



April 8, 2011

Mr. Eric Taylor
Bonneville Power Administration
Two Park Place
7500 NE 41st, Suite 200, TSE-TPP-2
Vancouver, WA 98662

Subject: Comments on BPA's Proposed Modification to Appendix C of its Large Generation Interconnection Agreement

Dear Mr. Taylor:

In this letter, enXco Development Corporation ("enXco") submits comments in response to the Bonneville Power Administration's ("Bonneville") proposed unilateral modification to Appendix C of its LGIA in connection with Dispatch Standing Order 216 ("DSO 216") and its Draft Record of Decision Environmental Redispatch and Negative Pricing, dated February 18, 2011 ("Draft ROD"). enXco submitted comments opposing the Draft ROD on March 11, 2011, and incorporates those comments by reference herein.

By submitting these comments, enXco does not waive or consent to any change in its existing contract rights, and reserves any and all contractual and legal rights.

- 1. Scope of Comments.** BPA's April 4, 2011 notice of comment directs customers to "Please limit your comments to contract language clarity as BPA is not seeking comments regarding the agency's authority to unilaterally amend Appendix C of the LGIA or BPA's proposed Environmental Redispatch and negative pricing policies." enXco strongly objects to BPA's improper attempt to artificially limit the ability of customers to question BPA's authority to unilaterally modify the contractual language of Appendix C of the LGIA and impose such requirements upon existing contracts. Bonneville should explain why it is attempting to foreclose discussion on its authority to unilaterally modify Appendix C.
- 2. Modifications to Appendix C are Not Necessary.** Bonneville has asserted in its Draft Rod that "BPA has the contractual right to implement Environmental Redispatch under current Large Generator Interconnection Agreements." See, Draft Rod at 25. If Bonneville is correct, which it is not, then it is not necessary for Bonneville to amend its LGIA contracts in order to curtail wind generation so that it can dispose of excess federal energy without paying negative market prices. If, on the other hand, Bonneville now concludes that a contract revision is necessary to implement its Environmental Redispatch proposal, Bonneville should allow customers the

opportunity to comment on Bonneville's ability to unilaterally modify Appendix C.

3. **Bonneville's Proposed Modifications are Premature.** BPA's proposed modifications to Appendix C are premature because Bonneville has not (at least publicly) announced the final details of its proposed Environmental Redispatch Business Practice. enXco is very concerned that BPA is proposing to modify existing contractual rights under the LGIAs by reference to one or more uncompleted business practices. Bonneville should allow its customers the opportunity to review the final Environmental Redispatch Business Practice before it closes the comment period for contract language implementing the business practice and hold the comment period open until after the customers have had a chance to review the business practice.
4. **Bonneville's Proposed Modification is Vague and Overbroad.** BPA's proposed amendment is overbroad because it encompasses business practices that have not been adopted. Specifically, it states that such business practices "as such, [*sic*] dispatch orders may be amended from time to time." As drafted, this language can be interpreted to mean whatever Bonneville wants it to mean. In so doing, BPA inappropriately seeks carte blanche to implement increasingly controversial policies such as its "negative pricing" policy. Further, there is no express limitation on the amendments to such business practice or practices since the parameters of the business practice are guided by considerations other than transmission grid reliability; e.g., negative market prices. In addition, BPA's DSO 216 policies are not developed through a transparent process, making such language similarly inappropriate for DSO 216. enXco recommends that BPA strike the following language: "as such, dispatch orders may be amended from time to time" from its proposed modification to Appendix C and replace it with the following language: "Any subsequent amendments to this Appendix C will be by mutual agreement between the Interconnection Customer and the Transmission Provider."

Transmission Provider's Control Area requirements include compliance with operating instructions issued in accordance with Transmission Provider's dispatch standing orders, including Dispatch Standing Order 216, and orders to reduce generation in accordance with Transmission Provider's Environmental Redispatch Business Practice(s). Any subsequent amendments to this Appendix C will be by mutual agreement between the Interconnection Customer and Transmission Provider.

