

UNITED STATES OF AMERICA
BEFORE THE FEDERAL ENERGY REGULATORY COMMISSION

Standardizing Generator Interconnection Agreements and Procedures

Notice of Proposed Rulemaking

Docket No. RM02-1-000

EXECUTIVE SUMMARY

BONNEVILLE POWER ADMINISTRATION COMMENTS

A. Generator Interconnection Procedures

1. Section 3.2, Identification of Types of Interconnection Services: The Commission should allow the generator to require the transmission provider to study an interconnection request concurrently as a Network Resource and an Energy Resource only until a System Impact Study has been executed. Allowing the generator to require concurrent studies for a longer period will unnecessarily tax the transmission provider's resources.
2. Section 3.3.1, Initiating an Interconnection Request: The Commission should require a showing of site control when the generator makes an interconnection request. Generators often put in requests for three or four sites, intending to develop only one. The generator should not be permitted to require the transmission provider to study multiple sites, most of which will never be developed.
3. Section 3.5, Coordination with Affected Systems: The Commission should require only a good faith effort to coordinate with affected systems. The transmission provider cannot control the actions of affected systems.

4. Section 4.2, Clustering: The Commission should allow the transmission provider to cluster any kind of study, and to cluster all studies received within a 180-day period. The timelines for completing studies are very strict, and the additional clustering will help the transmission provider to meet the timelines.
5. Section 5.1.2, Transition Period: The Commission should clarify this section to ensure that it does not contradict section 5.1.1 and to clarify the circumstances under which generators with existing interconnection requests may request an extension of applicable deadlines.
6. Section 6.1, Interconnection Feasibility Study Agreement: The Commission should require the generator to pay the estimated cost of the feasibility study in advance. The transmission provider and its other customers should not have to finance the study or take the risk that the generator will fail to develop its project.
7. Section 7.2, Execution of Interconnection System Impact Study Agreement: For the same reasons, the Commission should require the generator to pay the estimated cost of the system impact study in advance.
8. Section 7.6, Re-Study: The Commission should require the transmission provider to complete the re-study within 60 days from the date of initiation.
9. Section 8.5, Re-Study: The Commission should require the transmission provider to complete the re-study within 60 days from the date of initiation.
10. Section 10.1, Optional Study Agreement: The Commission should extend the deadlines for other studies if the generator wants an optional study. Allowing the generator to require an unspecified number of optional studies for its convenience, while the standard studies must be performed within the standard deadlines, places an unreasonable burden on the transmission provider.

11. Section 11.3, Execution and Filing: The Commission should require the generator to satisfy milestones at an earlier point in the process in order to remain in the queue. Particularly given the generator proposals cited above in regard to section 7.4, the transmission provider must have a means for managing the queue.
 12. Section 12.3, Construction Sequencing: The Commission should not require the transmission provider's other customers to pay these costs, which are incurred for the benefit and at the discretion of the generator.
 13. Section 13.4, Third Parties Conducting Studies: The Commission should adopt timelines for third-party studies and provide that the transmission provider may review the studies to ensure their adequacy. In addition, the conditions under which the generator may engage a third party to conduct the study should be tightened.
 14. Appendix 1, Interconnection Request, Section 5: The generator should be required to provide the In-Service Date and the Point of Interconnection with its interconnection request. The transmission provider needs this information to evaluate the request.
 15. Appendix 2, Interconnection Feasibility Study Agreement, Section 6.0: The generator should be required to pay the estimated cost of the feasibility study before the study is performed.
 16. Appendix 3, Interconnection System Impact Study Agreement, Section 6.0: The generator should be required to pay the estimated cost of the system impact study in advance.
 17. Appendix 5, Optional Study Agreement, Section 6.0: The generator should be required to pay the estimated cost of all optional studies in advance.
- B. Generator Interconnection and Operating Agreement

1. Article 2.4, Termination Costs: The Commission should clarify this article to make clear which party is responsible for termination costs, and to ensure that a party that terminates the agreement for default of the other party is not required to continue paying costs incurred by the other party.
2. Article 2.5, Disconnection: The Commission should clarify this article so that it does not suggest, as it currently does, that the transmission provider may be responsible for certain disconnection costs. The agreement does not assign these costs to the transmission provider.
3. Article 5.14, Suspension: The Commission should not allow the generator to require suspension of construction work for three years while the transmission provider waits to see whether the generator wants it to resume work, or allow the generator to transfer the costs of an unfinished Network Upgrade to the transmission provider's other customers. Neither the transmission provider nor its other customers should bear the risk that the generator will cease development of its project.
4. Article 9.7.2.2, Continuity of Service: The curtailment regime in the interconnection agreement should be consistent with the curtailment regime in the *pro forma* tariff. Moreover, the regime in the *pro forma* tariff is more efficient at resolving reliability problems than the regime proposed in the interconnection agreement.
5. Article 11.4.1, Refunds of Amounts Advanced for Network Upgrades: The Commission should not establish an arbitrary five-year period for a refund of the generator's payment of these costs. In addition, it is inappropriate to require a full refund even if the generator is not purchasing an equivalent amount (in dollars) of transmission.
6. Article 11.5, Financial Security Arrangements: As the at-risk party, the transmission provider should be the one to determine the appropriate security for the generator's obligations.

