputs pricing, segmentation, revenue forecasts, load forecasts, risk analysis and mitigation, products, pricing, and rate design. Customers and interested parties had extensive opportunity to participate, raise issues, present alternative proposals, and comment on the information BPA staff presented. The comments and alternatives received during these workshops have assisted in the preparation of the Initial Proposal.

D. Scope of the Rate Proceeding

This section provides guidance to the Hearing Officer as to those matters that are within the scope of the rate proceeding and those that are outside the scope.

1. Program Cost Estimates

Some of the decisions that determine program costs and spending levels have been made in the IPR public review process outside the rate proceeding. See section II.B. BPA's spending levels for investments and expenses are not determined or subject to review in rate proceedings.

Pursuant to section 1010.3(f) of BPA's Procedures, the Administrator directs the Hearing Officer to exclude from the record all argument, testimony, or other evidence that challenges the appropriateness or reasonableness of the Administrator's decisions on cost and spending levels. If, and to the extent that, any re-examination of spending levels is necessary, such re-examination will occur outside of the rate proceeding. This exclusion does not extend to portions of the revenue requirements related to interest rate forecasts, interest expense and credit, Treasury repayment schedules, forecasts of depreciation, forecasts of system replacements used in repayment studies, REP benefits, purchased power expenses, transmission acquisition expense incurred by Power Services, generation acquisition expense incurred by Transmission Services, minimum required net revenue, and the costs of risk mitigation actions resulting from the expense and revenue uncertainties

included in the risk analysis. The Administrator also directs the Hearing Officer to exclude argument and evidence regarding BPA's debt management practices and policies. See section II.D.7.

2. Regional Dialogue Policy Decisions

BPA's Subscription contracts expire September 30, 2011, at the end of the current rate period. BPA engaged customers and interested stakeholders in an extensive process that led to new power sales contracts. BPA issued its Long-Term Regional Dialogue Final Policy and ROD on July 19, 2007, its Long-Term Regional Dialogue Contract Policy and ROD on October 31, 2008, the Tiered Rate Methodology and ROD on November 10, 2008, and the Tiered Rate Methodology Supplemental ROD on September 2, 2009. On or about December 1, 2008, BPA and its customers signed new power sales contracts under which the customers will purchase Federal power for the FY 2012–2028 period. Several aspects of the Regional Dialogue process are still ongoing, such as establishing customer contract high water marks and contract demand quantities, and these processes and decisions are outside the scope of this rate proceeding.

Pursuant to § 1010.3(f) of BPA's Procedures, the Administrator hereby directs the Hearing Officer to exclude from the record all argument, testimony, or other evidence that seeks in any way to revisit the appropriateness or reasonableness of BPA's decisions made in the Long-Term Regional Dialogue Final Policy ROD, or Long-Term Regional Dialogue Contract Policy ROD.

3. Tiered Rate Methodology (TRM)

Modifications to the TRM are within the scope of this proceeding; however, the TRM restricts BPA and customers with Contract High Water Mark (CHWM) contracts from proposing changes unless certain procedures have been successfully concluded. BPA has concluded these procedures regarding five proposed revisions, and these proposed revisions are within the scope of this proceeding.

Pursuant to § 1010.3(f) of BPA's Procedures, the Administrator hereby directs the Hearing Officer to exclude from the record all argument, testimony, or other evidence that seeks in any way to propose other proposed revisions to the TRM made by BPA, customers with a CHWM contract, their representatives, or representatives of their consumers, unless it can be established that the TRM procedures for proposing a change to the TRM have been concluded. This restriction does not extend to a party or

customer that does not have a CHWM contract.

4. Service to the Direct Service Industries (DSIs)

The manner and method by which BPA could provide service or financial payments to its DSI customers were evaluated in *Pacific Northwest Generating Cooperative, et al., v. Bonneville Power Administration*, 580 F3d 792 (9th Cir. 2008) (PNGC I) and *Pacific Northwest Generating Cooperative, et al., v. Bonneville Power Administration*, 590 F3d 1065 (9th Cir. 2010) (PNGC II). BPA is assuming for the Initial Proposal that BPA will continue to serve Alcoa, Inc. (Alcoa) as well as Port Townsend Paper Corporation (Port Townsend) during FY 2012–2013. BPA's decisions to serve the DSIs, along with the method and level of service to be provided DSIs in the FY 2012–2013 rate period, will not be determined in this proceeding.

Pursuant to § 1010.3(f) of BPA's Procedures, the Administrator directs the Hearing Officer to exclude from the record all argument, testimony, or other evidence that seeks in any way to revisit the appropriateness or reasonableness of BPA's decisions regarding the service to the DSIs, including BPA's decision to offer a contract and the method or level of such service.

