

Tiered Rate Methodology Supplemental Rate Proceeding  
(TRM-12S)

**Administrator's Final  
Record of Decision**

---

September 2009

---

TRM-12S-A-02



**This page intentionally left blank**

**Tiered Rate Methodology Supplemental Rate Proceeding**

**Administrator’s Final Record of Decision**

**Table of Contents**

List of Party Abbreviations..... ii

1.0 INTRODUCTION ..... 1

    1.1 Background..... 1

        1.1.1 Regional Dialogue Policy ..... 1

        1.1.2 Collaborative Development Process ..... 1

        1.1.3 Procedural History of the Prior TRM Rate Proceeding ..... 2

        1.1.4 The Current TRM Rate Proceeding ..... 3

    1.2 Procedural History of this Rate Proceeding..... 3

        1.2.1 Scope of the Rate Proceeding ..... 4

        1.2.2 Waiver of Issues by Failure to Raise in Briefs ..... 4

        1.2.3 TRM Record of Decision as a Final Action..... 5

    1.3 Legal Guidelines Governing Establishment of Rates ..... 5

        1.3.1 Statutory Guidelines..... 5

        1.3.2 The Broad Ratemaking Discretion Vested In the Administrator..... 5

        1.3.3 Confirmation and Approval of Rates..... 6

        1.3.4 Judicial Review ..... 7

2.0 PROVISIONAL CONTRACT HIGH WATER MARK AMOUNTS ..... 8

    2.1 Introduction..... 8

    2.2 Issues..... 8

3.0 TRM ATTACHMENT C..... 28

    3.1 Introduction..... 28

    3.2 Issues..... 28

4.0 GENERAL EDITS TO THE TRM..... 31

    4.1 Introduction..... 31

    4.2 Issues..... 31

5.0 ISSUES OUTSIDE THE SCOPE OF THE TRM SUPPLEMENTAL RATE PROCEEDING ..... 32

    5.1 Introduction..... 32

    5.2 Issues..... 32

6.0 PARTICIPANT COMMENTS..... 35

7.0 NATIONAL ENVIRONMENTAL POLICY ACT ..... 36

8.0 CONCLUSION..... 37

Attachment 1 ..... 38

**This page intentionally left blank**

**Tiered Rate Methodology Rate Proceeding  
List of Party Abbreviations**

AC	Avista Corporation
AL	Alcoa, Inc.
AT	Affiliated Tribes of Northwest Indians Economic Development Corp.
BC	Benton County Public Utility District
BPA	Bonneville Power Administration
CA	Canby Utility Board
CK	Clatskanie People's Utility District
CL	Central Lincoln People's Utility District
CO	Cowlitz County Public Utility District No. 1
CS	Cascade Steel Rolling Mills, Inc.
EW	Eugene Water & Electric Board
FR	Franklin Public Utility District
GC	Public Utility District No. 2 of Grant County
GE	Portland General Electric Company
GH	Public Utility District No. 1 of Grays Harbor
GP	Georgia-Pacific, LLC
IN	Industrial Customers of Northwest Utilities (ICNU)
IP	Idaho Power Company
JP01	Slice Customers Joint Party <sup>1</sup>
LV	Lower Valley Energy
MW	McMinnville Water and Light
NR	Northwest Requirements Utilities (NRU) <sup>2</sup>

---

<sup>1</sup> Slice Customers includes Benton County Public Utility District, Eugene Water and Electric Board, Clark Public Utilities, Franklin Public Utility District, Grays Harbor Public Utility District, Klickitat County, Lewis County, Pend Oreille Public Utility District, and Public Utility District No. 2 of Pacific County.

<sup>2</sup> NRU submitted its Statement of Position , TRM-12S-B-NR-01, on behalf of the trade association and not any of its individual members. Northwest Requirements Utilities includes City of Ashland, Benton REA, Big Bend Electric Co-Operative, Inc., City of Bonners Ferry, City of Burley, City of Cascade Locks, Central Lincoln PUD, City of Cheney, Columbia Basin Electric Cooperative, Columbia Power Cooperative, Columbia REA, Columbia River PUD, East End Mutual Electric Co., Ltd., Ferry County PUD #1, Flathead Electric Cooperative, City of Forest Grove, Glacier Electric Cooperative, Inc., Harney Electric Cooperative, Hermiston Energy Services, City of Heyburn, Hood River Electric Cooperative, Idaho County Power & Light, Inland Power & Light, Klickitat County PUD, Kootenai Electric Cooperative, Lincoln Electric Cooperative, Inc., Lower Valley Energy, McMinnville Water & Light, Midstate Electric Cooperative, Milton-Freewater City Light & Power, Mission Valley Power, Missoula Electric Coop, Modern Electric Water Company, City of Monmouth, Nespelem Valley Cooperative, Northern Wasco County PUD, Orcas Power & Light, Oregon Trail Electric Cooperative, Peninsula Light, Ravalli County Electric Cooperative, City of Richland, City of Rupert, Salem Electric, Skamania County PUD, South Side Electric, Inc., Surprise Valley Electrification Corp., Tanner Electric Cooperative, Tillamook PUD, United Electric

PG	Public Generating Pool
PL	PacifiCorp
PN	Pacific Northwest Generating Cooperative (PNGC) <sup>3</sup>
PO	Public Utility District No. 1 of Pend Oreille County
PP	Public Power Council <sup>4</sup>
PS	Puget Sound Energy, Inc.
PU	Public Utility Commission of Oregon
RN	Renewable Northwest Project
SE	City of Seattle
SN	Public Utility District No. 1 of Snohomish County
TI	Tillamook People’s Utility District
TU	City of Tacoma
WA	Western Public Agencies Group <sup>5</sup>
WM	Western Montana Electric Generating & Transmission Cooperative, Inc.

---

Cooperative, Vera Water & Power, Vigilante Electric Cooperative, Inc., Wasco Electric Cooperative, and Wells Rural Electric.

<sup>3</sup> Pacific Northwest Generating Cooperative includes Blachly-Lane Electric Cooperative, Central Electric Cooperative, Clearwater Power Company, Consumers Power Inc., Coos-Curry Electric Cooperative, Douglas Electric Cooperative, Fall River Rural Electric Cooperative, Inc., Lane Electric Cooperative, Lost River Electric, Northern Lights Inc., Okanogan County Electric Cooperative, Inc., Raft River Rural Electric Cooperative, Salmon River Electric Cooperative, Inc., Umatilla Electric Cooperative Association, and West Oregon Electric Cooperative, Inc.

<sup>4</sup> Public Power Council represents the interests of Benton County PUD, Blachly-Lane Electric, City of Ashland, City of Bandon, City of Blaine, City of Bonners Ferry, City of Cascade Locks, City of Cheney, City of Ellensburg, City of Forest Grove, City of Monmouth, City of Port Angeles, City of Richland, City of Rupert Electric Dept., City of Sumas, Clallam PUD, Clark Public Utilities, Clatskanie PUD, Clearwater Power, Columbia River PUD, Columbia Rural Electric, Consumers Power, Cowlitz PUD, Douglas County PUD, Elmhurst Mutual Power & Light, Emerald PUD, Eugene Water and Electric Board, Fall River Rural Electric, Ferry County PUD, Flathead Electric, Franklin County PUD, Grant County PUD, Grays Harbor PUD, Harney Electric, Hood River Electric, Idaho County Light & Power, Idaho Falls Power, Kittitas County PUD, Klickitat County PUD, Lakeview Light & Power Co., Lane Electric, Lewis County PUD, Lincoln Electric, Mason County PUD #1, Mason County PUD #3, McMinnville Water & Light, Milton-Freewater Light & Power, Missoula Electric, Northern Wasco PUD, Okanogan County PUD, Pacific County PUD #2, Parkland Light & Water Co., Pend Oreille PUD, Raft River Electric, Ravalli Electric, Riverside Electric, Salem Electric, Seattle City Light, Skamania County PUD, Snohomish County PUD, Springfield Utility Board, Tacoma Power, Tillamook PUD, Umatilla Electric, Vera Water & Power, Vigilante Electric, Wahkiakum County PUD, Wasco Electric, Whatcom PUD, and Yakama Power.

<sup>5</sup> Western Public Agencies Group includes Alder Mutual Light Company, Benton Rural Electric Association, City of Port Angeles, City of Ellensburg, City of Milton, Elmhurst Mutual Power & Light Company, Lakeview Power & Light Company, Ohop Mutual Light Company, Parkland Light and Water Company, Peninsula Light Company, PUD No. 1 of Clallam County, PUD No. 1 of Clark County, PUD No. 1 of Grays Harbor County, PUD No. 1 of Kittitas County, PUD No. 1 of Lewis County, PUD No. 1 of Mason County, PUD No. 3 of Mason County, PUD No. 2 of Pacific County, PUD No. 1 of Skamania County, PUD No. 1 of Wahkiakum County, Town of Eatonville, and Town of Steilacoom.

## 1.0 INTRODUCTION

This Final Record of Decision (ROD) sets forth the final decisions of the Bonneville Power Administration (BPA) with respect to the adoption of the proposed modifications to the Tiered Rate Methodology (TRM) for Rate Periods from October 1, 2011, through September 30, 2028. The context for this section 7(i) proceeding is described in section 1.1 below.

This Final ROD follows publication of BPA's Tiered Rate Methodology Supplemental Proposal, TRM-12S-E-BPA-01 (June 2009); BPA Staff testimony, TRM-12S-E-BPA-02; clarification workshops; settlement discussions; the submission of parties' Statements of Position on July 8, 2009; the Draft Record of Decision, TRM-12S-A-BPA-01, on July 28, 2009; and parties' briefs on exceptions on August 10, 2009. With the release of this Final ROD, a new TRM is being issued, TRM-12S-A-BPA-03, updated for decisions made in this ROD and incorporating previously filed errata. For more information on the procedural history of the TRM Supplemental proceeding, *see* section 1.2 below.

Throughout this ROD, certain terms are capitalized. Such terms are defined in the TRM, and this ROD uses such terms in a manner consistent with the TRM definitions.

### 1.1 Background

#### 1.1.1 Regional Dialogue Policy

Over the past several years, BPA has engaged parties in the Pacific Northwest region in discussions known as "Regional Dialogue." The intent of the Regional Dialogue has been to define BPA's power supply and marketing role for the long term in a way that meets key regional and national energy goals. Regional Dialogue began in April 2002 when a group of BPA's Pacific Northwest electric utility customers submitted a joint customer proposal to BPA that addressed near-term and long-term contract and rate issues. Since then, BPA, the Northwest Power and Conservation Council (Council), customers, and other interested parties have discussed and evaluated these near- and long-term issues. Considering the depth and complexity of many of these issues, BPA determined that it would address the issues in two phases. The first phase of Regional Dialogue addressed issues that had to be resolved to replace power rates that expired in September 2006. *See* Bonneville Power Administration's Policy for Power Supply Role for Fiscal Years 2007-2011 (February 2005) (Short-Term Policy). The second phase addressed longer-term issues, culminating in BPA's Long-Term Regional Dialogue Final Policy (RD Policy) and Record of Decision (RD Policy ROD), which were published on July 19, 2007.

#### 1.1.2 Collaborative Development Process

In the fall of 2006, BPA Staff began working collaboratively with public power representatives to develop the Tier 1 rate design. Cherry *et al.*, TRM-12-E-BPA-02, at 15. In that informal process, a number of alternatives were considered, ranging from the status quo rate design to rate designs with significant modifications. *Id.* During the ensuing months, the rate design proposed in the TRM began to take shape, using components of a number of different alternatives. *Id.* After about one year, public power representatives coalesced around a general concept that forms

the core of the rate design eventually adopted in the Administrator's Final TRM Record of Decision, TRM-12-A-01, issued in November 2008. The collaborative discussions allowed BPA and interested parties to work toward a common understanding of the issues, generate ideas, and when possible propose alternative solutions to specific issues.

This collaboration continued with the release of the Discussion Paper on the Tiered Rates Methodology on December 21, 2007. The Discussion Paper was an early draft of the TRM that was intended to allow interested parties to consider the content and direction of the TRM and to provide comments to BPA Staff in preparation for its initial proposal of the TRM. BPA received 18 comments on the Discussion Paper. These comments significantly furthered BPA Staff's efforts to produce a TRM that would facilitate the implementation of the RD Policy and respond to the concerns of BPA's customers and other stakeholders.

On March 7, 2008, BPA Staff released a Draft TRM that built upon the comments on the Discussion Paper. That Draft TRM was the first comprehensive version of the TRM to be released for further comment by stakeholders. Over the following several weeks, BPA Staff and stakeholders met to discuss the concepts and language in the Draft TRM. The considerable input gained from those meetings led to the Initial Proposal TRM in May 2008.