5. **Bonneville's Proposed Modification Blurs the Distinction Between DSO 216 and Negative Price Curtailment Policies.** BPA's proposed contract modification generically refers to both DSO 216 and the proposed Environmental Redispatch Business Practice(s) as "dispatch standing orders" or "dispatch orders":

Transmission Provider's Control Area requirements include compliance with operating instructions issued in accordance with Transmission Provider's *dispatch standing orders*, including Dispatch Standing Order 216 and orders to reduce generation in accordance with Transmission Provider's Environmental Redispatch Business Practice(s), as such, *dispatch orders* may be amended from time to time. (Emphasis added.)

enXco is concerned that by referring to both DSO 216 and Environmental Redispatch as "dispatch orders" Bonneville is blurring important practical and legal distinctions between DSO 216 and BPA's Environmental Redispatch proposal. DSO 216 dispatch orders originate from BPA's transmission function as a tool to manage BPA's balancing reserves according to predetermined amounts established in BPA's statutory 7(i) rate case process. BPA's Environmental Redispatch protocols, on the other hand, are to be initiated at the behest of BPA's power marketing function, once it has concluded that no market participants are willing to take excess federal energy without payment. These are two very different processes, with potentially very different consequences and liabilities for BPA and its Interconnection Customers. Accordingly, in the interest of clarity, BPA should set off its reference to its Environmental Redispatch Business Practice(s) separately from DSO 216:

Transmission Provider's Control Area requirements include compliance with operating instructions issued in accordance with Transmission Provider's dispatch standing orders, including Dispatch Standing Order 216, and orders to reduce generation in accordance with Transmission Provider's Environmental Redispatch Business Practice(s).

6. **Any Modifications To Appendix C Should Clarify Bonneville's Liability for Curtailment.** BPA's proposed language modifying Appendix C fails to account for the potential liability that would result from BPA curtailing wind energy pursuant to its Environmental Redispatch proposal, including but not limited to failure to meet contractual obligations to third parties. Any modification to Appendix C should clarify that BPA is financially responsible for all liability associated with implementation of the Environmental Redispatch proposal.

7. **Bonneville Should File Its Proposed Modification With FERC.** BPA has not announced whether it would file its proposed unilateral amendment to Appendix C with FERC. BPA should not adopt this language until it has filed this modification with FERC.

8. **Bonneville Should Clarify Its Obligations To Resume Service.** Section 9.7.2 of the LGIA sets forth criteria for a Transmission Provider to resume service following an interruption of service. Although Section 9.7.2 applies to interruptions required by Good Utility Practice (as opposed to curtailment of wind energy so that Bonneville can avoid negative market prices when it is disposing of excess federal energy), BPA should clarify under its proposed modification that resumption of service will be consistent with the requirements of Section 9.7.2:

Transmission Provider's Control Area requirements include compliance with operating instructions issued in accordance with Transmission Provider's dispatch standing orders, including Dispatch Standing Order 216 and orders to reduce generation in accordance with Transmission Provider's Environmental Redispatch Business Practice(s), as such, dispatch orders may be amended from time to time. Any orders to reduce generation under the Environmental Redispatch Business Practice shall continue only for so long as reasonably necessary and shall be made on an equitable, non-discriminatory basis consistent with the requirements of Section 9.7.2 of the LGIA.

9. To summarize all of the previous comments, enXco would recommend making the following revisions to Bonneville's proposed modification of Appendix C.

Transmission Provider's Control Area requirements include compliance with operating instructions issued in accordance with Transmission Provider's dispatch standing orders, including Dispatch Standing Order 216, and orders to reduce generation in accordance with Transmission Provider's Environmental Redispatch Business Practice, dated _____, . Any orders to reduce generation under the Environmental Redispatch Business Practice shall continue only for so long as reasonably necessary and shall be made on an equitable, non-discriminatory basis consistent with the requirements of Section 9.7.2 of the LGIA. Any subsequent amendments to this Appendix C will be by mutual agreement between the Interconnection Customer and Transmission Provider.

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enXco appreciates the opportunity to comment on this proposal and reiterates our opposition to the Draft ROD in its current form and our fundamental concern with both the basis and approach of the Draft ROD.

Sincerely,

A handwritten signature in black ink, appearing to read "Gregory L. Probst". The signature is fluid and cursive, with a large loop in the middle.

Gregory L. Probst
Director, Northwest Region