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Notice of Proposed Rulemaking

Docket No. RM02-1-000

**COMMENTS OF BONNEVILLE POWER ADMINISTRATION ON THE
COMMISSION'S NOTICE OF PROPOSED RULEMAKING—STANDARDIZING
GENERATOR INTERCONNECTION AGREEMENTS AND PROCEDURES**

The Bonneville Power Administration (BPA) submits the following comments on the Commission's Notice of Proposed Rulemaking (NOPR) regarding Standardizing Generator Interconnection Agreements and Procedures. As a Federal Power Marketing Administration, BPA is not subject to the Commission's jurisdiction. Nevertheless, BPA has adopted the Commission's *pro forma* tariff and plans to adopt the standardized interconnection procedures and agreement to the extent that they are consistent with BPA's status as a Federal entity and with BPA's statutory authorities and mandates. Therefore, BPA has an interest in the outcome of this rulemaking.

A. Generator Interconnection Procedures

1. Section 3.2, Identification of Types of Interconnection Services: Under section 3.2, a generator may require the transmission provider to study the generator's interconnection request concurrently as a Network Resource and an Energy Resource until an Interconnection Facility Study Agreement is executed.

Section 3.2 must be evaluated in conjunction with section 3.5, Coordination with Affected Systems; section 4.2, Clustering; section 10.1, Optional Studies; and section 13.4, Third

Parties Conducting Studies (all discussed below). As discussed below, the interconnection procedures include very strict timelines for completion of the various studies, and offer the transmission provider no means of queue management. Therefore, they place a transmission provider with a large number of interconnection requests in a very difficult position. The longer the generator can require the transmission provider to perform concurrent studies on a single request, the more difficult this position becomes. Performance of concurrent studies is purely for the convenience of the generator, and it is not unreasonable to require the generator to determine early in the process what kind of resource it intends to develop. The Commission should allow the generator to request concurrent studies only until a System Impact Study is executed.

2. Section 3.3.1, Initiating an Interconnection Request: Under this section, when making an interconnection request the generator may pay an additional deposit of \$10,000 in lieu of demonstrating site control. Such a small deposit provides little or no incentive for a demonstration of site control. Today, many generators submit interconnection requests for multiple sites in an apparent effort to shop for the best site. This practice requires the transmission provider to spend a significant amount of unproductive time studying sites that will never be developed. In addition, because any transmission provider has limited resources, this diversion of resources also means that the transmission provider must delay performing work on viable projects. Finally, multiple requests make the study efforts associated with projects lower in the queue more difficult, since such studies may be subject to change when the actual site for a project higher in the queue is chosen and the other sites drop out.

The best solution to this problem would be to require a showing of site control when an interconnection request is made; only then can the transmission provider have some assurance that the request is serious. Such a showing would be especially appropriate since, under section

11.3, the generator need not meet any other milestone until the end of the study process (at which point the generator need meet only one milestone, and can even waive that one by posting an additional deposit). The transmission provider must have some means of managing the queue.

Alternatively, though not as satisfactory, the deposit requirement should be substantially higher so that it serves as a meaningful deterrent to speculative interconnection requests.

Finally, the section raises a drafting issue. Section 3.3.1 provides that if the generator demonstrates site control within the cure period specified in section 3.3.3, “the deposit[s] shall be refundable.” This language appears to provide that both the mandatory deposit of \$10,000 and the additional deposit made in lieu of demonstrating site control become refundable. However, there is no connection between the mandatory \$10,000 deposit and the demonstration of site control, and it is not clear why a demonstration of site control should render that deposit refundable. In fact, if both deposits are refundable upon a demonstration of site control, then one must conclude that, if the generator demonstrates site control when it makes its request, it need never provide even the first deposit. BPA suggests that the language be amended to make clear that only the second \$10,000 deposit is refundable upon a demonstration of site control.