### **1.1.3 Procedural History of the Prior TRM Rate Proceeding**

On May 6, 2008, BPA published in the Federal Register a notice of its *2012 Tiered Rate Methodology Proceeding; Public Hearings and Opportunities for Public Review and Comment*, 73 Fed. Reg. 24961 (2008). The TRM section 7(i) proceeding began with a prehearing conference and the filing of BPA Staff's Initial Proposal on May 12, 2008. The Initial Proposal incorporated many of the ideas and solutions arising from the collaborative development process discussed in section 1.1.2 above. During the course of the TRM 7(i) proceeding, Staff and rate case parties engaged in extensive settlement discussions in an effort to reach agreement on the terms and language of the TRM. As a consequence, the 7(i) proceeding was conducted using an agreed-upon abbreviated schedule. During the settlement discussions, Staff and parties to the 7(i) proceeding reached agreement on a majority of the significant issues and many edits to clarify the TRM language. These revisions were reflected in Staff's supplemental proposal, which was filed on July 25, 2008, and consisted of the pre-filed written testimony of 13 witnesses and the Supplemental Proposal Tiered Rate Methodology. On August 13, 2008, 15 parties filed direct testimony. Staff and the parties filed rebuttal on August 20, 2008. Cross examination was scheduled for August 25, 2008, but all parties waived cross examination and agreed to enter evidence into the record by stipulation.

After the close of the formal hearing process, Staff and the 7(i) proceeding parties held another series of settlement discussions in an effort to resolve some of the remaining outstanding issues. As a result of the settlement conferences, BPA filed a motion to supplement the record with proposed modifications to the TRM. The 7(i) process culminated when BPA issued the final TRM ROD, TRM-12-A-01, on November 10, 2008, adopting the TRM, TRM-12-A-02. On November 26, 2008, BPA filed a Petition for Declaratory Order with Federal Energy Regulatory Commission (Commission) in *United States Department of Energy—Bonneville Power Admin.*, docket number EL09-12-000. That request remains pending before the Commission.



#### **1.1.4 The Current TRM Rate Proceeding**

The TRM, together with new power sales contracts, is a necessary and key component implementing BPA's post-FY 2011 power marketing policy and tiered rate construct as defined in BPA's RD Policy and RD Policy ROD (*see* section 1.1.1 above). The TRM Supplemental Proposal modifications adopted by this Final ROD in this Supplemental proceeding are integrated into the final TRM, which is a rate design methodology that prescribes how BPA will design specific Priority Firm Power (PF) Preference rates that will go into effect in FY 2012. The TRM will remain in use through FY 2028 and will be applied to establish applicable rates pursuant to section 7 of the Northwest Power Act. Any further modifications to the TRM will be proposed and adopted pursuant to sections 12 and 13 of the TRM.

The TRM was developed and established before BPA's 135 public body, cooperative, and Federal agency customers, who are subject to the PF Preference rate, signed Regional Dialogue power sales contracts. Thus, section 12 of the TRM includes a special modification provision to allow BPA to propose changes to the TRM if, prior to February 1, 2009, BPA and representatives of its PF Preference rate customers identified and agreed on any changes that would be needed to ensure that the TRM is consistent with the contracts or to address errors or unintended consequences. These changes would not be subject to the more restrictive procedural requirements for modifying the TRM set out in TRM chapters 12 and 13, but would be subject to a section 7(i) process. TRM ROD, TRM-12-A-01, at 9-10.

Consistent with the special modification provision in TRM section 12, Staff met with representatives identified by the Public Power Council (PPC) and other interested parties to develop a list of proposed modifications. These meetings occurred during January 2009 and concluded on January 30, 2009, when Staff and PPC representatives agreed on the *TRM Clean Up: Final list of clean up items to be proposed in a future 7(i) process (TRM Clean Up List)*. The *TRM Clean Up List* is attached as Attachment 1. *The Clean Up List* identifies nine revisions to the TRM.

#### **1.2 Procedural History of this Rate Proceeding**

Section 7(i) of the Pacific Northwest Electric Power Planning and Conservation Act, 16 U.S.C. § 839e(i) (Northwest Power Act), requires that BPA's wholesale power rates be established according to specific procedures. These procedures include, among other things, issuance of a notice in the Federal Register announcing the rate proposal; the opportunity to submit written views and supporting information; presentation of witnesses; and a decision by the Administrator based on the record. This proceeding is governed by, in addition to section 7(i), BPA's rules for general rate proceedings contained in the *Procedures Governing Bonneville Power Administration Rate Hearings*, 51 Fed. Reg. 7611 (1986) (hereinafter, *Procedures*).

On May 29, 2009, BPA published in the Federal Register its *2012 Tiered Rate Methodology Supplemental Proceeding; Public Hearings and Opportunities for Public Review and Comment*, 74 Fed. Reg. 25729 (2009). The TRM Supplemental 7(i) proceeding began with a prehearing conference and the filing of Staff's initial proposal on June 4, 2009. The initial proposal

incorporates eight of the nine issues discussed and published in the *TRM Clean Up List*. Staff's initial proposal consisted of the Tiered Rate Methodology Supplemental Proposal, TRM-12S-E-BPA-01, and the prefiled written testimony of six witnesses. At the conclusion of the prehearing conference, the Hearing Officer issued an order establishing the schedule, TRM-12S-HOO-01.

Following the prehearing conference, BPA and rate case parties discussed various options for streamlining the procedural aspects of the proceeding. On June 9, 2009, rate case parties proffered a proposal to modify the procedures for this case. The proposal eliminated significant portions of the discovery and evidentiary aspects of the proceeding, substituting procedures that consisted of the filing of written Statements of Position by rate case parties and participants, the issuance of a Draft ROD, and the filing of an optional brief on exceptions, followed by the Final Record of Decision. BPA filed a motion to amend the procedural schedule consistent with the June 9 proposal, TRM-12S-M-BPA-01. The Hearing Officer approved the amended procedural schedule on June 22. TRM-12S-HOO-06-E01.

On July 8, 2009, 13 rate case parties filed Statements of Position that commented on the proposed modifications to the TRM. The issues raised by those comments were addressed in the Draft ROD, which was issued on July 28, 2009. On August 10, 2009, three parties filed briefs on exception in response to the Draft ROD. Issues raised in the briefs are addressed in this Final ROD.

For interested persons or organizations that do not wish to become parties to formal evidentiary hearings, BPA's *Procedures* provide opportunities to participate in the ratemaking process by submitting oral and written comments as a "participant." See Section 1010.5 of BPA's *Procedures*. BPA received one written comment submitted during the participant comment period, which ended July 8, 2009. For discussion of this comment, see ROD section 2, Issue 3, and section 6.

### **1.2.1 Scope of the Rate Proceeding**

The scope of the TRM Supplemental rate proceeding is defined in the Federal Register notice, 74 Fed. Reg. 25729, 25731 (2009). The scope of the proceeding is limited to reviewing only the modifications codified in the *TRM Clean Up List*. BPA or other parties are precluded from revisiting issues that were already debated and decided in the prior TRM proceeding.

Issues determined to be outside the scope of this rate case are addressed in section 5.

### **1.2.2 Waiver of Issues by Failure to Raise in Briefs**

Pursuant to Section 1010.13(b) of the *Procedures*, arguments not raised in parties' briefs are deemed to be waived. Such issues are discussed herein and will be implemented based on Staff's stated position in the record.

### **1.2.3 TRM Record of Decision as a Final Action**

For purposes of subjecting BPA's decisions in this proceeding to judicial review, the issuance of this Record of Decision shall be considered a "final action" under the Northwest Power Act. 16 U.S.C. § 839f(e).

## **1.3 Legal Guidelines Governing Establishment of Rates**

### **1.3.1 Statutory Guidelines**

The Northwest Power Act is the most prominent statute providing ratemaking directives to BPA. Section 7(a)(1) of the Northwest Power Act directs the Administrator to establish, and periodically review and revise, rates for the sale and disposition of electric energy and capacity and for the transmission of non-Federal power. 16 U.S.C. § 839e(a)(1). Rates are to be set to recover, in accordance with sound business principles, the costs associated with the acquisition, conservation, and transmission of electric power, including the amortization of the Federal investment in the Federal Columbia River Power System (FCRPS) (including irrigation costs required to be paid by power revenues) over a reasonable period of years. *Id.* Section 7 of the Northwest Power Act also contains rate directives describing how rates for individual customer groups are derived.

Section 7(a)(1) of the Northwest Power Act reaffirms the applicability of section 5 of the Flood Control Act of 1944 (Flood Control Act), which directs that rate schedules should encourage the most widespread use of power at the lowest possible rates to consumers consistent with sound business principles. 16 U.S.C. § 825s. Section 5 of the Flood Control Act provides that rate schedules should be drawn having regard to the recovery of the cost of producing and transmitting electric energy, including the amortization of the Federal investment over a reasonable number of years. *Id.*

Section 7(a)(1) of the Northwest Power Act also reaffirms the applicability of sections 9 and 10 of the Federal Columbia River Transmission System Act of 1974, 16 U.S.C. § 838 (Transmission System Act), which contains requirements similar to those of the Flood Control Act. Section 9 of the Transmission System Act, 16 U.S.C. § 838g, provides that rates shall be established: (1) with a view to encouraging the widest possible diversified use of electric power at the lowest possible rates to consumers consistent with sound business principles; (2) with regard to the recovery of the cost of producing and transmitting electric power, including amortization of the capital investment allocated to power over a reasonable period of years; and (3) at levels that produce such additional revenues as may be required to pay, when due, the principal, premiums, discounts, expenses, and interest in connection with bonds issued under the Transmission System Act. Section 10 of the Transmission System Act, 16 U.S.C. § 838h, allows for uniform rates and specifies that the costs of the Federal transmission system be equitably allocated between Federal and non-Federal power utilizing the system.

### **1.3.2 The Broad Ratemaking Discretion Vested In the Administrator**

The Administrator has broad discretion to interpret and implement statutory standards applicable to ratemaking. These standards focus on cost recovery and do not restrict the Administrator to

any particular rate design methodology or theory. See *Pacific Power & Light v. Duncan*, 499 F.Supp. 672 (D.C. Or. 1980); accord *City of Santa Clara v. Andrus*, 572 F.2d 660, 668 (9th Cir. 1978) (“widest possible use” standard is so broad as to permit “the exercise of the widest administrative discretion”); *Electricities of North Carolina v. Southeastern Power Admin.*, 774 F.2d 1262, 1266 (4th Cir. 1985).

The United States Court of Appeals of the Ninth Circuit (Ninth Circuit) has recognized the Administrator’s ratemaking discretion. *Central Lincoln Peoples’ Utility District v. Johnson*, 735 F.2d 1101, 1120-29 (9th Cir. 1984) (“Because BPA helped draft and must administer the [Northwest Power] Act, we give substantial deference to BPA’s statutory interpretation”); *PacifiCorp v. FERC*, 795 F.2d 816, 821 (9th Cir. 1986) (“BPA’s interpretation is entitled to great deference and must be upheld unless it is unreasonable”); *Atlantic Richfield Co. v. Bonneville Power Admin.*, 818 F.2d 701, 705 (9th Cir. 1987) (BPA’s rate determination upheld as a “reasonable decision in light of economic realities”); *Department of Water and Power of the City of Los Angeles v. Bonneville Power Admin.*, 759 F.2d 684, 690 (9th Cir. 1985) (“Insofar as agency action is the result of its interpretation of its organic statutes, the agency’s interpretation is to be given great weight”); *Public Power Council v. Bonneville Power Admin.* 442 F.3d 1204, 1211 (9th Cir. 2006). (“[Rate schedule provisions] are entirely bound up with BPA’s rate making responsibilities, and we owe deference to the BPA in that area”). The Supreme Court of the United States has also recognized the Administrator’s ratemaking discretion. *Aluminum Company of America v. Central Lincoln Peoples’ Utility District*, 467 U.S. 380, 389 (1984) (“The Administrator’s interpretation of the Regional Act is to be given great weight”).

### **1.3.3 Confirmation and Approval of Rates**

BPA’s rates become effective upon confirmation and approval by the Commission. 16 U.S.C. §839e(a)(2) and (k). The Commission’s review is appellate in nature, based on the record developed by the Administrator. *United States Department of Energy—Bonneville Power Admin.*, 13 FERC ¶ 61,157, 61,339 (1980); see also, *Alcoa v. Bonneville Power Administration*, 903 F.2d 585, 592-93 (9th Cir. 1990). The Commission may not modify rates proposed by the Administrator but has only the remedial power to reject or remand rates that are found to be deficient. *United States Department of Energy—Bonneville Power Admin.*, 23 FERC ¶ 61,378, 61,801 (1983). Pursuant to section 7(i)(6) of the Northwest Power Act, 16 U.S.C. §839e(i)(6), the Commission has promulgated rules establishing procedures for the approval of BPA rates. 18 C.F.R. Part 300 (1997).