5. Generation Inputs

BPA provides a portion of the available generation from the FCRPS to enable Transmission Services to meet its various requirements. Transmission Services uses these generation inputs to provide ancillary and control area services. To recover the costs associated with providing generation inputs, BPA assigns a portion of the FCRPS costs to the transmission function. The forecast amount of generation inputs, cost allocations BPA is proposing to use to determine the generation input costs, and associated Ancillary and Control Area Service rates are matters that are included within the scope of the BP–12 proceeding.

Pursuant to § 1010.3(f) of BPA's Procedures, the Administrator directs the Hearing Officer to exclude from the record all argument, testimony, or other evidence that seeks in any way to revisit the appropriateness or reasonableness of any other issues related to the generation inputs or Ancillary and Control Area Services. This exclusion includes, but is not limited to, issues regarding reliability of the transmission system, any existing or proposed Transmission Services dispatcher standing orders, e-Tag requirements, and business practices. These non-rates

issues are generally addressed by BPA in accordance with industry, reliability, and other compliance standards and criteria and are not matters appropriate for the rate proceeding.

6. Proposal for the Post-2011 Conservation Program Structure

Through the post-2011 workgroup collaboration, customers and constituents provided input on the development of BPA's post-2011 conservation approach.

Pursuant to § 1010.3(f) of BPA's Procedures, the Administrator hereby directs the Hearing Officer to exclude from the record all argument, testimony, or other evidence that seeks in any way to revisit the appropriateness or reasonableness of BPA's conservation program established through the Post-2011 Conservation Program dated August 18, 2010.

7. Federal and Non-Federal Debt Service and Debt Management

During the 2010 IPR and in other forums, BPA provided the public with background information on BPA's internal Federal and non-Federal debt management policies and practices. While these policies and practices are not decided in the IPR forum, these discussions were intended to inform interested parties about these matters so that they would better understand BPA's debt structure. Notwithstanding the public discussions, BPA's debt management policies and practices remain outside the scope of the rate proceeding.

Pursuant to § 1010.3(f) of BPA's Procedures, the Administrator hereby directs the Hearing Officer to exclude from the record all argument, testimony, or other evidence that seeks in any way to address the appropriateness or reasonableness of BPA's debt management policies and practices.

8. Potential Environmental Impacts

Environmental impacts are addressed in a concurrent National Environmental Policy Act (NEPA) process. See section II.E.

Pursuant to § 1010.3(f) of BPA's Procedures, the Administrator directs the Hearing Officer to exclude from the record all argument, testimony, or other evidence that seeks in any way to address the potential environmental impacts of the rates being developed in this rate proceeding.

9. Average System Cost Methodology

Section 5(c) of the Northwest Power Act established the REP, which provides benefits to residential and small-farm consumers of Pacific Northwest utilities

based, in part, on a utility's "average system cost" (ASC) of resources. Section 5(c)(7) of the Act requires the Administrator to consult with regional interests to develop an ASC Methodology (ASCM). The ASCM prescribes the methodology that the Administrator uses to calculate a utility's ASC. On September 4, 2009, the Federal Energy Regulatory Commission (Commission) granted final approval of BPA's 2008 ASCM. The 2008 ASCM is not subject to challenge or review in a section 7(i) proceeding.

Pursuant to § 1010.3(f) of BPA's Procedures, the Administrator hereby directs the Hearing Officer to exclude from the record all argument, testimony, or other evidence that seeks in any way to visit or revisit the appropriateness or reasonableness of the 2008 ASCM.

10. Average System Cost Review Processes

To receive REP benefits for FY 2012–2013, utilities must file proposed ASCs with BPA pursuant to the terms and conditions of the 2008 ASCM. These filings are reviewed by BPA staff and other interested parties in ASC review processes. The ASC review process is a separate administrative proceeding conducted by BPA under the terms of the 2008 ASCM. In the review process, BPA staff and other parties evaluate the ASC filed by a participating utility for conformance with the requirements of the 2008 ASCM. At the conclusion of the process, BPA issues an ASC Report, which formally establishes the utility's ASC for the Exchange Period, which coincides with BPA's rate period.

On June 1, 2010, ten utilities filed proposed ASCs with BPA for FY 2012–2013. One utility subsequently withdrew its ASC filing. BPA staff and other parties are currently reviewing the remaining nine filings in the ASC review processes. Once these ASC review processes are complete, and BPA has issued final ASC Reports, BPA will incorporate the final ASCs into the administrative record of this proceeding. Although these ASC determinations provide important information for setting BPA's rates, they are not rate proceeding matters. Parties intending to challenge the draft or final ASC determinations for FY 2012–2013 must raise such issues in the ASC review process according to the procedures established in the 2008 ASCM.

