

Tom Karier
Chair
Washington

Frank L. Cassidy Jr.
"Larry"
Washington

James A. Yost
Idaho

W. Bill Booth
Idaho



Joan M. Dukes
Vice-Chair
Oregon

Melinda S. Eden
Oregon

Bruce A. Measure
Montana

Rhonda Whiting
Montana

October 31, 2007

DECISION MEMORANDUM

TO: Council members

FROM: Terry Morlan
Power Planning Director

SUBJECT: Review of Bonneville Non-Major Resource Acquisitions

PROPOSED ACTION: Approve a process whereby the Council can review proposed Bonneville non-major resource acquisitions for consistency with the Council's power plan.

SIGNIFICANCE: There is currently no process that provides the Council an opportunity to review proposed Bonneville acquisitions that do not qualify for the threshold for Section 6(c) review. Working with Bonneville, staff has developed an approach to such reviews that will benefit both the Council and Bonneville. This agreement provides an improved ability for the Council to assess the consistency of Bonneville actions with the Council's Power Plan.

BUDGETARY/ECONOMIC IMPACTS

None

BACKGROUND

Bonneville expects to be acquiring some additional generation resources over the next several years to augment the Federal Base System under the regional dialogue policy. The individual acquisitions are unlikely to meet the Act's threshold for a formal 6(c) process for the acquisition of a "major" resource. Unlike the situation with major resources and Section 6(c), the Act does not specify any particular role and process for the Council to review these proposed non-major acquisitions for consistency with the Council's power plan. However, Bonneville has stated that it does want to work with the Council to make sure that Bonneville's acquisitions can be considered to be consistent with the power plan. The proposed non-major resource acquisition review process is intended to facilitate Council review of such acquisition proposals and alert Bonneville to any concerns the Council might have.

ANALYSIS

The proposed non-major resource acquisition review process provides the Council an opportunity that it has not had in the past to review proposed Bonneville resource acquisitions that do not meet the standard thresholds for a formal Section 6(c) review of major resource acquisitions under the Northwest Power Act. It is intended to be an efficient, nonadversarial, approach to maintaining a broader consistency between Bonneville's overall resource actions and the Council's power plan. It is efficient in the sense that it provides for a relatively quick response to Bonneville proposals, and requires little expenditure of Council time and resources when a proposed acquisition appears to be consistent with the Council's power plan.

The process is described in the attached statement

ALTERNATIVES

The Council could choose to have a more formal and public review process than what is proposed. However, Bonneville has expressed concerns about a formal Council review and vote on these acquisitions. Staff believes that there is no legal obligation for Bonneville to cooperate with the Council on these non-major resource acquisitions. If the Council did chose to have a more formal process, we believe it is likely that Bonneville would be unwilling to enter into such an agreement.

ATTACHMENTS

The proposed process is described in the attached statement entitled "Proposed approach for Council evaluation of Bonneville non-major resource acquisition consistency".

Proposed approach for Council evaluation of Bonneville non-major resource acquisition consistency

Bonneville expects to be acquiring some additional generation resources over the next several years to augment the Federal Base System under the regional dialogue policy. The individual acquisitions are unlikely to meet the Act's threshold for a formal 6(c) process for the acquisition of a "major" resource. Nor do we have reason, at least not yet, to declare a set of proposed acquisitions a coordinated acquisition program triggering 6(c) review under the existing 6(c) policy. But even if no "major" resources are involved, the Act still imposes on Bonneville an obligation to acquire resources consistent with the Council's Power Plan (with carefully limited exceptions).

Unlike the situation with major resources and Section 6(c), the Act does not specify any particular role and process for the Council to review these proposed non-major acquisitions for consistency with the Council's power plan. However, Bonneville has stated that it does want to work with the Council to make sure that Bonneville's acquisitions can be considered to be consistent with the Power Plan.

To reiterate, the review process proposed here does not replace the Section 6(c) determination for major resource acquisitions. It is intended to be used for smaller (non-major) resource acquisitions, which may characterize many of Bonneville's future acquisitions. The objectives of the proposed process are:

- To accomplish the goals and objectives of the Council's plan and the business transactions of Bonneville in a cooperative and non-confrontational process;
- To provide the Council an opportunity to express concerns about individual, or an accumulation of, non-major resource acquisitions;
- For Bonneville to be able to check for any Council concerns about a proposed acquisition before a final commitment is made;
- To do this expeditiously so that Bonneville can move opportunistically, if necessary, without the delays inherent in a formal review;
- To allow Bonneville to share commercially sensitive data about proposed acquisitions with the Council staff through confidentiality agreements;
- To move one or more proposed acquisitions into a 6(c) review process, *if* information developed in the course of these reviews indicates that is the more appropriate review.

The proposed approach is for the appropriate Council staff to review all the information on a proposed acquisition, including any confidential proprietary information. Bonneville and the Council have developed a confidentiality agreement that will allow Bonneville to provide confidential information on proposed acquisitions to select members of the staff (in most cases, only Terry Morlan, Jeff King and Maury Galbraith). We expect that the staff assessment will consider not only the proposed acquisition by itself, but also the accumulation of foregoing acquisitions of efficiency and generation resources as the context for any individual consistency determination.

Following its review, the staff will make a recommendation to the Council as to whether the proposed acquisition appears to be consistent (or not) with the Power Plan. The staff recommendation, a summary of the information about the proposed acquisition, and reasons for the staff's recommendation would be sent to the Council by email. The full background information, including the confidential information, would not go to the Council unless issues are raised that require Council review of the detailed information. Council members would be given a set time to respond if they agree with the staff recommendation or if they have concerns. The intent is to allow the Council to raise any concerns before the final acquisition is completed, but without unduly delaying the commercial transactions.

If the acquisition appears to be consistent with the Council's Power Plan and there are no Council member objections, staff would inform Bonneville of the fact. If there are concerns raised in the staff recommendations or by Council members, Bonneville would be informed about those concerns. On a case by case basis, the Council can decide whether to pursue the issues in other ways that may be open to it.