The Commission reviews BPA rates under the Northwest Power Act to determine whether 1) rates are sufficient to ensure repayment of the Federal investment in the FCRPS over a reasonable number of years after first meeting BPA’s other costs; and 2) rates are based on BPA’s total system costs. The limited Commission review of rates permits the Administrator substantial discretion in the design of rates and the allocation of power costs, neither of which is subject to Commission jurisdiction. *Central Lincoln*, 735 F.2d at 1115.

#### **1.3.4 Judicial Review**

Section 9(e)(2) of the Northwest Power Act provides that “final determinations regarding rates under section 7 shall be supported by substantial evidence in the rulemaking record required by section 7(i) considered as a whole.” 16 U.S.C. § 839f(e)(2). In describing the applicable standards of judicial review, the Ninth Circuit has stated that “[t]his court must affirm the rates if ‘substantial evidence in the rulemaking record’ supports BPA’s determination.... We must also affirm the agency’s action unless it is arbitrary, capricious, an abuse of discretion or in excess of statutory authority.” *Alcoa*, 903 F.2d at 590. See also *Southern California Edison Co. v. Jura*, 909 F.2d 339, 342 (9th Cir. 1990); and *Central Lincoln*, 735 F.2d at 1115.

**This page intentionally left blank**

## 2.0 PROVISIONAL CONTRACT HIGH WATER MARK AMOUNTS

### 2.1 Introduction

BPA conducted the TRM-12 rate proceeding during the spring and summer of 2008. During the course of that rate proceeding, BPA and rate case parties developed TRM provisions that allow for the adjustment of the Measured FY 2010 Load in the calculation of CHWM for certain load anomalies. These adjustments to the CHWM for load anomalies were designed to be fairly restrictive and were not intended to address diffuse load losses due to an economic downturn. After the publication of the Administrator's Final ROD in November 2008, it became more apparent that the regional and national economy was deteriorating to a degree not foreseen during the development of the TRM. The downturn in the economy resulted in some significant load losses for some, but not all, of BPA's customers.

Under the TRM, CHWMs are to be based on a customer's Measured FY 2010 Load. Customers that lose load due to the economic downturn would likely receive lower CHWMs than they would have expected at the time the TRM was under development. If those loads returned, these customers would have to acquire other than Tier 1 power to meet those loads and consequently would potentially face higher power costs. Recognizing this predicament, a number of customers raised this issue during the TRM Clean Up discussions, stating that the Measured FY 2010 Load would not be representative of their normal loads. The resulting discussions led to the development of Provisional CHWM Amounts. A Provisional CHWM Amount is a conditional increase in a customer's CHWM for FY 2012-2013 to account for qualifying load loss due to the current economic downturn, with the potential for the provisional amounts to become a permanent component of the customer's CHWM if the load returns. The Provisional CHWM Amounts are intended to rebalance the distribution of CHWMs in a manner that BPA and a substantial majority of customers believe better aligns with original expectations. *See, e.g.,* PPC Statement, TRM-12S-B-PP-01, at 3; Cowlitz Statement, TRM-12S-B-CO-01, at 2.

### 2.2 Issues

#### Issue 1

*Whether the TRM can be modified without a customer vote as specified in sections 12 and 13 of the TRM.*

#### Parties' Positions

Lower Valley urges BPA to calculate CHWM as stipulated in the TRM. Lower Valley Statement, TRS090013. In the alternative, Lower Valley states, the issue should be put to a vote of customers pursuant to the provisions of section 13.3 as an improvement or enhancement of the TRM. *Id.*

In briefs, NRU and Seattle suggest that the Draft ROD uses overbroad and unnecessary language regarding the level of acceptance of the proposed changes by utilities that did not submit a Statement of Position. NRU Br. Ex., TRM-12S-R-NR-01, at 2; Seattle Br. Ex., TRM-12S-R-SE-01, at 4. NRU and Seattle suggest that certain Draft ROD statements be modified without

losing the implicit meaning. NRU Br. Ex., TRM-12S-R-NR-01, at 3; Seattle Br. Ex., TRM-12S-R-SE-01, at 4-5.

### **BPA Staff's Position**

Staff proposes that the TRM be modified without a customer vote. Specific language in TRM section 12, TRM, TRM-12-A-02, at 94, allows the TRM to be modified without a vote.

### **Evaluation of Positions**

During the process leading to establishing the TRM, many parties expressed the importance of limiting modifications to the TRM. The parties recognized that it would be unlikely that the TRM would be perfectly drafted, Cowlitz Statement, TRM-12S-B-CO-01, at 1, and, therefore, provisions were included that allowed modifications under specific procedures. Particularly, BPA and Public customers may propose changes to the TRM only after receiving an affirmative vote as set forth in section 13. However, it was also recognized that there might be clean-up changes necessary to synchronize the TRM with the CHWM Contracts. Specific language was therefore included in section 12 that allows the TRM to be modified without a vote if the revision was identified and agreed upon by BPA and PPC-designated representatives of preference customers prior to February 1, 2009. TRM, TRM-12-A-02, at 94. The Staff proposal embodies the identified revisions.

It is BPA's policy to review the TRM as little as possible and modify the TRM only if the procedures set forth in the TRM are followed. Therefore, the proposal to modify the TRM without a customer vote is limited to those items that meet the qualifications set forth in section 12. Rather than generally identifying revisions and deferring the development of specific language to this proceeding, Staff negotiated the specific language with preference customer representatives in February. The Staff proposal does not modify the negotiated language. With two exceptions, the negotiated language is being considered and accepted in the ROD. *See* Issues 4 and 6 below. BPA included the two exceptions only after parties raised concern that the negotiated language is confusing and is in need of change. The Draft ROD allowed parties to further comment, by means of briefs, on these two additional proposed revisions. The further comments have been incorporated into this discussion. This Final ROD adopts the revised language.

Lower Valley argues that section 12 of the TRM states that BPA will propose CHWM calculation revisions to the TRM only if necessary to comply with a court ruling or ensure cost recovery, and BPA will seek to limit both the number and scope of such revisions. Lower Valley Statement, TRS090013.

Lower Valley incorrectly applies section 12 of the TRM in this situation. While Lower Valley correctly cites the provisions in section 12.2 that BPA will not change the calculation of CHWM except if required by a court ruling or to ensure cost recovery, section 12.2 is not applicable to this proposal. The first paragraph of section 12 clearly exempts this proposal from the section 12.2 restriction:

Any revisions identified before February 1, 2009, must be agreed to by BPA and preference customer representatives designated by the Public Power Council, and



will be proposed by BPA after that date in a future section 7(i) rate proceeding, with the revisions not subject to the procedural requirements of sections 12 and 13.

TRM, TRM-12-A-02, at 94. Therefore, the proposal may be adopted in a 7(i) proceeding, without violating the provisions of the TRM.

Finally, Lower Valley offers the alternative that the issue should be put to a vote of customers, pursuant to the provisions of TRM section 13.3, as an improvement or enhancement of the TRM. Lower Valley Statement, TRS090013.

Staff considered subjecting the proposal to a customer vote when formulating its proposal. Staff was concerned that the Administrator be informed of the acceptability of the proposal across all of BPA's customers with a CHWM Contract. However, the provisions under which this proposal is presented do not contemplate a customer vote. Therefore, rather than raise a potential issue of whether a customer vote would violate the provisions of the TRM, Staff and rate case parties agreed that BPA should test the acceptability of the proposal with each of BPA's customers by relying on the Statement of Positions discussed in section 1.2 above. Each customer, whether a party to the proceeding or not, received a letter soliciting a statement that set forth the customer's position on the modification of the calculation of CHWMs. While this solicitation was not a vote, and not all of BPA's customers used the opportunity, a significant portion of BPA's customers did respond. An unofficial tally of the customers responding to the solicitation shows that 51 customers support the proposal, plus several customer organizations—NRU, PPC, and ICNU. Lower Valley is the only customer that expressed opposition. BPA can reasonably assume that if any other customer had strongly objected to the proposal, it would have submitted a Statement of Position or participant comment. The overwhelming support of the customers and customer organizations that chose to respond to BPA's letter is more than sufficient evidence that the proposal is acceptable to a very high proportion of BPA's Public customers, measured both in terms of utility count and share of CHWMs.

BPA concurs with Seattle's and NRU's positions that it would be unproductive to engage in a debate over the likely outcome of a formal vote and has modified the foregoing paragraph from what was in the Draft ROD consistent with their suggestions. NRU Br. Ex., TRM-12S-R-NR-01, at 2-3; Seattle Br. Ex., TRM-12S-R-SE-01, at 3-5.

### **Decision**

*The TRM can be modified without a customer vote in this specific instance.*

### **Issue 2**

*Whether the TRM should be modified to provide for Provisional CHWM Amounts.*

### **Parties' Positions**

Lower Valley opposes the allowance of Provisional CHWM Amounts. Lower Valley Statement, TRS090013. Lower Valley contends that the proposal would create winners and losers,

depending upon the particular impact of the economic downturn on a local economy. *Id.* Lower Valley urges BPA to leave the calculation of CHWM as stipulated in the TRM. *Id.*

### **BPA Staff's Position**

Staff proposes to retain the original approach for the calculation of CHWMs and to provide an option of two alternative paths to address general or specific load loss that may not be reflected in a customer's Measured FY 2010 Load. Bliven *et al.*, TRM-12S-E-BPA-02, at 6. The Alternative Path 1 or Alternative Path 2 adjustments could result in a Provisional CHWM Amount that would be added to the customer's Measured FY 2010 Load for purposes of calculating its CHWM. *Id.* Specific revisions to section 4, associated definitions, and related language in sections 12 and 13 are proposed to add Provisional CHWM Amounts to the TRM. *Id.* at 2-4, 7-23, and 26-41.

### **Evaluation of Positions**

The TRM establishes that the baseline load used to determine CHWMs is Measured FY 2010 Load, which is determined by adjusting FY 2010 Total Retail Load for Publics by adding the output of any Behind-the-Meter Resources and subtracting certain FY 2010 wholesale power transactions. TRM, TRM-12-A-02, at 30. The TRM allows Measured FY 2010 Load to be adjusted for qualifying load anomalies. *Id.* at 31. Any adjustment to Measured FY 2010 Load for an anomaly would increase a customer's CHWM for the duration of the Regional Dialogue contract, through FY 2028. To mitigate unequal effects of the economic downturn on customers, the Staff proposal would further define qualifying anomalies by allowing conditional increases to baseline loads. The conditional increases, called Provisional Load, would be added to Measured FY 2010 Load in the calculation of CHWM. The incremental CHWM that results due to the inclusion of Provisional Load is called a Provisional CHWM Amount. The increased CHWM would persist through FY 2028 only if certain conditions are satisfied prior to the end of FY 2013.

Lower Valley states that offering Provisional CHWM Amounts is a dramatic change to the TRM that would create winners and losers, depending upon the impact of the economic downturn on the load of a particular utility. Lower Valley Statement, TRS090013. Lower Valley notes that customers with primarily residential loads that are not proportionately affected by the economic downturn could end up with a lower CHWM than if the FY 2010 weather-adjusted loads are strictly applied as stipulated by the ROD. *Id.*

Under the proposal, a utility (assuming it qualifies for an adjustment under Alternative Path 1 or Alternative Path 2) could obtain a Provisional CHWM Amount that is larger than the CHWM it would have received under the unmodified TRM. However, Lower Valley's concern that this proposed change is inequitable because it would create winners and losers ignores the reverse effect of the CHWM calculation being made without modification. If there is significant load loss due to the economic downturn, then the unmodified TRM would allow a utility that experiences little or no loss of load to obtain a CHWM that is larger than it would have received if other utilities had not lost load. Absent some adjustment to the current methodology to account for loss of loads, it is the economic downturn that would create winners and losers, depending upon the degree to which a customer loses load. It would be equally inequitable to

allow a customer to have a serendipitously high CHWM simply because it did not suffer a significant loss of load. Staff's proposal therefore better comports with providing customers the CHWM levels that were expected prior to the current economic downturn. *See, e.g.*, PPC Statement, TRM-12S-B-PP-01, at 3; Cowlitz Statement, TRM-12S-B-CO-01, at 2.

As the WP-10 rate case demonstrates, the forecast of Public customers' load dropped significantly between the Initial Proposal and Final Proposal. *Compare* Initial Loads and Resources Study, WP-10-E-BPA-01, at 8, with Final Loads and Resources Study, WP-10-FS-BPA-01, at 9. Furthermore, during the discussions with TRM-12 rate case parties as part of the TRM Clean Up, a number of customers explained how they were experiencing significant load loss due to the economic downturn.

