

Bruce A. Measure
Chair
Montana

Rhonda Whiting
Montana

W. Bill Booth
Idaho

James A. Yost
Idaho



Dick Wallace
Vice-Chair
Washington

Tom Karier
Washington

Bill Bradbury
Oregon

Joan M. Dukes
Oregon

February 23, 2011

MEMORANDUM

TO: Council Members

FROM: Terry Morlan

SUBJECT: Panel on the Residential Exchange Agreement

One of the important issues that the Northwest Power Act addressed was a growing difference between the electricity prices paid by customer-owned utilities with access to Bonneville power and prices paid by customers of investor-owned utilities that had been required to build new generating capability. To address this issue, the Act created the residential exchange program whereby investor-owned utilities could sell power to Bonneville at their cost and purchase back power from Bonneville at Bonneville's cost. The exchange was limited to the residential and small farm customer loads of the investor-owned utilities and is actually just a transfer of money rather than an exchange of electricity.

The Act also contained a provision that was intended to limit the effect of the exchange on the rates of customer-owned utilities. Section 7(b)(2) on the Act essentially provides that the rates of customers of customer-owned utilities should not be higher than they would have been in the absence of the Power Act. Implementation of these provisions has been difficult and controversial with a number of lawsuits. There have been a number of attempts to settle the exchange that have been invalidated by the courts.

Recently, the investor-owned and customer-owned utilities have been working on an agreement to reach a durable settlement on the exchange. There remain hurdles to achieve before such a settlement can be formally declared. Nevertheless, there is substantial agreement on the elements of such a settlement.

A panel consisting of representatives of investor-owned utilities, consumer-owned utilities, and Bonneville will discuss the proposed agreement at the Boise meeting and engage in a discussion with the Council. The panel will consist of Scott Corwin of the Public Power Council, Phil Obenchain of PacifiCorp, and Mark Gendron of Bonneville.

q:\tm\council mtgs\2011\mar11\c-7\resxpanelcm.docx

2012 REP Settlement and BPA's REP-12 Rates Proceeding

for

Northwest Power and Conservation Council

March 9, 2011

Outline of Today's Discussion

- Introduction and Overview
- REP Settlement Background and Current Status
- REP Settlement and BPA Rates Process Going Forward
- Key Elements of the Proposed Settlement
- BPA Staff Analysis of the Proposed Settlement
- Discussion

Background and Current Status

- Representatives of Preference Customers, IOUs, BPA, State Regulators and retail customers working on this Settlement since Spring 2010
- Many Preference Customer representatives, IOUs and others signed Agreement in Principle in Sept 2010
- Parties immediately began drafting a binding Settlement Agreement
- BPA initiated the REP-12 rates proceeding mid-Dec 2010 based on then-current draft Settlement Agreement
- Final (March 1, 2011) signature-ready Settlement Agreement sent to potential signers March 3

REP Settlement and BPA Rates Going Forward

- Critical Mass must sign Agreement for Settlement to move forward
 - 91 percent of Preference Customer Load
 - All six regional IOUs
 - ID, OR, WA regulators
 - CUB, PPC, NRU, PNGC
- Signing window closes April 15, 2011
- If Critical Mass does not sign, then no settlement:
 - BPA will set power rates based on continuation of current REP and ratesetting approaches
 - Parties will resume the REP litigation in the Ninth Circuit

REP Settlement and BPA Rates Going Forward

- If Critical Mass of entities sign, BPA will continue its REP-12 proceeding addressing whether or not BPA should sign the Agreement
- Settlement becomes effective only if BPA decides to
 1. sign the Agreement and
 2. set rates for signers and non-signers based on the Agreement for the term of the Agreement (through FY 2028)
- BPA's decisions released in REP-12 final ROD in July 2011
- If BPA decides to not sign or not set rates for both signers and non-signers based on the Agreement, Agreement is void
- If BPA signs the Agreement, BPA would withdraw its decisions made in the last two rate cases that are being challenged in the Ninth Circuit

REP Settlement and BPA Rates Going Forward

- BPA's REP-12 Initial Proposal staff recommendation is that BPA Administrator adopt the proposed Settlement
- BPA's staff analysis:
 - Settlement results in lower expected costs to BPA Preference Customers than no settlement under a variety of scenarios
 - Settlement provides much greater certainty to IOUs and Preference Customers
 - Settlement has potential to reduce litigation
- BPA Supplemental Initial Proposal issued Feb 25: Changes since the mid-Dec draft do not change staff analysis or recommendation

Key Elements of the Settlement

- REP benefits are fixed under Settlement, capping Preference Customers' exposure to higher REP costs.
- Individual IOUs' Lookback Obligations are replaced by Refund Amount credits on Preference Customer bills: \$76.5 million per year for next eight years
- Preference Customer Refunds allocated 50 percent based on current PF-02 Revenue Share approach and 50 percent based on future BPA Tier One purchases, with proviso regarding Grant PUD
- IOUs continue to file ASCs; ASCs used to determine if an IOU qualifies for benefits and how total REP benefits are allocated among IOUs; REP implementation continues largely unchanged