3. Section 3.5, Coordination with Affected Systems: Section 3.5 requires the transmission provider to coordinate with affected systems in conducting all studies; to resolve issues regarding affected systems within the same time frames that apply when no affected system is involved; and to include operators of affected systems in all meetings held with the generator. In addition, section 3.5 requires the affected system to cooperate with the transmission provider.

Section 3.5 places the transmission provider in an impossible position. The transmission provider has no control over affected systems and no means to require an affected system to cooperate. Therefore, the transmission provider cannot assure that it can achieve such

coordination at all, no less within the same time frame that applies to other requests. The transmission provider surely cannot guarantee that operators of affected systems will attend all meetings, yet apparently it must compel them to do so. Even if the affected system does cooperate, the additional time required for coordination could make it impossible to meet the deadlines (under section 13.4, if the transmission provider fails to meet a deadline, the generator can engage a third party conduct the studies. Hence missing a deadline is significant.)

Section 13.5, discussed below, would subject the transmission provider to liquidated damages for a breach of *any* provision of the interconnection procedures. At the public meetings on January 17 and 18, the interconnection procedures drafting group was asked whether liquidated damages would be due for a breach of section 3.5, even though the transmission provider has no control over affected systems. The answer was “yes.” It is unreasonable in the first instance to hold the transmission provider in breach for something over which it has no control. The unreasonableness is compounded when the breach results in liability for liquidated damages.

Finally, the requirement that the affected system cooperate with the transmission provider is unenforceable. The affected system may not be jurisdictional, and in any case it will not be a party to these procedures with regard to the interconnection request at issue. The Commission should require the transmission provider to use reasonable efforts to coordinate with affected systems.

4. Section 4.2, Clustering: Under section 4.2, interconnection requests received within a 90-day period may be studied in clusters. However, energy resource interconnection requests must be studied serially.

As discussed below in connection with section 13.4, the interconnection procedures place an unreasonable burden on the transmission provider. By limiting the kind of interconnection requests that may be studied in clusters and limiting the period for studying requests in clusters to 90 days, section 4.2 will significantly increase the transmission provider's workload and make it difficult or impossible for the transmission provider to meet its deadlines. The Commission should allow all interconnection requests to be studied in clusters and extend the time period to 180 days.

5. Section 5.1.2, Transition Period: This section provides that “[t]o the extent necessary,” the transmission provider and generators with outstanding requests shall transition to the standardized interconnection procedures within 60 days. The phrase “to the extent necessary” is unclear: when is a transition “necessary” and when is it not? In addition, section 5.1.1 sets forth the circumstances under which the new procedures apply to existing interconnection requests. Therefore, section 5.1.2 simply confuses the issue. Transmission providers will have many existing interconnection requests when the procedures are placed into effect, and the rules that apply to such requests must be clear. BPA suggests that the first sentence of section 5.1.2 be deleted.

The remainder of section 5.1.2 provides that a generator with an existing interconnection request may receive an extension of an applicable deadline in certain cases. Since new interconnection requests must meet deadlines, it is unclear why the deadlines cannot be applied equally to existing interconnection requests. If, however, the Commission determines that existing requests should have additional time, then the transmission provider's deadlines for completing studies should be extended by an equal length of time.

The last sentence of section 5.1.2 provides that the transmission provider shall grant a request for an extension of time “to the extent consistent with the intent and process provided for under these Interconnection Procedures.” It is impossible to know what this language means; at the January 17 and 18 meetings the drafting committee was unable to explain it. BPA suggests the following redraft: “The Transmission Provider shall grant a reasonable extension if the failure to grant such extension would result in undue hardship to the generator and if the generator has acted and continues to act with due diligence to meet all deadlines.” As stated above, the section should also provide that any extension of time also extends the transmission provider’s deadlines for completing studies.

6. Section 6.1, Interconnection Feasibility Study Agreement: Under section 6.1 the generator is not required to pay in advance the estimated cost of the interconnection feasibility study. Instead, the transmission provider finances the cost of the study.

The standard practice in the industry is for the generator to pay the estimated cost of the study in advance, and BPA can see no reason why this practice should change. The studies are normal business costs of developing a generation project, and no one disputes that the generator should bear these costs. There is no reason that the transmission provider should finance part of the generator’s development costs, or bear the risk that the generator will drop out of the queue and fail to pay for the study. If the Commission requires the transmission provider to finance the study, the generator should be required to pay interest on the amount financed, just as the transmission provider must return the unexpended portion of the generator’s deposits with interest if the generator withdraws its request.

7. Section 7.2, Execution of Interconnection System Impact Study Agreement: Under section 7.2, the generator pays only a \$50,000 deposit on execution of the system impact study agreement. The transmission provider must finance any additional cost of performing the study.