Pursuant to § 1010.3(f) of BPA's Procedures, the Administrator hereby directs the Hearing Officer to exclude from the record all argument, testimony, or other evidence that seeks in any way

to visit or revisit the draft or final ASC determinations for FY 2012–2013.

11. Contract High Water Mark (CHWM) Process

Under the Tiered Rate Methodology (TRM), BPA will establish both CHWMs and FY 2012–2013 Rate Period High Water Mark (RHWMs) for Public customers that signed contracts for firm requirements power service providing for tiered rates, referred to as CHWM contracts. The CHWMs and RHWMs will be established in the CHWM Process, which will occur mainly in Spring 2011. In this process BPA will establish the maximum planned amount of power a customer is eligible to purchase at Tier 1 rates during the rate period. The CHWM Process provides customers an opportunity to review, comment, and, if necessary, challenge BPA's determinations regarding certain CHWM and RHWM determinations. To the extent they are available, the final RHWM determinations for FY 2012–2013 from the CHWM Process will be used in the final rates proposal.

Pursuant to § 1010.3(f) of BPA's Procedures, the Administrator hereby directs the Hearing Officer to exclude from the record all argument, testimony, or other evidence that seeks in any way to visit or revisit BPA's determination of a customer's CHWM or FY 2012–2013 RHWM.

12. Residential Exchange Program Settlement Proceeding (REP–12)

The REP was established in section 5(c) of the Northwest Power Act to provide utilities with high ASCs access to the benefits of the FCRPS for their residential and small farm consumers. As discussed in the summary above, BPA will commence a separate section 7(i) proceeding, Docket No. REP–12, to review the REP settlement. Certain issues will be excluded from the BP–12 rate proceeding and addressed in the REP–12 proceeding. This exclusion is one of efficiency, minimizing the need for duplicate argument, testimony, or other evidence in both proceedings; it is not meant to limit the opportunity for parties to file relevant argument, testimony, or other evidence regarding these REP issues. The REP–12 proceeding will conclude prior to the publication of final rates and the issuance of the ROD in BP–12. All argument, testimony, or other evidence in the REP–12 record will be incorporated into BP–12 record and the final decisions in REP–12 will be implemented in the final rate development in BP–12.

Pursuant to § 1010.3(f) of BPA's Procedures, the Administrator hereby

directs the Hearing Officer to exclude from the record all argument, testimony, or other evidence that seeks in any way to visit issues related to the issues being addressed in the REP–12 proceeding, including, but not limited to, whether BPA should adopt the REP settlement, issues regarding the terms of the REP settlement, the implementation of the section 7(b)(2) rate test, the implementation of the section 7(b)(3) allocation, the forecast of utilities' Average System Costs, the amount and application of the remaining Lookback balance, and the allocation of REP costs to BPA's power rates.

E. The National Environmental Policy Act

BPA is in the process of assessing the potential environmental effects of its proposed power and transmission rates, consistent with the NEPA. The NEPA process is conducted separately from the rate proceeding. As discussed in section II.D.8, all evidence and argument addressing potential environmental impacts of rates being developed in the BP–12 rate proceeding are excluded from the rate proceeding hearing record. Rather, comments on environmental effects should be directed to the NEPA process.

Because this proposal involves BPA's ongoing business practices related to rates, BPA is reviewing the proposal for consistency with BPA's Business Plan Environmental Impact Statement (Business Plan EIS), completed in June 1995 (BOE/EIS–0183). This policy-level EIS evaluates the environmental impacts of a range of business plan alternatives for BPA that could be varied by applying various policy modules, including one for rates. Any combination of alternative policy modules should allow BPA to balance its costs and revenues. The Business Plan EIS also includes response strategies, such as adjustments to rates, that BPA could implement if BPA's costs exceed its revenues.

In August 1995, the BPA Administrator issued a ROD (Business Plan ROD) that adopted the Market-Driven Alternative from the Business Plan EIS. This alternative was selected because, among other reasons, it allows BPA to: (1) Recover costs through rates; (2) competitively market BPA's products and services; (3) develop rates that meet customer needs for clarity and simplicity; (4) continue to meet BPA's legal mandates; and (5) avoid adverse environmental impacts. BPA also committed to apply as many response strategies as necessary when BPA's costs and revenues do not balance.

In April 2007, BPA completed and issued a Supplement Analysis to the Business Plan EIS. This Supplement Analysis found that the Business Plan EIS's relationship-based and policy-level analysis of potential environmental impacts from BPA's business practices remains valid, and that BPA's current business practices remain consistent with BPA's Market-Driven Alternative approach. The Business Plan EIS and ROD thus continue to provide a sound basis for making determinations under NEPA concerning BPA's policy-level decisions, including rates.