When BPA determined that Measured FY 2010 Load should be the starting point for calculating CHWMs, it stated that "BPA believes FY 2010 is reasonable because the use of this information will provide the region the most up-to-date information available on customer loads as the basis for the Contract HWM." RD Policy ROD, July 2007, at 20-21. The RD Policy ROD goes on to state that

[t]he decisions on how HWMs are set belong in the TRM because the HWM is the foundation of the rate treatment that will implement the tiered rate construct. The TRM process will show each customer how its and the other public utility HWMs will be calculated, and will address detailed issues like weather normalization of loads, *how to deal with one-time anomalies that reduce or increase loads when they are measured in FY 2010*, such as fairly treating irrigation loads, agricultural set asides, and other important details. A key goal for the process will be to identify and establish treatments for the potential issues that could arise in 2011 when BPA and the customers look at the data that measures FY 2010 loads.

*Id.* at 24 (emphasis added). Circumstances have changed since the Policy was issued, due largely to the precipitous downturn in the economy. The impact of these changes demonstrates that the Measured FY 2010 Loads may no longer be representative of the utilities' normal loads. The recent changes in load due to the economy were not envisioned when the RD Policy ROD was issued.

The economic downturn is a one-time anomaly that was not contemplated until the TRM was in its final stages of completion. The potential effects of the economic downturn were recognized prior to the final decision on the TRM, and rate case parties negotiated a provision in response to the perceived inequities of the effects of the economic downturn on customers. This provision allows qualifying modifications of the TRM without a customer vote. Rather than delay the TRM and the TRM ROD to cure the perceived inequities, the provision to modify the TRM without a customer vote was put in place to allow BPA and parties to address effects of the economic downturn after completion of the TRM while bypassing the procedural requirements of TRM section 13.

Lower Valley argues that the change would create uncertainty surrounding the final CHWMs until the end of FY 2013, leaving less time for resource planning for FY 2014 when the

Transitional HWMs end and the final CHWMs determine customers' responsibilities. Lower Valley Statement, TRS090013.

BPA understands that the proposal would create some uncertainty about final CHWMs prior to the FY 2014-2015 rate period. However, this uncertainty is confined to customers with Provisional CHWM Amounts. Rate Period HWMs for FY 2014-2015 will be calculated as planned in FY 2012 and would use Provisional CHWM Amounts. Supplemental Proposal, TRM-12S-E-BPA-01, at 19-20. In FY 2014, BPA would determine how much of the Provisional CHWM Amount each customer would permanently retain. *Id.* The RHWMs for customers without a Provisional CHWM Amount would not be adjusted even if other customers do not retain their Provisional CHWM Amounts. Customers that retain all of their Provisional CHWM Amounts will not have their RHWMs adjusted. Customers that do not retain all of their Provisional CHWM Amounts will have their RHWMs adjusted, resulting in a potential increase in Above-RHWM Load for the FY 2014-2015 period. Thus, there will be uncertainty for such customers during FY 2014. This is one factor a customer will need to consider before requesting an adjustment for Provisional Load.

Lower Valley argues that Provisional CHWM Amounts have the potential to increase augmentation of Federal base system resources, which all preference customers would be required to pay for in Tier 1 rates. Lower Valley Statement, TRS090013.

Provisional CHWM Amounts do have the potential to increase augmentation compared to what might occur if the proposal is not adopted. However, there are two tempering considerations. First, the amounts of augmentation likely will not be greater than contemplated when the TRM was being developed prior to the economic downturn. Second, the augmentation limits established in the TRM are not being modified by the proposal. Therefore, even if Provisional CHWM Amounts are employed to the maximum amount possible, the amount of augmentation will not exceed the Augmentation Limit of 300 aMW. TRM, TRM-12-A-02, at 22. Because the Augmentation Limit was generally acceptable to all parties, any increased augmentation amounts resulting from Provisional CHWM Amounts compared to the amount of augmentation in the absence of Provisional CHWM Amounts can be assumed to be acceptable to most parties.

Contrary to the implication of Lower Valley's argument, the proposal does not abandon the original method of calculating CHWMs. Rather, it adds two alternative paths to the calculation that may adjust the baseline load amounts used to calculate a CHWM. If a customer's load is somehow unaffected by the economic downturn, or otherwise does not qualify for a Provisional CHWM Amount, the calculation would be done in the same way as under the unmodified approach. Only the amount of baseline load changes in the calculation of the CHWM. This modification will fairly rebalance the baseline load to what was more generally expected at the time the TRM was being developed.

### **Decision**

*The TRM will be modified to provide Provisional CHWM Amounts. The revisions to section 4, the associated definitions, and the related language in sections 12 and 13 will be incorporated into the TRM.*

### **Issue 3**

*Whether load loss that qualifies for a Provisional Load adjustment will be subject to BPA's New Large Single Load (NLSL) Policy should the load return.*

### **Parties' Positions**

WPAG, Cascade Steel, ICNU, Slice Customers, McMinnville, NRU, PPC, and Okanogan recommend that BPA clarify how the operation of the proposed Provisional Load adjustment would be harmonized with BPA's NLSL policy. WPAG Statement, TRM-12S-B-WA-01; Cascade Steel Statement, TRM-12S-B-CS-01; ICNU Statement, TRM-12S-B-IN-01; Slice Customers Statement, TRM-12S-B-JP1-01; McMinnville Statement, TRM-12S-B-MW-01; NRU Statement, TRM-12S-B-NR-01; PPC Statement, TRM-12S-B-PP-01; Okanogan Statement, TRS090016. The parties are concerned that a load that would otherwise qualify for a Provisional Load adjustment could be treated as an NLSL if the load returns, stating that such treatment would defeat the underlying purposes of the proposed TRM modification. *See, generally,* WPAG Statement, TRM-12S-B-WA-01, at 4. WPAG provides the following proposed language for BPA to include in the ROD to clarify how BPA would apply its NLSL policy:

#### **Proposed ROD Language**

Application of the New Large Single Load Policy can, under certain circumstances, result in an existing consumer load that has experienced a reduction in consumption, and which subsequently returns to its prior consumption level, being designated a New Large Single Load ("NLSL"). *See,* BPA's New Large Single Load Policy (April 2001), p. 7. Such a result would defeat the underlying purpose and policy of the proposed modifications to the TRM. *See,* TRM sections 4.1.3, 4.1.5 and 4.1.8-9; TRM-12S-E-BPA-02, at 4-5. Therefore, for purposes of any NLSL determination, consumer load reductions that qualify as a Provisional Load, and for which a Provisional CHWM is granted and ultimately retained in whole or in part, pursuant to sections 4.1.3, 4.1.5 and 4.1.8-9 respectively, shall be treated as load reductions due to unusual events reasonably beyond the control of the consumer, and shall be normalized under Section II.B.4 of the New Large Single Load Policy.

*Id.* at 5.

### **BPA Staff's Position**

The issues surrounding the interrelationship between the NLSL Policy and the TRM arose after BPA Staff filed its Initial Proposal; therefore, Staff has not addressed the matter.

### **Evaluation of Positions**

WPAG and the other concurring parties are concerned that the lost load that would otherwise qualify for a Provisional Load adjustment could be treated as an NLSL when the load returns. *See, e.g.,* WPAG Statement, TRM-12S-B-WA-01, at 3-4. These parties contend that such a result would be inconsistent with the whole purpose of creating the Provisional Load adjustment.

BPA agrees. However, BPA reminds parties that while the returning load would not be an NLSL, should the return of such load be untimely and not be considered for retained Provisional CHWM Amounts, the untimely returned load will not contribute to the customer's CHWM and would increase the customer's Above-RHWM Load, unless the customer has unused CHWM.

### **Decision**

*A load loss that qualifies for a Provisional Load adjustment will not be considered an NLSL should it return. BPA adopts the language proposed by the Parties for inclusion in this ROD with one adjustment for clarity. Rather than stating "shall be normalized" in the last sentence of proposed language, the language will instead read "shall be considered as load to be normalized." In addition, BPA has added clarifying language to ensure the NLSL determination is confined to the circumstances outlined in the first sentence of the paragraph. Thus, the following paragraph establishes BPA's position.*

*Application of the New Large Single Load Policy can, under certain circumstances, result in an existing consumer load that has experienced a reduction in consumption, and which subsequently returns to its prior consumption level, being designated a new large single load ("NLSL"). See BPA's New Large Single Load Policy (April 2001), at 7. Such a result would defeat the underlying purpose and policy of the modified TRM. Therefore, for purposes of any NLSL determination addressing the circumstance just noted, consumer load reductions that qualify as a Provisional Load, and for which a Provisional CHWM Amount is granted and ultimately retained in whole or in part, pursuant to sections 4.1.3, 4.1.5, 4.1.8, and 4.1.9 respectively, shall be treated as load reductions due to unusual events reasonably beyond the control of the consumer, and shall be considered as load to be normalized under Section II.B.4 of the New Large Single Load Policy.*

### **Issue 4**

*Whether BPA should clarify the use of the word "event" in describing the threshold load loss requirement in Alternative Path 1b for a Provisional Load adjustment.*

### **Parties' Positions**

Cowlitz and Salmon River express concern over the use of the word "event" in describing the materiality threshold under Alternative Path 1b for load loss to a single consumer load. Cowlitz Statement, TRM-12S-B-CO-01, at 3-4; Salmon River Statement, TRM-12S-B-SR-01, at 1-2. The parties state that the word "event" is confusing and implies that the load loss would be attributed to a specific cause. Cowlitz Statement, TRM-12S-B-CO-01, at 3-4; Salmon River Statement, TRM-12S-B-SR-01, at 1-2. The parties state that BPA should clarify that the Alternative Path 1b load loss adjustment is available to customers for any load loss, regardless of cause. Cowlitz Statement, TRM-12S-B-CO-01, at 3-4; Salmon River Statement, TRM-12S-B-SR-01, at 1-2.

In its brief, Cowlitz raises a similar concern over the use of the word “event” in section 4.1.3.1.1, because that section applies to both Alternate Path 1a and Alternate Path 1b and is potentially ambiguous if applied to Adjustment Path 1b. Cowlitz Br. Ex., TRM-12S-R-CO-01, at 1-3. To resolve the potential for ambiguity, Cowlitz proposes alternative language for subsection 1 of section 4.1.3.1.1 that removes the word “event.” *Id.* at 2.

### **BPA Staff’s Position**

The purpose of the Provisional Load adjustment Alternative Path 1b is to compensate for consumer load loss that may occur due to the current economic downturn. Bliven *et al.*, TRM-12S-E-BPA-02, at 4-5.

### **Evaluation of Positions**

Cowlitz and Salmon River state that the use of the word “event” to describe the materiality threshold under Alternative Path 1b is confusing. Cowlitz Statement, TRM-12S-B-CO-01, at 3-4; Salmon River Statement, TRM-12S-B-SR-01, at 1-2. Both utilities contend that Alternative Path 1b deals with loss of a single consumer’s load. Cowlitz Statement, TRM-12S-B-CO-01, at 3-4; Salmon River Statement, TRM-12S-B-SR-01, at 1-2. The parties state that use of the word “event” implies that the load loss must be attributed to a specific cause. Cowlitz Statement, TRM-12S-B-CO-01, at 3-4; Salmon River Statement, TRM-12S-B-SR-01, at 1-2.

BPA agrees that the use of the word “event” in the context of an Alternative Path 1b adjustment may be confusing. Alternative Path 1b does not specify that an event be a “single discrete event” as is specified under Alternative Path 1a. Because Alternative Path 1a is tied to a single discrete event, the customer is allowed to aggregate consumer loads to satisfy the minimum qualification threshold. Because Alternative Path 1b is tied to a non-specific event, Alternative Path 1b does not allow the aggregation of consumer loads to meet the minimum qualification threshold. BPA will apply Alternative Path 1b for any load loss to a specific consumer load, and aggregation of reductions to multiple consumer loads will not be allowed.

Cowlitz and Salmon River are correct that an Alternative Path 1b adjustment is not associated with a particular event. The only standard to qualify for an Alternative Path 1b adjustment is to establish that a single consumer’s load (or interrelated load and common ownership) results in the smaller of a 5 aMW or 10 percent decrease in the customer’s Measured FY 2010 Load.

In its brief, Cowlitz notes that the language of subsection 1 of section 4.1.3.1.1, which applies to both Adjustment Path 1a and Adjustment Path 1b, states that “[t]he event must have a material effect on Measured FY 2010 Load.” Cowlitz Br. Ex., TRM-12S-M-CO-01, at 2. Cowlitz argues that this language could be ambiguous, because Adjustment Path 1b does not require that an “event” occur. *Id.* at 1-2.

BPA agrees with the parties’ concerns. BPA will remedy the potential confusion by modifying section 4.1.3.1.1 subsection 1 of the TRM Supplemental Proposal consistent with Cowlitz’s proposed language, to read as follows:

~~The event must have~~ There must have been a material effect on Measured FY 2010 Load.