The same rationale applies here as applies to section 6.1. There is no reason that the transmission provider and its customers should be bearing these costs or the associated risk.

8. Section 7.6, Re-Study: Section 7.6 provides that any re-study of the system impact study must be completed within sixty days from the date of notice. The transmission provider may not be able to immediately begin the re-study. The Commission should require the re-study to be completed within 60 days of the date of initiation. To protect the generator, the Commission can require the transmission provider to begin the re-study as soon as possible after receiving notice.

9. Section 8.5, Re-Study: This section raises the same issue as section 7.6. The Commission should make similar changes to this section.

10. Section 10.1, Optional Study Agreement: Under this section, the generator may require the transmission provider to perform “a reasonable number” of optional studies. The interconnection procedures already hold the transmission provider to extremely tight deadlines in performing studies. Section 10.1 *requires* the transmission provider to perform studies that, by definition, are unnecessary for the interconnection and are solely for the convenience of the generator. Section 10.2 provides that optional studies are to be performed “solely for informational purposes.”

The interconnection procedures provide that, if the transmission provider fails to complete an interconnection study by the deadline, the generator may engage a third party to perform the study. Since the generators obviously believe that third parties are capable of

performing adequate studies, they should utilize third parties for optional studies. Section 10 should be deleted.

Alternatively, if the generator wants an optional study it should be required to agree on an extension of the deadline for the standard studies. The generator should not be permitted to impose this additional burden on the transmission provider purely for the generator's convenience and then hold the transmission provider responsible for meeting the usual stringent deadlines.

A third alternative would be to make the performance of optional studies discretionary with the transmission provider.

11. Section 11.3, Execution and Filing: This section requires that the generator meet certain “milestones” in order to have its interconnection request remain in the queue (actually, the generator can choose any single “milestone”). However, the designation of the requirements as “milestones” is misleading, since the generator need not meet any of them until the end of the study process (and can avoid them even then by posting an additional deposit). The combination of the consensus proposals (such as this one) and the generator proposals is that the transmission provider is subject to draconian deadlines with no ability to manage the queue, while the generator has virtually no responsibility at all. For a mere \$10,000 the generator can avoid demonstrating site control until execution of the system impact study agreement, and can avoid having to provide any further evidence of seriousness by later posting an additional deposit (admittedly a more significant sum).

The generator should be required, earlier in the process, to apply for permits and execute necessary contracts. Otherwise the transmission provider will waste time on projects that will never be developed, and will inevitably fail to meet deadlines for serious projects (this is likely

to occur anyway, but the absence of a tool for queue management will greatly exacerbate the problem).

12. Section 12.3, Construction Sequencing: Section 12.3 provides that, if the transmission provider advances the completion of Network Upgrades at the request of the generator, the generator will advance the costs of expediting the upgrades but receive transmission credits for these costs.

There is no reason that the transmission provider's other customers should pay to expedite Network Upgrades for the convenience of a generator, which would be the result if the generator received transmission credits for the costs of expediting the upgrade. It is the generator's choice whether to request an advance in the completion date (which the transmission provider must then make good faith efforts to accomplish). The generator can decide whether the value of expediting construction exceeds the costs of doing so. If it decides in the affirmative, these costs become simply a normal cost of the development. The transmission provider's other customers should not pay these costs, nor be held captive to the generator's financial choice.

13. Section 13.4, Third Parties Conducting Studies: Under this section, the generator may require the transmission provider to utilize a third party to conduct an interconnection study under any of three circumstances. Although the generators and transmission owners apparently have agreed to this provision, with one minor difference, it should trouble the Commission and any party concerned with the reliability of the transmission system. Section 13.4 raises the following concerns:

(a) The procedures include no separate time frame for completion of the third-party study. However, when the generator engages a third party, the transmission provider may not

have completed studies on projects higher in the queue. The transmission provider may need time to complete these studies before providing the third party with databases, work papers, and study results, and the third party may be unable to begin the study until the transmission provider has done so. Therefore, the procedures should make clear that the transmission provider will be allowed time to complete other studies before it is required to provide the third party with this information.

(b) The study should not be binding on the transmission provider. The transmission provider is the expert in regard to its system and has the overview of the entire system and of all studies. The transmission provider must be given time to review the results of the third-party study and make changes as necessary. To protect the generator, a reasonable deadline can be established for this review. Any additional time required to provide the third party with information or to review the results should also be added to the time allowed the transmission provider to complete construction before liquidated damages begin to accrue.