Because the proposed rates likely would assist BPA in accomplishing the goals identified in the Business Plan ROD, the proposal appears consistent with these aspects of the Market-Driven Alternative. In addition, this rate proposal is similar to the type of rate designs evaluated in the Business Plan EIS; thus, implementation of this rate proposal would not be expected to result in environmental impacts significantly different from those examined in the Business Plan EIS. Therefore, BPA expects that this rate proposal likely will fall within the scope of the Market-Driven Alternative that was evaluated in the Business Plan EIS and adopted in the Business Plan ROD.

As part of the Administrator's ROD that will be prepared for the BP-12 rate proceeding, BPA may tier its decision under NEPA to the Business Plan ROD. However, depending upon the ongoing environmental review, BPA may instead issue another appropriate NEPA document. Comments regarding the potential environmental effects of the proposal may be submitted to Katherine Pierce, NEPA Compliance Officer, KEC-4, Bonneville Power Administration, 905 NE 11th Avenue, Portland, OR 97232. Any such comments received by the comment deadline for Participant Comments identified in section III.A. below will be considered by BPA's NEPA compliance staff in the NEPA process that will be conducted for this proposal.

Part III—Public Participation in BP-12

A. Distinguishing Between "Participants" and "Parties"

BPA distinguishes between "participants in" and "parties to" the hearings. Apart from the formal hearing process, BPA will receive written comments, views, opinions, and information from "participants," who may submit comments without being subject to the duties of, or having the privileges of, parties. Participants'

written comments will be made part of the official record and considered by the Administrator. Participants are not entitled to participate in the prehearing conference; may not cross-examine parties' witnesses, seek discovery, or serve or be served with documents; and are not subject to the same procedural requirements as parties. BPA customers whose rates are subject to this proceeding, or their affiliated customer groups, may not submit participant comments. Members or employees of organizations that have intervened in the rate proceeding may submit general comments as participants but may not use the comment procedures to address specific issues raised by their intervenor organizations.

Written comments by participants will be included in the record if they are received by February 18, 2011. Written views, supporting information, questions, and arguments should be submitted to the address listed in the ADDRESSES section of this Notice.

Entities or people become parties to the proceeding by filing petitions to intervene, which must state the name and address of the entity or person requesting party status and the entity's or person's interest in the hearing. BPA customers and affiliated customer groups will be granted intervention based on petitions filed in conformance with BPA's Procedures. Other petitioners must explain their interests in sufficient detail to permit the Hearing Officer to determine whether the petitioners have a relevant interest in the hearing. Pursuant to Rule 1010.1(d) of BPA's Procedures, BPA waives the requirement in Rule 1010.4(d) that an opposition to an intervention petition be filed and served 24 hours before the prehearing conference. The time limit for opposing a timely intervention will be established at the prehearing conference. Any party, including BPA, may oppose a petition for intervention. All petitions will be ruled on by the Hearing Officer. Late interventions are strongly disfavored. Opposition to an untimely petition to intervene must be filed and received by BPA within two days after service of the petition.

B. Developing the Record

The hearing record will include, among other things, the transcripts of the hearing, written evidence and argument entered into the record by BPA and the parties, written comments from participants, and other material accepted into the record by the Hearing Officer. The Hearing Officer will then review the record and certify the record to the Administrator for final decision.

The Administrator will develop final rates based on the record and such other materials and information as may have been submitted to or developed by the Administrator. The Administrator will serve copies of the Final ROD on all parties. BPA will file its rates with the Commission for confirmation and approval after issuance of the Final ROD.

Part IV—Summary of Rate Proposals

A. Power Rates

BPA is proposing five different rates for sales of Federal power or use of Federal resources.

Priority Firm Power Rate (PF-12)—The PF rate schedule applies to net requirements power sales to public body, cooperative, and Federal agency customers made pursuant to section 5(b) of the Northwest Power Act and includes the PF Public rates for the sale of firm requirements power under CHWM Contracts and the PF Exchange rates for sales under a Residential Purchase and Sale Agreement. The PF Public rate applies to customers taking load following or Slice/block service. Consistent with the TRM, Tier 1 rates include three customer charges, a demand charge and a load shaping charge. The billing determinants to which these rates apply are changing significantly from BPA's current PF rate structure. In addition, two Tier 2 rates, corresponding to contract options, are provided for customers that have chosen to purchase power from BPA for their load growth.