BPA will also modify section 4.1.3.1.1 subsection 1b consistent with the parties' concerns. However, Staff noted that there had been an inadvertent error in drafting BPA's changes to that section for the Draft ROD that needs to be corrected also. Accordingly, section 4.1.3.1.1 subsection 1b of the TRM Supplemental Proposal will be modified to read as follows:

To otherwise qualify as material, there must have been a decrease in the event ~~must have caused a change decrease in~~ a single consumer's load (or interrelated load under common ownership)...

### **Decision**

*BPA will modify sections 4.1.3.1.1 and 4.1.3.1.1 subsection 1b to eliminate the reference to an "event" in the description of the threshold for an Alternative Path 1b for a Provisional Load adjustment.*

### **Issue 5**

*Whether BPA should modify the smaller of 5 aMW or 10 percent decrease limitation used in the determination of a Provisional Load adjustment for utilities with rural service territories.*

### **Parties' Positions**

PNGC argues that the load loss percentage to qualify for a Provisional Load Adjustment should be lowered from 10 percent to 5 percent for utilities with rural service territories. PNGC Statement, TRM-12S-B-PN-01, at 2.

### **BPA Staff's Position**

BPA Staff does not address this issue in testimony, because it is not part of the *TRM Clean Up List*. The percentage limitation was discussed, and ultimately the 10 percent limitation was the level agreed upon by BPA and PPC-designated preference customer representatives. Lowering the 10 percent limitation was not agreed upon.

### **Evaluation of Positions**

To qualify for a Provisional Load adjustment under Alternative Path 1a, the load loss must be a single discrete event that results in the smaller of a 10 aMW or 10 percent decrease in the customer's Measured FY 2010 Load. Alternatively, under Alternative Path 1b, a reduction in a single consumer's load must result in a 5 aMW or 10 percent decrease in the customer's Measured FY 2010 Load. As described in Issue 3, the cause of the load loss under Alternative Path 1b need not be specific.

PNGC contends that BPA should adjust the percentages used to qualify for a Provisional Load adjustment from 10 percent to 5 percent for rural utilities only. PNGC Statement, TRM-12S-B-PN-01, at 2. PNGC believes that the percentage limit does not fairly treat rural utilities, where a 1 aMW load is large and important to the community. *Id.*



BPA recognizes that the loss of relatively small loads in some rural utilities can have a significant impact on those communities when compared to some of BPA's larger customers. While BPA is sympathetic to the economic plight of both the rural and urban utilities, the purpose of the Provisional Load adjustment is not to address the economic impact of specific and significant load loss in BPA's customers' service territories. While a load as small as 1 aMW may be specific and significant to a rural utility, establishing such a low threshold could create a significant problem due to the sheer magnitude of potential applications that may arise from customers applying for Provisional Load adjustments. As noted in Issue 1 above, the intent of the Provisional Load adjustment is to address the potential disparities that could result if load lost due to the economic downturn affects some customers more than others. Furthermore, if the lost load returns and Provisional Load adjustments are not allowed, the return of the load exposes the customer to a greater amount of Above-RHWM Load for load that has historically operated and was expected to operate in FY 2010 when the TRM language was negotiated.

PNGC argues that making the adjustment to the qualifying percentage is more responsive to the specific size of the industries in rural utilities. *Id.* at 2-3. While BPA recognizes that small utilities (including rural utilities) tend to have smaller industrial loads, BPA addresses this concern by providing both a measured load loss and a load loss percentage standard. The percentage standard for load loss can qualify a small utility for a Provisional Load adjustment even though that same load would not qualify in a larger utility. For example, a 2 aMW CHWM utility can qualify a load loss as small as 200 akW, and a 1 aMW load loss can qualify if the utility has a CHWM smaller than 10 aMW. PNGC does not suggest a size limitation for qualifying as a rural utility. The 10 aMW Transition HWM encompasses one-third of BPA's customers, with 46 customers having a smaller THWM and 87 customers having a larger THWM. Therefore, many of BPA's customers can qualify for a Provisional Load adjustment with a loss of a single 1 aMW load.

PNGC makes this proposal to adjust the standard for solely rural utilities. This appears to be a standard without any meaningful significance. There is no clear definition as to what utilities qualify as rural utilities. Furthermore, even if there were some standard to distinguish between rural and urban utilities, the rural distinction ignores the fact that some rural utilities have relatively large loads due to industrial loads that are significant in size. For example, Wells Rural Electric Co. has a THWM of 101 aMW; only 16 customers have a larger THWM. Umatilla Electric Coop., which does not serve the larger population centers of Pendleton and Hermiston, has a THWM of 110 aMW; only 12 customers are larger. Finally, PNGC's proposal assumes that rural utilities are the only BPA customers that are small. Some of BPA's more urban utilities have loads that are smaller than some of the more rural utilities, making the urban/rural distinction more problematic. For example, the Town of Steilacoom, a suburb of Tacoma, is one of BPA's smaller customers, with a THWM of 5 aMW.

As noted above, BPA has addressed the specific issues associated with load loss for smaller utilities with the adoption of the 10 percent standard. However, BPA does note that Alternative Path 2 is available to all utilities and does not have any size limitations to quantify the eligible load loss. To the extent that a rural utility serves a small industry that is very important to a rural utility and was operating in FY 2007-2008 but has reduced or stopped its electricity consumption

due to the economic downturn, the utility can apply for an adjustment on this basis under Alternative Path 2.

### **Decision**

*BPA will retain the smaller of 5 aMW or 10 percent threshold to be eligible for a Provisional Load adjustment.*

### **Issue 6**

*Whether BPA should clarify section 4.1.8 of the proposed Provisional Load adjustment to explain how much of a customer's Provisional CHWM Amount would be retained.*

### **Parties' Positions**

Cowlitz, Eugene, NRU, PNGC, and WMG&T note that section 4.1.8 is complicated and lacks clarity. Cowlitz Statement, TRM-12S-B-CO-01, at 5; EWEB Statement, TRM-12S-B-EW-01 at 2; NRU Statement, TRM-12S-B-NR-01, at 2; PNGC Statement, TRM-12S-B-PN-01, at 3; WMG&T Statement, TRM-12S-B-WM-01, at 1. All of these parties request that BPA clarify the calculation in section 4.1.8, which outlines the steps associated with determining how a utility's Provisional CHWM Amount would be retained.

Seattle argues that, in spite of changes to section 4.1.8 BPA offers in the Draft ROD to address the concerns described by Cowlitz, Eugene, *et. al.*, the language for that section "remains very difficult to understand." Seattle Br. Ex., TRM-12S-R-SE-01, at 6. Seattle suggests language that would substantially revise the language of section 4.1.8 for describing how much of a customer's Provisional CHWM will be retained in its final CHWM and a corresponding example. *Id.* at 8-9.

### **BPA Staff's Position**

BPA Staff initially proposed section 4.1.8 as negotiated with preference customer representatives and later proposed clarifications to that language in the Draft ROD, in response to comments received in the parties' Statements of Positions. *See* Draft ROD, TRM-12S-A-01, at 18-20.

### **Evaluation of Positions**

Section 4.1.8 describes the steps associated with retaining a Provisional CHWM Amount. In general terms, during FY 2014, BPA will review the status of lost loads associated with the Provisional Load adjustment to determine the extent to which such lost loads have returned. To the extent lost loads have returned, a customer will be allowed to retain such returning load as permanent CHWM.

While the intent of section 4.1.8 was clear when the language was negotiated, the parties' comments cause BPA to realize that the language in section 4.1.8 is unclear. The Provisional Load is an amount of specific consumer load that exceeds the amount of the consumer load already included in Measured FY 2010 Load. The calculation in section 4.1.8 of Staff's proposal might be viewed as doublecounting the impact of the Measured FY 2010 Load for purposes of

calculating the amount of the Provisional CHWM Amount that would be retained. To remedy this potential confusion, the draft ROD provided the following edits to TRM section 4.1.8:

Each specific load adjustment included in Provisional Load granted under Adjustment Path 1 will be compared to each such specific load(s) during FY 2011-2013. The adjustment amount included in retained Provisional Load will be the ~~amount established for each specific load in the Measured FY 2010 Load subtracted from the~~ smaller of 1) the amount of each specific load amount included in Provisional Load or 2) the amount that the largest consecutive 12-month average measured amount for each such specific load during FY 2011-2013 exceeds the amount established for such load and that was included in Measured FY 2010 Load. Subject to BPA's judgment, BPA may further reduce the retained Provisional Load amount for such loads if BPA has a substantial basis to conclude that such load(s) will not operate at the same load level after FY 2013.

Seattle proposes alternative TRM language to describe the methodology for determining how much of a Provisional CHWM will become final, and explanatory language to be included in the ROD. This following language was circulated "among a number of public power representatives and received uniformly positive feedback that this language is consistent with the intended meaning of Section 4.1.8 and easier to understand." Seattle Br. Ex., TRM-12S-R-SE-01, at 9.

Each specific load adjustment included in Provisional Load granted under Adjustment Path 1 will be ~~compared to each such specific~~ evaluated by measuring the corresponding load(s) ~~during in~~ FY 2011-2013. The ~~adjustment~~ amount ~~included in of each such adjustment that will be~~ retained Provisional Load for purposes of calculating the customer's permanent CHWM will be the smaller of (1) the load adjustment amount ~~of each specific load amount~~ included in Provisional Load or (2) the positive difference, if any, between (a) the largest amount measured for the corresponding load during 12 consecutive ~~12-months~~ average measured amount for each such specific load during within FY 2011-2013, expressed in aMW, and (b) the amount of the corresponding load that was included in Measured FY 2010 Load. Subject to BPA's judgment, BPA may further reduce the ~~retained Provisional Load~~ amount for such loads adjustments retained for purposes of calculating permanent CHWMs if BPA has a substantial basis to conclude that such load(s) will not operate at the same load level after FY 2013.

An example may clarify the intent of this language. Assume that a specific consumer load has historically operated at 20 aMW. Assume that production is curtailed and the load operates during FY 2010 at 14 aMW. The customer serving this consumer load applies for and receives a Provisional Load of 6 aMW for this decrease in load. In this instance, the amount referred to in point (1) above is 6 aMW. The amount of corresponding load included in Measured FY 2010 Load in point (2)(b) above is 14 aMW. In FY 2014, BPA will establish the largest level, measured in aMW, for this specific consumer during 12 consecutive months within FY 2011-2013 (the amount called for in point (2)(a) above). If the measured amount is 18 aMW, then the amount

determined pursuant to point (2) above will be 18 aMW minus 14 aMW (resulting in a difference of 4 aMW).

The number derived from the calculation performed pursuant to point (2) is then compared to the amount determined pursuant to point (1), and the smaller number (here, 4 aMW) is used. Accordingly, the load adjustment amount used to calculate the customer's permanent CHWM would be 4 aMW.

If the measured amount for FY 2011-2013 for the corresponding load were less than 14 aMW, then there would be no adjustment amount included in the calculation of the customer's permanent CHWM, but the load level would not be reduced below the amount included in Measured FY 2010 Load. If the measured amount for FY 2011-2013 were 20 aMW or higher, the load adjustment amount used to calculate the customer's permanent CHWM would be capped at 6 aMW.

BPA concurs with parties supporting the language modification to clarify the process BPA will follow to determine which Provisional CHWM Amounts will be retained as permanent CHWM. The revised language does not change the original intent of the language, but it provides all parties a better understanding of the process BPA will follow when evaluating Provisional CHWM Amounts.

### **Decision**

*BPA clarifies the language of TRM section 4.1.8 by adopting the alternative TRM language suggested by Seattle. Section 4.1.8 is modified to read:*

*Each specific load adjustment included in Provisional Load granted under Adjustment Path 1 will be evaluated by measuring the corresponding load in FY 2011-2013. The amount of each such adjustment that will be retained for purposes of calculating the customer's permanent CHWM will be the smaller of (1) the load adjustment amount included in Provisional Load or (2) the positive difference, if any, between (a) the largest amount measured for the corresponding load during 12 consecutive months within FY 2011-2013, expressed in aMW, and (b) the amount of the corresponding load that was included in Measured FY 2010 Load. Subject to BPA's judgment, BPA may further reduce the amount for such load adjustments retained for purposes of calculating permanent CHWMs if BPA has a substantial basis to conclude that such load(s) will not operate at the same load level after FY 2013.*

### **Issue 7**

*Whether BPA should modify the time period for the return of reduced load to determine how much Provisional CHWM Amount is retained.*

## **Parties' Positions**

PNGC expresses a concern that the timeframe (through FY 2013) when BPA tests the retention of Provisional Load may not adequately account for the depth and length of the recession. PNGC Statement, TRM-12S-B-PN-01, at 3. PNGC suggests that the TRM allow for modification of the test dates to accommodate a slow economic recovery. *Id.*

## **BPA Staff's Position**

One of the primary objectives of the TRM is to provide customers long-term certainty regarding how much power they can purchase at Tier 1 rates. Bliven *et al.*, TRM-12S-E-BPA-02, at 7. This objective would be undermined if BPA keeps the review of Provisional CHWM Amounts open beyond FY 2013. *Id.*

## **Evaluation of Positions**

PNGC is concerned that the economic downturn could extend into and beyond FY 2013. PNGC Statement, TRM-12S-B-PN-01, at 3. PNGC states that the provisions in section 4.1.8 that specify the examination of the amount of the Provisional Load adjustment that returns prior to the end of that fiscal year may not accurately capture long-term historical loads in the retained Provisional CHWM Amount. *Id.*

While neither BPA nor PNGC knows how long or deep the current economic downturn will be, the underlying purpose behind developing the TRM is to provide customers with a clear understanding of the amount of BPA power that can be purchased at Tier 1 rates. Gaining this understanding allows customers to make informed decisions on how they will meet their Above-RHWM Load. Not knowing the amount of power customers will be eligible to purchase at Tier 1 rates would complicate customer resource decisions, particularly ones where a customer is developing a generating resource, which is a lengthy process.

