**Reservation of Rights:** *All draft Provider of Choice (POC) contract language presented by BPA for discussion is subject to ongoing review and revision. Prior to finalizing the POC contract templates, BPA will publish complete contract templates for public review and comment. BPA acknowledges that failure to offer edits or comments on this document does not preclude a stakeholder from offering edits or comments during the formal public review.*

**Summary of Changes**

Section 23.4, Priority of Northwest Customers—BPA is updating the reference to statute consistent with [US Code References](https://www.bpa.gov/-/media/Aep/power/provider-of-choice/2024-Workshops/20240610-us-code-sections.docx) document previously shared in workshop. Also BPA is proposing to change BPA to electric power, an edit we’re making throughout the contract, to align terminology with that used in the Northwest Power Act.

Section 23.5, Prohibition on Resale—no changes proposed.

Section 23.6, Use of Regional Resources—minor edits proposed to update terminology (ie. Purchase Period changed to Rate Period) and reflect current circumstances (PNCA expiring). Additionally, BPA is proposing a new paragraph that states participation in a day ahead market will not be considered an “export outside the Region” if specific criteria are met. BPA proposes not creating a formal definition of firm power.

**Edits of Particular Note**

N/A

**Reservation of Rights**

The following draft language has not been agreed to by NRU or any NRU member and is provided for discussion purposes only. The draft Provider of Choice contract red-lines, including this section, are subject to NRU’s ongoing review and recommended revision. NRU reserves the right to subsequently object to, and if necessary, reject the language below, in whole or in part, and/or propose alternative language, including the right to reject or propose alternatives to the edits proposed by NRU in this draft.

**23. STATUTORY PROVISIONS*****(XX/XX/XX Version)***

23.1 **Retail Rate Schedules**

Moved to master template after 6/10 workshop.

23.2 **Insufficiency and Allocations**

Moved to master template after 6/10 workshop.

23.3 **New Large Single Loads and CF/CTs**

Will be reviewed separately.

23.4 **Priority of Pacific Northwest Customers**

The provisions of sections 9(c) and 9(d) of the Northwest Power Act and the provisions of the Pacific Northwest Consumer Power Preference Act as amended by the Northwest Power Act are incorporated into this Agreement by reference. «Customer Name», together with other customers in the Region, shall have priority to electric power consistent with such provisions.

23.5 **Prohibition on Resale**

«Customer Name» shall not resell Firm Requirements Power except to serve «Customer Name»’s Total Retail Load or as otherwise permitted by federal law.

23.6 **Use of Regional Resources**

23.6.1 Within 60 days prior to the start of each Fiscal Year, «Customer Name» shall provide notice to BPA of any firm power from «Customer Name»’s Generating Resources, or a Contract Resource during its term, listed in Exhibit A that has been used to serve firm consumer load in the Region and that «Customer Name» plans to export for sale outside the Region in the next Fiscal Year. Firm power includes firm energy and firm peaking capability.

BPA may request and «Customer Name» shall provide within 30 days of such request, additional information on «Customer Name»’s sales and dispositions of non-federal resources if BPA has information that «Customer Name» may have made such an export and not notified BPA. BPA may request and «Customer Name» shall provide within 30 days of such request, information on the planned use of any or all of «Customer Name» Generating and Contract Resources.

During any Rate Period that «Customer Name» has no purchase obligation for Firm Requirements Power under section 3, «Customer Name» shall have no obligation to notify BPA of its exports under this section; provided, however, «Customer Name» shall provide notification of all applicable exports in Rate Periods when it has a purchase obligation.

23.6.2 «Customer Name» shall be responsible for monitoring any firm power from Generating Resources and Contract Resources it sells in the Region to ensure such firm power is planned to be used to serve firm consumer load in the Region.

23.6.3 If «Customer Name» fails to report to BPA in accordance with section 23.6.1, above, any of its planned exports for sale outside the Region of firm power from a Generating Resource or a Contract Resource that has been used to serve firm consumer load in the Region, and BPA makes a finding that an export which was not reported was made, BPA shall decrement the amount of its Firm Requirements Power sold under this Agreement by the amount of the export that was not reported and by any continuing export amount. Decrements under the preceding sentence shall be first to power that would otherwise be provided at Tier 1 Rates. When applicable, such decrements shall be identified in section 3.2 of Exhibit A.

23.6.4 For purposes of this section 23.6, an export for sale outside the Region means a contract for the sale or disposition of firm power from a Generating Resource or a Contract Resource during its term that has been used to serve firm consumer load in the Region, which contract will be performed in a manner that such output isno longer used or not planned to be used solely to serve firm consumer load in the Region. Delivery of firm power outside the Region under a seasonal exchange agreement that is made consistent with BPA’s 5(b)/9(c) Policy will not be considered an export. Firm power from a Generating Resource or a Contract Resource used to serve firm consumer load in the Region means the firm generating or load carrying capability of a Generating Resource or a Contract Resource as established under the resource planning criteria generally used within the Region.

23.6.5 For purposes of this section 23.6, if «Customer Name» has notified BPA that it has joined and is participating in an organized market using non-federal firm power produced by a Generating Resource or Contract Resource dedicated to supply its Total Retail Load as identified in Exhibit A, then to the extent the organized market operates geographically both within and outside the Region, «Customer Name»’s participation in such market will not be considered an export outside the Region, provided «Customer Name»’s dedicated non‑federal power obligation remains unchanged from the amount identified in Exhibit A. «Customer Name»’s participation in an organized market shall not increase the firm energy requirements of «Customer Name» or other customers of the Administrator.

23.7 **BPA Appropriations Refinancing**

Moved to master template after 6/10 workshop.