While an exact comparison of the proposed rates to the prior rates is difficult because of the transition to the tiered rate construct in this proceeding, BPA has developed the Tier 1 Net Average Cost to represent a close approximation of the average PF rate under the old rate design. The Tier 1 Average Net Cost under the initial proposal is \$29.05/MWh, which represents about an 8.3 percent increase over the FY 2010–2011 equivalent of the Tier 1 Average Net Cost. This level of rate increase assumes that the proposed settlement of the REP is adopted. In the event the settlement is not adopted, the Tier 1 Average Net Cost would be an 8.5 percent increase over FY 2010–2011.

The Base PF Exchange rate and its associated surcharges apply to the sale of power to regional utilities that participate in the REP established under section 5(c) of the Northwest Power Act, 16 U.S.C. 839c(c). Because BPA's BP-12 Initial Rate Proposal contains PF Public rates based on the proposed REP Settlement, the Initial Rate Proposal's PF Exchange rates were established

consistent with the terms of the proposed REP Settlement. These rates would likely change if the proposed REP Settlement is not adopted by BPA. Utility-specific REP Surcharges are developed consistent with the expected terms of the REP settlement. If the REP settlement is not adopted, BPA would develop final rates consistent with the results of the section 7(b)(2) rate test and reallocations of rate protection costs pursuant to section 7(b)(3) of the Northwest Power Act, as those procedures are determined in the REP-12 proceeding.

In addition, the proposed PF-12 rate schedule includes rates for customers with non-Federal resources that have elected to take Diurnal Flattening Service or Secondary Crediting Service and a melded PF rate for Public customers should any elect a power sales contract other than a CHWM Contract for firm requirements service.

New Resource Firm Power Rate (NR-12)—The NR-12 rate applies to net requirements power sales to Investor-Owned Utilities (IOUs) made pursuant to section 5(b) of the Northwest Power Act, for direct consumption, for construction, test and start-up, and station service. The NR-12 rate is also applied to sales of firm power to Public customers serving new large single loads. BPA is forecasting no sales at the NR rate in the Initial Proposal. As with the PF rate, the NR-12 rate has been calculated in a manner consistent with the expected terms of the REP settlement. The proposed average NR-12 rate is \$68.62/MWh, a decrease of 0.1 percent from the NR-10 rate.

Industrial Firm Power Rate (IP-12)—The IP rate is applicable to firm power sales to DSI customers authorized by section (5)(d)(1)(A) of the Northwest Power Act. 16 U.S.C 839c(d)(1)(A). BPA is forecasting annual sales of 340 average megawatts (aMW) to DSIs in the Initial Proposal. See section IV.B.3. As with the PF rate, the Initial Proposal IP-12 rate has been calculated in a manner consistent with the expected terms of the REP settlement. The proposed average IP-12 rate is \$36.46/MWh, an increase of 5.4 percent over the IP-10 rate. In the event the settlement is not adopted, the IP-12 rate would be \$38.71/MWh, which would represent an 11.9 percent increase over FY 2010–2011.

Firm Power Products and Services Rate (FPS-12)—The FPS rate schedule is applicable to purchasers of Firm Power, Capacity Without Energy, Supplemental Control Area Services, Shaping Services, Reservation and Rights to Change Services, and Reassignment or Remarketing of Surplus

Transmission Capacity, for use inside and outside the Pacific Northwest. The rates for these products are negotiated between BPA and the purchaser. In addition, the FPS rate schedule includes rates for customers with non-Federal resources that have elected to take Resource Support Services or Resource Shaping Services or Transmission Scheduling Service/Transmission Curtailment Management Service and Forced Outage Reserve Service.

General Transfer Agreement Service Rate (GTA-12)—The GTA rate schedule includes the GTA Delivery Charge and Transfer Service Operating Reserve Charge. The GTA Delivery Charge applies to customers that purchase Federal power that is delivered over non-Federal low-voltage transmission facilities. For FY 2012–2013, BPA is proposing to continue the GTA Delivery Charge at the same level as the GTA-10 rate. In addition, BPA is proposing to continue an Operating Reserves rate for transfer service customers that will become effective when proposed changes to Western Electricity Coordinating Council (WECC) Operating Reserve Requirements become effective.

B. Significant Changes in the BP-12 Initial Rate Proposal for Power Rates and Ancillary Service and Control Area Service Rates

1. Tiered PF Rate

In this BP-12 rate proceeding, Power Services is implementing the TRM for the first time to coincide with the commencement of power deliveries under new CHWM power sales contracts. The TRM provides for a two-tiered PF rate design applicable to firm requirements power service for those customers that signed new CHWM contracts that provide for service under tiered rates. Tiered rate design differentiates between the costs of service associated with the existing Federal system resources (Tier 1) and the cost associated with additional amounts of power needed to serve the remaining portion of customers' net requirements (Tier 2). This rate design assures, to the extent possible, that customers will be able to purchase power at a Tier 1 rate that does not include the costs of serving other customers' load growth.