BPA must balance the need to provide this certainty against the desire to most accurately reflect how much of the Provisional CHWM Amount will ultimately be retained. Given that it is not possible to predict with any certainty when the current economic downturn will end, leaving the date uncertain would defeat the purpose of providing customers certainty as to how much power they will be eligible to purchase at Tier 1 rates. Furthermore, it is likely that any economic recovery will not be experienced contemporaneously or to the same extent by all utilities. As a result, choosing any particular date, even if such choice is made at a later date, could miss the recovery for a particular set of utilities. Additionally, it opens BPA to arguments of unfairness and inequity if one customer believes its recovery is not yet achieved when many others have recovered. The *de facto* result of such flexibility would extend the examination period to when all customers have experienced a currently undefined economic recovery.

In the development of this proposal, Staff agreed to move the date for examining the load from FY 2011 to FY 2013. This change is made to address the concern PNGC raises and should go a long way in addressing its concern. PNGC wants additional flexibility in this regard; however, extending the load return period beyond FY 2013 would compromise the objective of providing customers certainty in the amount of power that they will be eligible to purchase at Tier 1 rates. Choosing a date now would reduce intra-customer disputes as to whether any particular customer

has had ample opportunity to experience an economic recovery. Specifying an objective date determined now is the preferred solution.

### **Decision**

*The date for examining the retention of Provisional CHWM Amounts will not be further modified beyond FY 2013.*

### **Issue 8**

*Whether BPA should clarify the nature of the discretion it is afforded in determining a customer's Provisional Load adjustment.*

### **Parties' Position**

Cowlitz states that BPA should clarify the manner in which it may exercise its discretion in determining the amount of Provisional Load a customer may be entitled to under Alternative Paths 1a or 1b of section 4.1.3.1. Cowlitz Statement, TRM-12S-B-CO-01, at 4. Cowlitz states that BPA should clarify that the discretion BPA may exercise in determining the amount of the Provisional Load adjustment is limited to evaluating the information related to the load loss and does not extend to picking and choosing which of its customers will qualify for a Provisional Load adjustment. *Id.*

### **BPA's Staff Position**

BPA Staff does not address this issue, as it was raised after Staff filed its proposal.

### **Evaluation of Positions**

Cowlitz seeks clarification and assurance that when BPA determines the amount of a Provisional Load adjustment to which a customer is entitled, BPA will not use its discretion to deny an adjustment to a customer that otherwise qualifies. Cowlitz Statement, TRM-12S-B-CO-01, at 4. Cowlitz states that an ambiguity arises from the following sentence: "Requests for Provisional Load to compensate for lost load that is not captured in Measured FY 2010 Load will be *considered* unless there is substantial evidence that the lost load will not return during the duration of the CHWM Contract." Supplemental Proposal, TRM-12S-E-BPA-01, at 14 (emphasis added). Cowlitz states that the use of the word "considered" suggests that a load loss that otherwise qualifies as a Provisional Load adjustment could be denied based solely upon BPA's exercise of discretion. Cowlitz Statement, TRM-12S-B-CO-01, at 4. Cowlitz asserts that BPA's discretion should be limited to the weight and value it places on evidence of load loss and whether such load will return during the duration of the CHWM Contracts. *Id.* Cowlitz states that BPA should be clear that it does not have the discretion to pick and choose which of its similarly situated customers will qualify for Provisional Load. *Id.* Cowlitz requests BPA to clearly state in the ROD that if a customer is eligible for an Alternative Path 1 adjustment for Provisional Load, it will be granted unless there is substantial evidence the lost load will not return. *Id.*

It is not the intent of the proposed modifications to the TRM to deny a Provisional Load adjustment to an otherwise qualified utility. Upon request by a customer, BPA will evaluate whether a utility has met the threshold requirements of an Alternative Path 1a or 1b adjustment. BPA will evaluate whether a discrete event resulted in the smaller of a 10 aMW or 10 percent decrease in a customer's load (Alternative Path 1a) or whether a decrease in a single consumer's load results in a 5 aMW and 10 percent decrease in a customer's load (Alternative Path 1b). Supplemental Proposal, TRM-12S-E-BPA-01, at 13. BPA's discretion in evaluating the eligibility of a particular utility falls into two general categories: 1) BPA will exercise its discretion in determining whether a customer has met these threshold requirements; and 2) BPA will exercise its discretion to determine whether there is substantial evidence that the lost load will not return during the term of the CHWM Contract.

Once qualified under these requirements, BPA *will* grant a utility a Provisional Load adjustment. However, this Provisional Load adjustment is subject to further review in FY 2014 to determine how much, if any, of the Provisional CHWM Amount a customer is entitled to retain.

### **Decision**

*BPA clarifies that its discretion is limited to determining whether a customer's load loss has met the stated threshold requirements under Alternative Path 1a or 1b and to determining whether there is substantial evidence that the lost load will not return during the term of the CHWM Contract.*

### **Issue 9**

*Whether the administrative costs of the proposal to allow Provisional CHWM Amounts are excessive and should cause BPA to reject the proposed revisions to the TRM.*

### **Parties' Positions**

This issue was not raised in any party's comments.

### **BPA Staff's Position**

BPA Staff did not address this issue.

### **Evaluation of Positions**

While this issue was not raised by parties, it is a question that BPA must consider due to the ongoing efforts to control internal costs. BPA's customers consistently focus on BPA's internal costs, desiring to keep them as low as possible.

The proposal to allow Provisional CHWM Amounts will add to BPA's internal operating costs through the additional processes and procedures needed for evaluation and implementation. Additional staff time will be needed to develop the processes and procedures, as well as to evaluate the load adjustment applications. The number of case-by-case evaluations required by the Provisional Load adjustment will likely increase from the number expected without the additional provisions.

An increased probability for dispute resolution is likely as the process becomes more complex. This will require additional expenditures for use of the Third-Party Neutral in dealing with additional HWM decisions that were not anticipated when the TRM was finalized. *See* TRM section 13.10.

Set against this cost increase is the impact the current economic downturn is having on customers. BPA believes that the potential impact to customers outweighs the potential internal cost increase this revision could create. If necessary, BPA will remind customers that they requested these additional services, and thus BPA will be loathe to entertain requests to cut these internal costs to manage rate levels.

BPA estimates that the increased administrative costs of allowing Provisional CHWM Amounts could be about \$40,000 in FY 2010, \$400,000 in FY 2011, \$40,000 in FY 2012, \$40,000 in FY 2013, and \$400,000 in FY 2014. These estimates are based on the staff and executive time needed for implementation, tracking, and verification and are based on a GS-13 pay scale. The estimate also includes the potential cost of dispute resolution if needed.

### **Decision**

*BPA will implement the Provisional CHWM Amount revision despite its added administrative costs.*

### **Issue 10**

*Whether Provisional CHWM Amounts will be allowed voting privileges pursuant to section 13.*

### **Parties' Positions**

This issue was not raised in any party's comments.

### **BPA Staff's Position**

BPA Staff did not address this issue.

### **Evaluation of Positions**

Provisional CHWM Amounts could alter the outcomes of CHWM votes pursuant to section 13 of the TRM. An important feature of the TRM is section 13, which governs modifications to the TRM. Section 13 describes procedures for customer voting on certain proposed modifications. A portion of the voting procedures is an accumulation of voting CHWMs. Allowing Provisional CHWM Amounts raises the question of whether customers with Provisional CHWM Amounts will be allowed to vote such amounts should a proposal subject to a vote be raised before the provisional amounts are made permanent.

There are three options: 1) the provisional amounts are allowed to be voted permanently; 2) the provisional amounts are not allowed to vote; or 3) the provisional amounts are allowed to vote subject to withdrawal of the amount voted if the provisional amount is not retained.



Allowing all provisional amounts a permanent vote is clear and definitive, but it may give customers with provisional amounts a disproportionate influence on the outcome of the voting process if the provisional amount is not retained. The magnitude of this effect depends on how many provisional amounts are granted to customers, and also on how many provisional amounts are not retained.

Disallowing provisional amounts a vote is also clear and definitive, but would deny customers with provisional amounts the ability to represent the loads that may ultimately be retained.

Allowing a provisional amount a tentative vote subject to the provisional amount being retained is the most rigorous approach in terms of limiting voting to the permanent CHWM. If a provisional amount is not retained past FY 2013, the validity of the vote may be questioned. The uncertainty of possible TRM revisions waiting until actual retained CHWM is known would disrupt power transactions and may necessitate a recalculation of rates and power bills.

The least-disruptive alternative is to allow the provisional amounts the same voting privileges as permanent CHWMs, without revisiting decisions when the provisional amounts are not retained.

### **Decision**

*Provisional CHWM Amounts will be allowed voting privileges pursuant to section 13, and modifications attaining a positive vote will not be revisited, even if Provisional CHWM Amounts are not retained.*

### **Issue 11**

*Whether BPA should add the words “and commercial” to the Introduction of this chapter to the ROD to describe the loads lost by BPA’s customers.*

### **Parties' Positions**

Seattle believes that the Introduction to this chapter should be modified to include the words “and commercial” to describe the loads lost by BPA’s customers. Seattle Br. Ex., TRM-12S-R-SE-01, at 3. Seattle contends that stating that “some industrial loads for a number of BPA customers declined or were eliminated” fails to acknowledge the loss of commercial load by BPA’s customers. *Id.*

### **BPA Staff's Position**

This issue was raised for the first time in Seattle’s brief, and Staff did not have the opportunity to take a position on this matter.

### **Evaluation of Positions**

Seattle contends that the words “and commercial” should be added following the word industrial in the Introduction to this chapter to note that both industrial and commercial loads have been lost as a result of the current economic downturn. Seattle Br. Ex., TRM-12S-R-SE-01, at 3. The

concern raised by Seattle involves language in the Introduction to this chapter in the ROD. The Introduction is designed to provide readers some background and context to the decisions that follow and, consequently, making the change suggested by Seattle will not impact either the decision in this ROD regarding the treatment of Provisional Load or any provision in the Tiered Rate Methodology.

The inclusion of the word industrial was not designed to be exclusionary. BPA acknowledges that the economic downturn has caused customers to lose load from a variety of sources that include commercial, residential, and irrigation loads, as well as industrial load. While the language in the Introduction has no legal impact on the decision in this proceeding, BPA accepts the fact that the language could be viewed as limiting. However, Seattle's proposed solution does not fully address the matter, since it does not include residential or other loads that may have declined as a result of the economic downturn. Consequently, a better solution would be to delete the sentence.

**Decision**

*The Introduction to Chapter 2 is modified to delete any reference to the type of load lost by BPA customers.*

## 3.0 TRM ATTACHMENT C

### 3.1 Introduction

Attachment C of the TRM includes customers' non-Federal resource amounts that will be used to establish CHWMs. TRM, TRM-12-A-02, at C-1 - C-10. The resource amount for Pend Oreille PUD's Box Canyon Dam resource is listed as 32.203 aMW in Attachment C. *Id.* at C-6. Pend Oreille serves a fiber mill NLSL with power from its Box Canyon Dam and power it receives from Seattle's Boundary Dam. The entire output of Boundary is used for the NLSL, and the Box Canyon output is divided between service to the NLSL and service to Pend Oreille's non-NLSL load. The size of this NLSL has a direct effect on the distribution of Box Canyon resource amounts available to serve Pend Oreille's other load and, therefore, its CHWM.

If the actual FY 2010 NLSL is larger than forecast, Pend Oreille could face an inappropriate exposure to Above-RHWM Load for other loads due to an understatement of Pend Oreille resources serving the NLSL. Conversely, if the actual FY 2010 NLSL is smaller than forecast, Pend Oreille's CHWM would be higher than appropriate, and Pend Oreille would be unduly advantaged relative to other BPA customers. Bliven *et al.*, TRM-12S-E-BPA-02, at 20-25.