Key Elements of the Settlement

- BPA pays IOUs Interim Agreement True-Up payments already recovered in PF rates, but currently held in the BPA fund
- IOUs would get 14 percent of future RECs and Carbon Credits that might become available from resources serving BPA Tier 1 loads
- Idaho Power Deemer obligation extinguished
- Signers agree to seek legislation that would affirm the Settlement
 - But any signer can cease seeking legislation and oppose legislation if it believes legislation could result in material harm
- If PF rates are no longer set based on embedded costs and this results in an average PF rate greater than 79 percent of average IOU ASCs, Agreement terminates

Key Elements of the Settlement

- Signers:
 - Agree not to challenge the Settlement
 - Will petition Court to dismiss current REP litigation
 - Will ask Court for expedited review if Settlement is challenged by non-signers
 - Retain all rights to make arguments and claims in response to legal challenges by non-signers
- If non-signers challenge Settlement and Court rules BPA cannot set rates the same for signers and non-signers, all non-signers get alternative rates treatment whether or not they challenged the settlement
 - Rates and refunds for non-signers could be higher or lower than signers; difference increases or decreases payments to IOUs
- When Settlement terminates end of FY 2028, Signers free to pursue legal challenges of 7(b)(2) rate test and other prospective issues
 - Settlement is not an admission or concession by signers on the merits of any disputed issues affecting going forward REP benefits and BPA rates.

Payments to IOUs through the Residential Exchange Program or Settlement Agreements (2009 \$)

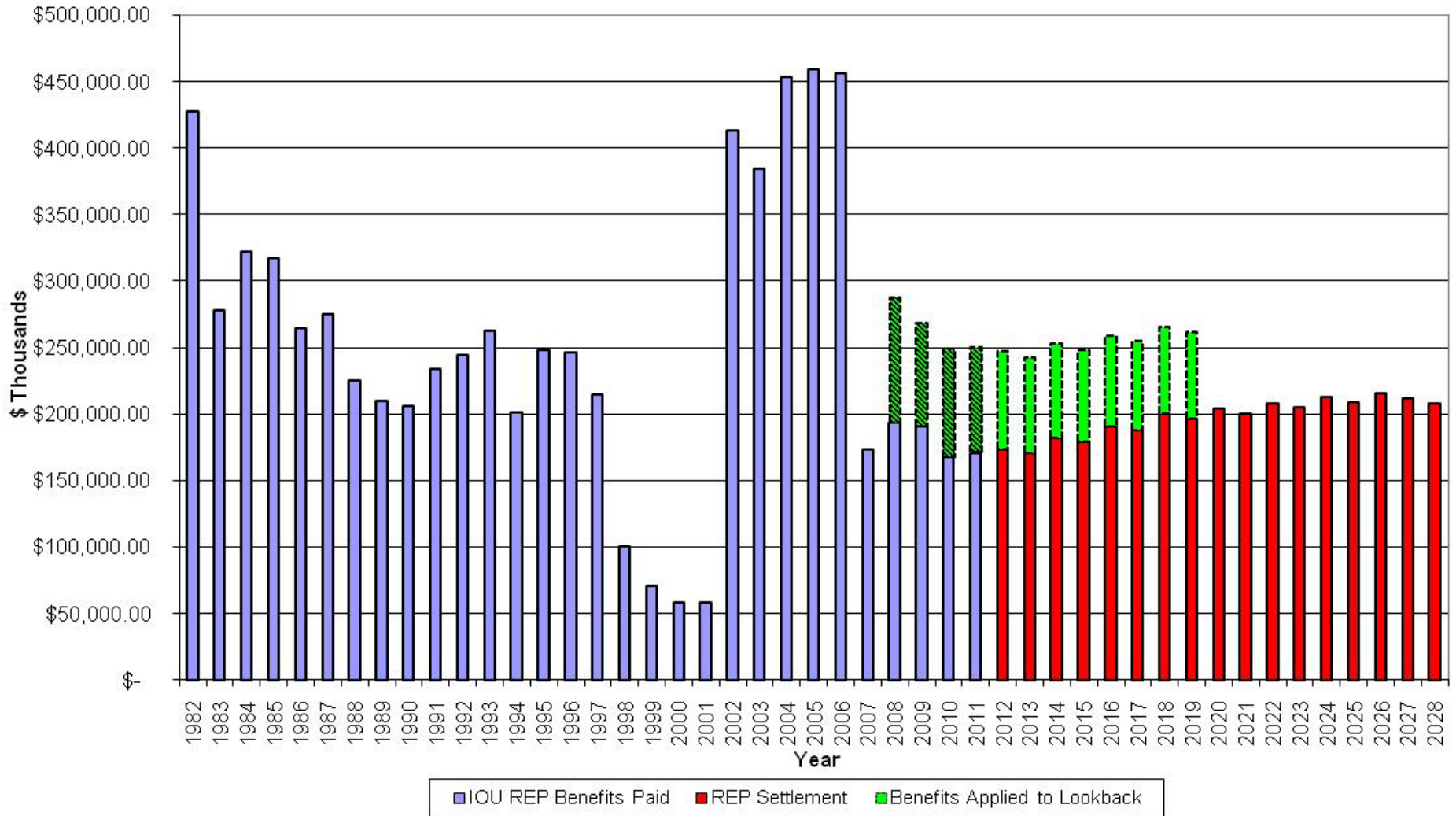


Figure 5: REP Benefits Brief Scenarios *errata*
 Base Case "No Settlement" Lookback Setoff and Idaho Deemer Reduction (Except IOU Brief)
 IOU Load growth met 50% IRP, 50% Market, COSA Escalated at Inflation + 2%.