Among other things, the TRM addresses how costs will be allocated to the PF Tier 1 and Tier 2 rate pools and how rates for Tier 1 and Tier 2 sales and resource support services will be designed. These cost allocation and rate design methods are being implemented for the first time in the BP-12 rate proceeding. The TRM also addresses the

rate design for Tier 1 rates, including the form of the rates and the billing determinants to which the rates are applied. Specifically, the TRM provides for three customer charge rates, a set of load shaping rates, and a new determination and application of demand rates.

BPA is proposing to make five revisions to the TRM in this rate proceeding. Procedures set forth in the TRM, Chapter 13, were followed prior to this initial rate proposal to enable BPA to propose the changes. The five proposed revisions are assumed to be in effect in the development of the initial power rate proposal.

2. Generation Inputs; Ancillary and Control Area Services

BPA's proposed allocation of generation input costs and associated ancillary and control area services rates are similar to the generation input cost allocations and rates in the 2010 BPA rates, with a few significant differences. First, BPA is proposing to change the name of the "Wind Balancing Service" rate to Variable Energy Resource Balancing Service (VERBS) rate to reflect the broader application of the rate to solar as well as wind resources. VERBS provides the generation capability (ability to both increase and decrease generation) to follow within-hour variations of variable energy resources in the BPA Balancing Authority Area.

The proposed VERBS rate recovers the cost of regulating reserves, following reserves, and imbalance reserves that provide balancing reserve capacity. BPA is proposing to directly assign certain costs associated with providing VERBS. BPA is also proposing two formula rate adjustments under the VERBS rate to recover the costs associated with: (1) The Administrator's decision to replace, if necessary, FCRPS balancing reserve capacity that becomes unavailable during the rate period with reserve acquisitions from non-Federal sources in order to continue providing VERBS; and (2) the Administrator's decision to make any acquisitions of non-Federal balancing reserve capacity to provide VERBS for the rate period.

Also included in the proposed VERBS rate schedule is the rate for the proposed Provisional Variable Energy Resource Balancing Service ("Provisional Balancing Service"), a new Control Area Service that would be offered to generating customers that: (1) Have elected to self-supply, but are unable to continue to do so; or (2) accelerate their interconnection date into the FY 2012–2013 rate period from a future rate period. The billing factor

and rate for Provisional Balancing Service is the same as the VERBS rate.

BPA is proposing a rate for the new Dispatchable Energy Resource Balancing Service (DERBS), a new Control Area Service for all thermal generators in the BPA Balancing Authority Area. This service is necessary to support the within-hour deviations of thermal generation from the hourly generation estimate (*i.e.*, schedule). A thermal generator in the BPA Balancing Authority Area is charged for DERBS based on its monthly use of balancing reserve capacity. BPA is also proposing a penalty charge under DERBS that will apply to any thermal generator's excessive use of balancing reserve capacity.

In addition to hourly settlement of energy and generation imbalance service charges, BPA is proposing to settle generation and energy imbalance service charges for half-hour schedules on an integrated half-hour basis upon 30 days' notice that BPA has completed the technical and operational modifications that are necessary to implement intra-hour scheduling. BPA is also proposing to exempt solar resources from Deviation Band 3 penalty charges under the Energy and Generation Imbalance rates.

Furthermore, BPA is proposing to add certain criteria to clarify the definition of "Persistent Deviation" for Imbalance Services. If BPA determines that a customer's scheduling accuracy performs at 30-minute persistence scheduling accuracy, or better, in one or more hours of a Persistent Deviation event, BPA is proposing to exempt that hour from Persistent Deviation penalty charge, but not the adjacent hours that would otherwise qualify for a Persistent Deviation penalty charge.

BPA is proposing to replace the four-hour standard for Persistent Deviation with a three-hour standard to measure schedule deviations once BPA implements intra-hour scheduling on a permanent basis. BPA will provide 30 days notice before implementing the three-hour standard.

BPA is also proposing to update the language in Part C of the definition of Persistent Deviation to clarify that a pattern of under- or over-delivery or over- or under-use of energy that occurs generally or at specific times of the day constitutes a Persistent Deviation.

Finally, BPA is proposing to subject the following ACS rates to BPA's Cost Recovery Adjustment Clause, Dividend Distribution Clause and NFB Mechanisms: Regulation and Frequency Response Service, Operating Reserve—Spinning Reserve Service, Operating Reserve—Supplemental Reserve

Service, VERBS, Provisional Balancing Service, and DERBS rates.