### 3.2 Issues

#### Issue 1

*Whether the resource amounts for Pend Oreille's Box Canyon Dam listed in Attachment C to the TRM should be adjusted to avoid a potential inequitable exposure to Above-RHWM Load for Pend Oreille.*

#### Parties' Positions

The Slice Customers and WPAG support these specific changes. Slice Customers Statement, TRM-12S-B-JP01-01, at 3; WPAG Statement, TRM-12S-B-WA-01, at 3. Pend Oreille PUD also supports the changes to Attachment C. Pend Oreille Statement, TRM-12S-B-PO-01, at 2-3.

EWEB, ICNU, McMinnville, NRU, PPC, Seattle, and WMG&T indicate an overall support for the TRM Supplemental Proposal, which includes the edits to Attachment C. Okanogan PUD submitted a participant comment that indicates the same support. Okanogan PUD Statement, TRS090015.

No parties submitted statements opposed to this revision.

#### BPA Staff's Position

Staff believes that the proposed adjustment to the Box Canyon resource amounts is appropriate under the unique circumstances presented. Given that Pend Oreille's NLSL is served entirely by the Boundary and Box Canyon Dams, the actual size of the NLSL has a direct effect on the Box Canyon resource amount available to serve Pend Oreille's other loads, and therefore, Pend Oreille's CHWM. Bliven *et al.*, TRM-12S-E -BPA-02, at 21.

## **Evaluation of Positions**

No parties indicated opposition to the proposed edits to Attachment C of the TRM. The Slice Customers and WPAG indicate that the proposal is a fair outcome that does not harm any other preference customer. Slice Customer Statement, TRM-12S-B-JP01-01, at 3; WPAG Statement, TRM-12S-B-WA-01, at 3.

Pend Oreille states that:

This adjustment puts Pend Oreille PUD on about the same footing as all other preference customer with regard to the amount of above-HWM exposure they will have during the first few years under Tiered Rates, and by so doing achieves the “rough justice” standard that has been applied throughout the TRM formulation process

and Pend Oreille “strongly supports adoption of the proposed revision of Attachment C of the TRM.” Pend Oreille Statement, TRM-12S-B-PO-01, at 2-3.

As noted above, Pend Oreille’s NLSL is served entirely by Pend Oreille’s Boundary and Box Canyon resources. Bliven *et al.*, TRM-12S-E-BPA-02, at 21. The actual consumption of this NLSL thus will have a direct effect on the Box Canyon resource amount available to serve the other load of Pend Oreille. *Id.*

These considerations led Staff to propose to adjust the Box Canyon resource amounts to avoid a potential inequitable Above-RHWM Load exposure for Pend Oreille and to better reflect the actual fiber mill load designated as NLSL and the amount of non-Federal resource applied to serve the NLSL. *Id.*

The Box Canyon resource amount serving the NLSL will be adjusted to 24.479 aMW. A footnote will be added to Attachment C to state that the 24.479 aMW amount will be further adjusted in calculating Pend Oreille’s CHWM to account for any difference between the Pend Oreille fiber mill NLSL’s actual load and forecast load. The 63.661 aMW amount assumed at the time the 24.479 aMW number was calculated will be adjusted to actual load when CHWM calculations are performed. By better reflecting the actual effect of the NLSL fiber mill load and the amount of non-Federal resource applied to serve the NLSL, such change avoids a potential inequitable Above-RHWM Load exposure for Pend Oreille and the potential for a windfall CHWM relative to other customers.

## **Decision**

*The resource amounts for Pend Oreille’s Box Canyon Dam listed in Attachment C to the TRM will be adjusted to avoid a potential inequitable exposure to Above-RHWM Load for Pend Oreille.*

## **Issue 2**

*Whether BPA should revise the Introduction to this chapter of the ROD to state that Pend Oreille's Box Canyon resource is "needed" to serve the other load rather than "available" to serve the other load.*

### **Parties' Positions**

Seattle states that the issue regarding Pend Oreille's Box Canyon resource is not that the resources "available" to serve the NLSL have been understated; rather, it is the portion of the Box Canyon resource that BPA and Pend Oreille anticipate will be "needed" to serve the NLSL that has been understated. Seattle Br. Ex., TRM-12S-R-SE-01 at 9-10.

### **BPA Staff's Position**

This issue was raised for the first time in Seattle's brief, and Staff did not have the opportunity to take a position on this matter.

### **Evaluation of Positions**

Seattle does not disagree with the modified treatment of the Box Canyon resource and states that the characterization of the resource in this introductory language is not accurate. Seattle Br. Ex., TRM-12S-R-SE-01 at 9-10. Seattle contends that the Introduction seems to indicate that the entire Box Canyon resource is "available" to serve whatever portion of Pend Oreille's NLSL remains after applying the output available from Boundary, with any Box Canyon output not needed for the NLSL to be used to serve remaining load. *Id.* Seattle contends that it is the portion of the Box Canyon resource that BPA and Pend Oreille anticipate will be "needed" to serve the NLSL, not that which is available, that is at issue. *Id.* at 10.

The concern raised by Seattle involves language in the Introduction to this chapter of the ROD. The Introduction is designed to provide readers some background and context to the decisions that follow. Consequently, making the change suggested by Seattle will not impact either the decision in this ROD regarding the treatment of the Box Canyon resource or any provision in the Tiered Rate Methodology.

As noted in Staff's testimony, Pend Oreille's CHWM is affected by the amount of the Box Canyon resource that is applied to its NLSL. Bliven *et al.*, TRM-12S-E-BPA-02, at 21. Pend Oreille's NLSL is served entirely by the Boundary and Box Canyon Dams, and the actual size of the NLSL has a direct effect on the Box Canyon resource amount *available* to serve Pend Oreille's general requirements loads. *Id.* (emphasis added).

### **Decision**

*BPA will revise the Introduction to state that Pend Oreille's Box Canyon resource is "serving" the NLSL.*

**This page intentionally left blank**

## 4.0 GENERAL EDITS TO THE TRM

### 4.1 Introduction

Staff proposes a number of edits as clarifications to the current TRM. In reviewing the TRM, Staff found several places where inexact terms were used or additional language would provide clarity. The proposed edits do not change the intent or calculations of the current TRM; rather, they better ensure that future rate proposals are consistent with the TRM. The general edits to the TRM are described in detail in Staff testimony. Bliven *et al.*, TRM-12S-E-BPA-02, at 25-29.

### 4.2 Issues

#### Issue 1

*Whether the TRM should be modified by the general edits proposed by Staff.*

#### Parties' Positions

No parties indicate they oppose the general edits to the TRM. A number of parties indicate overall support for the TRM Supplemental Proposal, aside from a few issues for clarification. See Statements of EWEB, ICNU, McMinnville, NRU, PPC, Seattle, WMG&T, WPAG, and Slice Customers.

#### BPA Staff's Position

Staff believes these edits will provide clarity and do not change the original intent of the TRM. Bliven *et al.*, TRM-12S-E-BPA-02, at 25.

#### Evaluation of Positions

No parties oppose the general edits to the TRM. Given the number of parties in support of the TRM Supplemental Proposal, Staff's position in support of the general edits is persuasive.

#### Decision

*BPA will modify the TRM to include the general edits.*

**This page intentionally left blank**



## 5.0 ISSUES OUTSIDE THE SCOPE OF THE TRM SUPPLEMENTAL RATE PROCEEDING

### 5.1 Introduction

The scope of the TRM Supplemental Rate Proceeding is limited to those issues raised in the TRM Clean Up process. Federal Register notice, 74 Fed. Reg. 25729, 25731 (2009).

### 5.2 Issues

#### Issue 1

*Whether the process for determining Tier 1 System Firm Critical Output (TISFCO) should be defined in the ROD.*

#### Parties' Positions

Snohomish suggests that BPA include in the Final ROD a general timeline and process for determining TISFCO. Snohomish Statement, TRM-12S-B-SN-1, at 3. Additionally, Snohomish requests that the timeline include sufficient time for customers to receive information and prepare meaningful feedback. *Id.*

#### BPA Staff's Position

The matter was not part of the TRM Clean Up process and, as a consequence, Staff does not address the matter in its testimony.

#### Evaluation of Positions

The limited scope of this proceeding is defined by the language of section 12 of the TRM and further expressed in the Federal Register notice. TRM, TRM-12-A-02, at 94; Federal Register notice, 74 Fed. Reg. 25729, 25731 (2009). As such, only those matters that were part of the TRM Clean Up process are within the scope of this proceeding.

BPA understands the importance to Snohomish and other public utilities of the process used in determining the TISFCO. If Snohomish wishes to formally modify aspects of the determination of the TISFCO, it must do so by following the procedures outlined in section 12 and 13 of the TRM. However, Snohomish asks only that the ROD set forth the timeline for determining TISFCO. BPA intends to conduct a full and open process to determine TISFCO and expects to allow sufficient time for all stakeholders to receive information and prepare meaningful feedback. However, at this time, BPA has not developed a timeline for this process.

#### Decision

*Defining additional public process for determining and reviewing TISFCO is not part of the TRM Supplemental Proposal and is outside the scope of the TRM Supplemental rate proceeding. However, BPA understands the importance of a timeline to customers and will provide one as soon as it is ready.*

## **Issue 2**

*Whether the issue of how a CF/CT load is treated in calculating CHWMs should be addressed in the TRM Supplemental rate proceeding.*

### **Parties' Positions**

GP states that it takes no position on the proposals contained in the Supplemental Proposal, but GP reserves and renews its objection to the TRM's treatment of CF/CT and the failure of the Supplemental Proposal to address such treatment. GP Statement, TRM-12S-B-GP-01, at 1.

### **BPA Staff's Position**

Staff takes no position on this issue, because it is not part of the Supplemental Proposal.

### **Evaluation of Positions**

GP states that it reserves and renews its objection to the TRM's treatment of CF/CT and the failure of the Supplemental Proposal to address such position. GP Statement, TRM-12S-B-GP-01, at 1.

To the extent that GP's position is read to allege some defect in the Supplemental Proposal with regard to CF/CT load treatment, it must be noted that CF/CT load treatment is outside the scope of the TRM Supplemental rate proceeding. The scope of the TRM Supplemental rate proceeding is established in the Federal Register notice published on May 29, 2009. 74 Fed. Reg. 25729, 25731 (2009). Therefore, the issue raised by GP will not be addressed by BPA in this proceeding.

To the extent that GP is simply preserving its legal position, it is unnecessary. The issue that GP apparently seeks to preserve is a legal one and the subject of ongoing litigation. As such, neither GP's objections nor the underlying CF/CT issue will be addressed in this 7(i) proceeding. GP filed suit against BPA in the Ninth Circuit Court of Appeals following the release of the TRM and related ROD. That suit includes the subject matter of how CF/CT load is addressed in the TRM.

### **Decision**

*The treatment of CF/CT load is not part of the TRM Supplemental Proposal and is outside the scope of the TRM Supplemental rate proceeding.*

## **Issue 3**

*Whether BPA should clarify the application of the annual growth rate used in the Irrigation Normalization process.*

### **Parties' Positions**

NRU believes that there is ambiguity in the TRM regarding the manner in which BPA will apply the average annual growth rate to the irrigation loads for purposes of normalizing the irrigation loads under the TRM. NRU Br. Ex., TRM-12S-R-NR-01, at 3. NRU contends that it is unclear how the adjustment to the historical load average will be made. *Id.*

### **BPA Staff's Position**

Staff takes no position on this issue, because it is not part of the Supplemental Proposal.

### **Evaluation of Positions**

The limited scope of this proceeding is defined by the language of section 12 of the TRM and further expressed in the Federal Register notice. TRM, TRM-12-A-02, at 94; Federal Register notice, 74 Fed. Reg. 25729, 25731 (2009). As such, only those matters that were part of the TRM Clean Up process are within the scope of this proceeding.

The issue surrounding the ambiguity of the Irrigation Normalization process was not within the scope of the issues to be addressed in this proceeding. BPA understands the importance of the Irrigation Normalization process to NRU and others and as a result scheduled the workshop referenced by NRU in its brief. However, the perceived ambiguity does not make it an issue for this rate case. To the extent that NRU or others believe that the TRM needs to be revised to address that perceived ambiguity, that revision may be pursued in a future rate case consistent with the provisions of sections 12 and 13 of the TRM. In addition, because this issue was raised subsequent to the issuance of the Draft ROD, no other party has opportunity to comment on this issue.

### **Decision**

*The treatment of Irrigation Normalization load is not part of the TRM Supplemental Proposal and is outside the scope of the TRM Supplemental rate proceeding.*

**This page intentionally left blank**

## 6.0 PARTICIPANT COMMENTS

This section summarizes and evaluates the comments of participants in BPA's TRM Supplemental rate proceeding. Participants are persons and organizations that comment on BPA's rate proposal but do not take part in the formal section 7(i) proceeding. Comments of participants are part of the official record of the section 7(i) proceeding and are considered when the Administrator makes his decisions based on the record.