3. DSI Service for FY 2012–2013

For the Initial Proposal, BPA is forecasting sales of 340 aMW to Alcoa and Port Townsend for the FY 2012–2013 rate period. Uncertainty exists regarding the level of service to the DSIs during the upcoming rate period. Following the Ninth Circuit's decisions in PNGC I and PNGC II, BPA and Alcoa signed a power sales contract terminating in 2016 but with periodic service decision points during its term; service under this contract was recently extended through May 2012. It is not known at this point whether or not Port Townsend will extend its current contract, which expires at the end of May 2011. In addition, even though Columbia Falls Aluminum Company is currently not operating, it could begin operation and request service at some point during the FY 2012–2013 rate period. Uncertainty associated with the amount and cost of service is accounted for in the Power Risk and Market Price Study.

4. Risk Mitigation Tools

The main financial risk mitigation tool BPA relies upon is financial liquidity, comprising cash, other investments in the Bonneville Fund at the U.S. Treasury, and a short-term liquidity facility with the U.S. Treasury. BPA proposes to include provisions for two rate adjustments: The Cost Recovery Adjustment Clause (CRAC), which can generate additional cash within the rate period, and the Dividend Distribution Clause (DDC), which can return cash to customers when BPA's financial reserves are larger than needed to meet its Treasury Payment Probability (TPP) standard. When available liquidity and the CRAC are insufficient to meet the TPP standard, BPA includes Planned Net Revenues for Risk (PNRR) in its rates. In the Initial Proposal, BPA proposes to include no PNRR and to cap the maximum revenue recoverable through the CRAC at \$300 million. BPA will also rely on \$150 million of reserves attributed to transmission as part of its risk mitigation package.

BPA is proposing some changes to the risk mitigation tools in the BP–12 Initial Proposal, including a minor revision to the metric used to determine whether a CRAC or DDC triggers. In the past, this metric has been Accumulated Modified Net Revenues. In this proceeding, BPA is proposing to use Accumulated Net Revenue. The thresholds for triggering the CRAC and DDC remain unchanged from WP–10 equivalent reserve levels (\$0.00 and \$750 million respectively).

BPA anticipates discussing in the rate case whether the current threshold levels are sufficient to protect against future risks. BPA also proposes to continue the National Marine Fisheries Service FCRPS Biological Opinion Adjustment (NFB Adjustment) and the Emergency NFB Surcharge, given that litigation regarding the Biological Opinion continues.

5. Settlement of the Residential Exchange Program Disputes

To establish rates and determine REP benefits for exchanging utilities for FY 2012–2013, BPA is assuming in the BP–12 Initial Proposal that the REP settlement will be adopted. This assumption is intended to be a placeholder while BPA evaluates the proposed REP settlement in the related REP–12 proceeding. Whether BPA establishes final rates based on the terms and conditions in the REP settlement will depend on the Administrator's final decision in the REP–12 proceeding. Once a final decision is reached, it will be reflected in the final studies. BPA will incorporate all relevant material from the REP–12 proceeding into the record of the BP–12 rate proceeding.

6. Rate Schedules

Implementing the TRM rate design required significant reworking of the PF rate schedule. In addition, the changes to the way the demand charges will be calculated under the IP and NR rates also led to changes in those rate schedules. These proposed changes to rate schedules will be available for examination by parties during the rate proceeding.

7. Other Changes to Power General Rate Schedule Provisions

BPA proposes to modify the UAI, LDD (consistent with the TRM), an irrigation rate discount (also consistent with the TRM), and an Unanticipated Load Charge (to replace the current Targeted Adjustment Clause).

C. Ancillary and Control Area Services Rates

BPA is proposing rates for four ancillary services: Regulation and Frequency Response Service; Energy Imbalance Service; Operating Reserve—Spinning Reserve Service; and Operating Reserve—Supplemental Reserve Service. In addition to the rates for Ancillary Services, BPA is proposing rates for six control area services: Regulation and Frequency Response Service; Generation Imbalance Service; Operating Reserve—Spinning Reserve Service; Operating Reserve—

Supplemental Reserve Service; Variable Energy Resource Balancing Service; and Dispatchable Energy Resource Balancing Service.

D. Overview of Studies

The initial rate proposal for power rates and ancillary service and control area service rates is explained and documented in the following studies.

1. Power Rates Study

The Power Rates Study (formerly the Wholesale Power Rate Development Study) explains and documents the development of power rates and billing determinants for BPA's power products and services. The new Priority Firm rate design, as set forth in the Tiered Rate Methodology, is implemented with this proposal for the first time. The TRM provides for a two-tiered PF rate design applicable to firm requirements power service for Public customers that signed a CHWM contract providing for tiered rates. The TRM also addresses other rate design changes, particularly for power sold at Tier 1 rates. As explained in section IV.A. of this notice, the Power Rates Study reflects the assumption of a specific REP settlement outcome to model the rates. The results of the study are reflected in the proposed power rate schedules.

2. Power Loads and Resources Study

The Power Loads and Resources Study explains and documents the compilation of the load and resource data and forecasts necessary for developing BPA's wholesale power rates. The Study has three major interrelated components: The Federal system load forecast; The Federal system resource forecast; and the Federal system loads and resources balance.

3. Power Revenue Requirement Study

The Power Revenue Requirement Study explains and documents the level of revenues from power rates necessary to recover, in accordance with sound business principles, the FCRPS costs associated with the production, acquisition, marketing, and conservation of electric power. Cost estimates in the Power Revenue Requirement Study are based on the results of the IPR, as presented in the Final Close-Out Letter dated October 27, 2010. The repayment studies reflect actual and projected repayment obligations and transactions related to BPA's Debt Optimization program. All new capital investments are assumed to be financed from debt or appropriations. The adequacy of projected revenues to recover the rate test period revenue

requirement and to recover the Federal investment over the prescribed repayment period is tested and demonstrated for the generation function.

4. Power Risk and Market Price Study

The Power Risk and Market Price Study has three major components: Quantification of the risks accounted for in setting power rates; the electricity market price forecast used in setting power rates; and the set of risk mitigation measures to include in rates that ensure that power rates meet the established TPP. The TPP is a measure of the probability that BPA will make its Treasury payments on time and in full during the rate period. If the TPP is below BPA's two-year 95 percent standard, a combination of risk mitigation tools is proposed to meet the TPP standard.

The electricity market price forecast portion of the study explains and documents forecasts of the variable cost of the marginal resource for transactions in the wholesale energy market. The specific market used in this analysis is the Mid-Columbia trading hub in the State of Washington, although this forecast is influenced by conditions in other regions within the Western Interconnection. The Power Risk and Market Price Study also explains and documents the natural gas price forecast used in setting rates.

5. Generation Inputs Study

The Generation Inputs Study includes the study and documentation for generation inputs costs and other inter-business line costs. The study also includes the development and design of the proposed ACS-12 Ancillary and Control Area Services rate schedule, which had been issued in a separate study starting with the 2010 rate proceeding. The forecasts for balancing reserve capacity to provide regulation and frequency response, variable energy resource balancing service, dispatchable energy resource balancing service, operating reserve, and load following are explained and documented in the Generation Inputs Study. The Study explains and documents the embedded and variable cost methodologies for these balancing reserve capacity obligations and the resulting revenue credits reflected in the power rates. The proposed design for rates under the ACS-12 rate schedule is also described.

6. Related Studies in the REP-12 Proceeding

The following studies will be described in the REP-12 notice in the **Federal Register** and will be included as

part of the initial proposal in that proceeding.

REP Settlement Evaluation and Analysis Study.

Section 7(b)(2) Rate Test Study.

Lookback Recovery and Return.

Part V—Proposed 2012 Rate Schedules

BPA's proposed 2012 Power Rate Schedules are a part of this notice and are available for viewing and downloading on BPA's Web site at <http://www.bpa.gov/corporate/ratecase/2012/>. Copies of the proposed rate schedules also are available for viewing in BPA's Public Reference Room at the BPA Headquarters, 1st Floor, 905 NE. 11th Avenue, Portland, OR 97232.

Issued this 12th day of November, 2010.

David J. Armstrong,

Acting Deputy Administrator.

[FR Doc. 2010-29090 Filed 11-17-10; 8:45 am]

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 12690-003]

Public Utility District No. 1 of Snohomish County, WA; Notice of Teleconference

November 10, 2010.

a. *Date and Time of Meeting:* Monday, November 15, 2010 starting at 12 p.m. and ending by 2 p.m. (Eastern Standard Time).

b. *FERC Contact:* David Turner, (202) 502-6091 or david.turner@ferc.gov.

c. *Purpose of Meeting:* Commission staff will meet with the Snohomish County Public Utility District (District) to clarify the Commission's August 6, 2010, request for additional information on the District's draft license application for the Admiralty Inlet Pilot Tidal Project, which would be located in the Puget Sound, in Washington.

d. If you would like to attend the meeting or have any questions, contact David Turner via e-mail by November 11, 2010.

Kimberly D. Bose,

Secretary.

[FR Doc. 2010-29060 Filed 11-17-10; 8:45 am]

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