The TRM-12S participant comment period commenced after publication of the notice in the Federal Register on May 29, 2009 (74 Fed. Reg. 25729 (2009)). The Federal Register notice can be viewed at the BPA Web site:

[http://www.bpa.gov/corporate/ratecase/TRM\\_Supplemental/docs/2012\\_Tiered\\_Rate\\_Methodology\\_Supplemental.pdf](http://www.bpa.gov/corporate/ratecase/TRM_Supplemental/docs/2012_Tiered_Rate_Methodology_Supplemental.pdf).

In addition, Staff notified every preference customer that is not a party to the rate proceeding about the proposed changes and invited such customers to submit a Statement of Position as a participant. The participant comment period ended July 8, 2009. BPA received one written comment, from Okanogan PUD, TRS090016, in the TRM proceeding. This comment can be viewed at the BPA Web site:

<http://www.bpa.gov/applications/publiccomments/CommentList.aspx?ID=70>.

BPA reviewed the comment received and determined that the Okanogan comment is similar to the Statements of Position submitted by Slice Customers and WPAG; therefore BPA responds to this comment in sections 2 and 3 above.

**This page intentionally left blank**

## 7.0 NATIONAL ENVIRONMENTAL POLICY ACT

BPA has evaluated the potential for environmental effects related to implementation of the TRM Supplemental Proposal, consistent with the National Environmental Policy Act (NEPA), 42 U.S.C. § 4321 *et seq.* The NEPA process is conducted separately from the formal rate proceeding. The TRM Supplemental Proposal provides for modifications to the final TRM, TRM-12-A-02, which is a rate design methodology. BPA has previously completed an evaluation under NEPA of the TRM and its provisions as part of the TRM-12-A-01 Administrator's ROD (*see* Administrator's ROD, Section 8.0). This previous evaluation found that the TRM is an implementation of an already-adopted policy concerning tiered rates with little to no environmental impact, and any potential environmental effects had already been evaluated and considered in BPA's Business Plan Environmental Impact Statement (DOE/EIS-0183, June 1995) and Long-Term Regional Dialogue Policy NEPA ROD (July 2007).

The TRM Supplemental Proposal includes eight revisions to the TRM. The first revision modifies the calculation of the TRM CHWM by allowing the development of an optional Provisional CHWM Amount due to the current economic downturn. The second revision amends the resource amount of Pend Oreille PUD's Box Canyon Dam resource as specified in TRM Attachment C to avoid a potential inequitable exposure to Above-RHWM Load for Pend Oreille. The remaining revisions are merely clarifications of the TRM document's language that do not change the intent of the original language.

All of these revisions to the TRM are administrative in nature and accordingly would not be expected to result in environmental effects. Memorializing these revisions therefore does not significantly change the potential for environmental effects from the TRM that were previously evaluated and considered in the TRM-12-A-01 Administrator's ROD. Furthermore, implementation of the TRM, with these revisions, continues to be consistent with the Market-Driven Alternative that was evaluated in the Business Plan EIS and adopted in the Business Plan ROD (August 15, 1995), as well as with the Long-Term Regional Dialogue Policy and its associated NEPA ROD.

**This page intentionally left blank**



## 8.0 CONCLUSION

The revised rate methodology established and adopted in this ROD has been designed to establish a tiered Priority Firm Power rate that will meet all BPA statutory ratemaking requirements, including, among others, to recover the costs associated with the acquisition, conservation, and marketing of electric power; to amortize the Federal investment in the FCRPS (including irrigation costs required to be repaid out of power revenues) over a reasonable period of years; to recover all other power-related costs and expenses incurred by the Administrator in carrying out the requirements of the Northwest Power Act and other provisions of law; and to recover costs in accordance with sections 7(b)(1) and 7(e) of the Northwest Power Act. In addition, this revised rate methodology has been designed to set rates as low as possible consistent with sound business principles, to encourage the widest possible use of BPA's power, and to satisfy BPA's other ratemaking obligations. The Hearing Officer has assured me that all interested parties and participants were afforded the opportunity for a full and fair evidentiary hearing, as required by law.

BPA evaluated this proposed revised rate methodology in a section 7(i) proceeding pursuant to the Northwest Power Act. BPA also evaluated the potential environmental impacts of the proposed rate methodology and alternatives thereto, as required by NEPA. In this instance, the environmental analysis provided by the Business Plan Final EIS details the environmental impacts of BPA's Tiered Rate Methodology. The environmental analysis contained in the Business Plan Final EIS has been considered in making the decisions in this ROD.

Based upon the record compiled in this proceeding, the decisions expressed herein, and all requirements of law, I hereby adopt the Tiered Rate Methodology attached hereto (TRM-12S-A-03) as the final Bonneville Power Administration Tiered Rate Methodology.

Issued in Portland, Oregon, this 2nd day of September, 2009.

*/s/ Stephen J. Wright*  
Administrator and  
Chief Executive Officer  
Bonneville Power Administration

**This page intentionally left blank**

Attachment 1

**Tiered Rate Methodology  
TRM Clean Up**

**Final list of clean up items to be proposed in a future 7(i) process  
Final as of January 30, 2009**

**1. Action: BPA will modify the TRM as proposed in Carol Hustad's November 24, 2008 letter.**

**2. Action: By March 31, BPA and PPC Designated Representatives will develop language if there are agreed changes to the computation of CHWMs to mitigate for the potential effects of the economic downturn.**

**3. Action: Add definition for Forecast Monthly/Diurnal Tier 1 Load and edit related definitions and sections as a result:**

*Current Definitions:*

**Actual Annual Tier 1 Load** means the sum of a customer's Actual Tier 1 Loads for all for the Monthly/Diurnal periods during a Fiscal Year.

**Actual Tier 1 Load** means the amount of a customer's electric load (measured in kilowatthours) that was served at Tier 1 Rates during the relevant Monthly/Diurnal period.

**Forecast Tier 1 Load** means BPA's forecast of each customer's Actual Annual Tier 1 Load that BPA calculates in each 7(i) Process.

*Proposed Change (underline for a change):*

**Actual Annual Tier 1 Load** means the sum of a customer's electric loads (measured in kilowatthours) that were served at Tier 1 Rates for all of the Monthly/Diurnal periods during the relevant Fiscal Year.

**Actual Monthly/Diurnal Tier 1 Load** means the amount of a customer's electric load (measured in kilowatthours) that was served at Tier 1 Rates during the relevant Monthly/Diurnal period.

**Forecast Annual Tier 1 Load** means the sum of a customer's electric loads (measured in kilowatthours) that BPA forecasts in each 7(i) Process to be served at Tier 1 Rates for all of the Monthly/Diurnal periods a Fiscal Year.

**Forecast Monthly/Diurnal Tier 1 Load** means the amount of a customer's electric load (measured in kilowatthours) that BPA forecasts in each 7(i) Process to be served at Tier 1 Rates during the relevant Monthly/Diurnal period.

*Changes needed as a result of this definition clean up:*

Page vi – Line 24 – Forecast Tier 1 Load to Forecast Monthly/Diurnal Tier 1 Load.

Page xiv – Line 7 – Actual Tier 1 Load to Actual Monthly/Diurnal Tier 1 Load.

Page xviii – Line 13 – Forecast Tier 1 Load to Forecast Annual Tier 1 Load.

Page xxi – Line 21 – Forecast Tier 1 Load to Forecast Annual Tier 1 Load.

Page 53 – Line 19 – Actual Tier 1 Load to Actual Monthly/Diurnal Tier 1 Load.

Page 54 – Line 19 – Forecast Tier 1 Load to Forecast Annual Tier 1 Load.

Page 55 – Line 7 – Actual Tier 1 Load to Actual Monthly/Diurnal Tier 1 Load.

Page 55 – Line 22 – Actual Tier 1 Load to Actual Monthly/Diurnal Tier 1 Load.

Page 55 – Line 24 – Actual Tier 1 Load to Actual Monthly/Diurnal Tier 1 Load.

Page 59 – Line 8 – Forecast Tier 1 Load to Forecast Monthly/Diurnal Tier 1 Load.

Page 59 – Line 15 – Forecast Tier 1 Load to Forecast Annual Tier 1 Load.

Page 59 – Line 20 – Forecast Tier 1 Load to Forecast Monthly/Diurnal Tier 1 Load.

Page 59 – Line 21 – Forecast Tier 1 Load to Forecast Monthly/Diurnal Tier 1 Load.

Page 60 – Line 1 – FT1L to FMDT1L.

Page 60 – Line 6 – Forecast Tier 1 Load to Forecast Monthly/Diurnal Tier 1 Load.

Page 60 – Line 10 – FT1L to FMDT1L.

Page 60 – Line 10 – Forecast Tier 1 Load to Forecast Monthly/Diurnal Tier 1 Load.

Page 61 – Line 8 – Forecast Tier 1 Load to Forecast Monthly/Diurnal Tier 1 Load.

Page 61 – Line 22 – Replace variable FT1EBD (or FT1L in errata) with FAT1L.

Page 62 – Line 3 – Forecast Tier 1 Load to Forecast Monthly/Diurnal Tier 1 Load.

Page 62 – Line 5 – Replace FT1L variable with FAT1L, Forecast Tier 1 Load to Forecast Annual Tier 1 Load and add (expressed in megawatthours).

Page 62 – Line 23 – Actual Tier 1 Load to Actual Monthly/Diurnal Tier 1 Load.

Page 63 – Line 8 – Actual Tier 1 Load to Actual Monthly/Diurnal Tier 1 Load.

Page 63 – Line 9 – Actual Tier 1 Load to Actual Monthly/Diurnal Tier 1 Load (twice).

**4. Action: Delete text from the TRM as indicated below:**

“A resource that is contractually committed to be flat within each Monthly/Diurnal period of the year but not flat between those periods ~~will avoid the DFS charge but~~ will be subject to the Resource Shaping Charge. A resource that is contractually committed to be flat annually will avoid ~~both the DFS charge and the~~ Resource Shaping Charge”.

*Tiered Rate Methodology, page 81, lines 3 – 5.*

**5. Action: Add minimum duration for public comment period on RHWMs:**

“A public comment period, **at least 10 business days in length,** and **a** publicly noticed meeting will follow publication of the RHWMs”

*Tiered Rate Methodology, page 45, lines 1 – 2.*

**6. Action: Edit text in the TRM as indicated below:**

Reads: “The Cost Pools on the Allocated Tiered Coast Table, Table 2, into which all line items on the Revenue Requirement Table are divided (allocated), address treatment of costs to be recovered through either Tier 1 Rates or Tier 2 Rates.”

Will read: “Each line item on the Revenue Requirement Table will be allocated to matching line items on Allocated Cost Tables established for each rate pool. The Cost Pools on the Allocated Cost Table for the PF Preference rate pool will establish the treatment of costs to be recovered through either the various Tier 1 Rates or the various Tier 2 Rates.”

*Tiered Rate Methodology, page 2, lines 10 -12.*

**7. Action: Edit text in the TRM as indicated below and add definition for Net Requirements:**

“The **RHWM** is set by BPA in the RHWM Process prior to each 7(i) Process and defines a Public’s maximum eligibility to purchase at Tier 1 Rates for that Rate Period, limited by the customer’s Annual Net Requirement **net of its NLSLs included in the Net**

Requirement) as determined pursuant to BPA's 5(b)9(c) Policy and the customer's CHWM contract. for Slice and Block and Actual Net Requirement for Load Following customers."

*Tiered Rate Methodology, page 29, lines 16 – 19.*

"The RHWM sets the maximum planned amount of power that a customer may purchase each year of the Rate Period under Tier 1 Rates, subject to its Annual Net Requirement (net of its NLSLs included in the Net Requirement) as determined pursuant to BPA's 5(b)9(c) Policy and the customer's CHWM contract."

*Tiered Rate Methodology, page 43, lines 13 – 14.*

**Add the contract definition of Net Requirement following contracts "clean up"**

**8. Action: Add language below to TRM Section 12.5 - Actions Not Considered to be a Revision to the TRM:**

o) adjustments to the size of the base amount on which an interest credit is calculated for ratemaking purposes for crediting to the Composite Cost Pool (see section 2.5)

*Tiered Rate Methodology, page 97, new line 20.*

**9. Action: BPA and the PPC Designated Representatives will develop language if there are agreed changes to the TRM regarding the allocation of forecast costs and revenues associated with BPA fulfilling Designated BPA System Obligations.**

**Explanation** – In recent meetings, BPA staff has indicated that they believe that Power Services has the obligation to provide services to Transmission Services from the FCRPS under certain circumstances. BPA staff has also indicated that they are uncertain whether, and the extent to which, Power Services can charge Transmission Services replacement costs when fulfilling such obligations. Public Power would like to work with BPA to craft language for inclusion in the TRM that would establish replacement costs as the target for the pricing of such services, to the extent that BPA is permitted to do so. This would be a goal, not a guarantee.

**This page intentionally left blank**