In addition, section 13.4 includes no timeline for the third-party study. To ensure that the transmission provider has the study when needed, the third party should be held to deadlines as well. Of course, these procedures cannot bind the third party. Therefore, the procedures should provide that the transmission provider need not consider the third-party study if the third party does not meet the deadlines.

(c) The section provides no meaningful check on the generator's right to require a third-party study. The first condition under which the generator may do so is when "there is disagreement as to the estimated time to complete an Interconnection Study." Under this provision, the generator merely has to inform the transmission provider that it believes the study can be completed more quickly than the transmission provider has estimated, and it has a right to

turn to a third party. The provision does not even require either 1) that the disagreement be reasonable; or 2) that the time estimated by the transmission provider be greater than the timelines in the procedures. As this section now reads, the transmission provider could estimate a time *less than* these deadlines and the generator could still turn to a third party.

These examples merely highlight the unreasonableness of this section; adding a criterion of “reasonable disagreement” and requiring the estimated time to be greater than the deadlines would do little to cure the underlying problems. Mere disagreement should be insufficient to trigger the generator’s right to turn to a third party. In any case the generator is not an expert on the time required to perform a transmission study; its disagreement is likely to be based on its desire to have the study completed sooner rather than on any independent knowledge of the time actually required.

The second criterion under which the generator may turn to a third party is if the generator receives notice that the transmission provider will not complete a study within the applicable time frame. This provision could apply to an inordinate number of interconnection requests. Consider the interconnection procedures as a whole:

The generator can require the transmission provider to study its request as both a Network Resource and an Energy Resource;

The generator may require the transmission provider to conduct an unspecified “reasonable number” of optional studies;

The transmission provider must coordinate with affected systems, whether or not they wish to cooperate;

Because the generator need not meet any milestones to remain in the queue (other than demonstrating site control), the transmission provider has virtually no means to weed out less-serious interconnection requests and must study all of them;

The transmission provider may study only certain interconnection requests in clusters, and only those requests received within a 90-day period;

The transmission provider must accomplish all of this within 45 days for the feasibility study, 60 days for the interconnection study, 60 days for a re-study, and 90 to 180 days for the interconnection facilities study.

By itself, any one of these provisions is unreasonable. Taken together, they are astonishing. The result of adopting all of them inevitably will be rushed studies that omit details and take only a general, if not cursory, view of the interconnection. The transmission provider will have no time to perform more precise studies, while the third party will know that it was engaged solely because the generator wanted the study done more quickly. To compete, it will have to perform the study as quickly as possible: if it does not, another third party will. The result will be decreased reliability of the transmission system.

BPA has suggested means to improve this section. At the very least, the Commission should adopt these suggestions (as well as BPA's suggestions regarding related sections.

14. Appendix 1, Interconnection Request, Section 5: Section 5 of the interconnection request lists the information the generator must provide with the request. This information should include the In-Service Date and the Point of Interconnection. The transmission provider needs this information to implement the interconnection procedures and to evaluate the interconnection request.

15. Appendix 2, Interconnection Feasibility Study Agreement, Section 6.0: Under this section, the transmission provider must finance the cost of the feasibility study, and the generator must pay the difference between the deposit and the actual cost of the study only when the study is completed.

For the reasons discussed above in regard to section 6.1 of the interconnection procedures, the Commission should require the generator to pay the estimated cost of the study

in advance. The transmission provider should not be required to finance the generator's normal business expenses.

16. Appendix 3, Interconnection System Impact Study Agreement, Section 6.0: This section raises the same issue regarding the financing of studies, this time in regard to the system impact study. For the same reasons, the Commission should require advance payment of the study costs.

17. Appendix 5, Optional Study Agreement, Section 6.0: This section raises the same issue. In this case the issue is even more stark, as optional studies are performed purely for the convenience of the generator. The transmission provider does not benefit from them. Therefore, there is even less reason for the transmission provider to finance these studies.

B. Generator Interconnection and Operating Agreement

1. Article 2.4, Termination Costs: Under this article, if a party terminates the agreement, "each Party" pays the costs assessed by the other Party "that are the responsibility of the Terminating Party under this Agreement." Under this language, both parties pay costs that are the responsibility of the terminating party. Obviously, the terminating party should pay those costs. This language should be clarified.

In addition, like article 2.5, this article should have an exception if the termination is the result of a default by the non-terminating party. Under contract law principles, a party that terminates a contract for default of the other party does not have to continue to perform. In addition, by requiring the terminating party to pay certain costs, article 2.4 implies that the terminating party cannot even recover these costs later as damages. At the January 17 and 18 meetings, the drafting committee indicated that the failure to include an exception for default was an oversight.

2. Article 2.5, Disconnection: Under this section, a party that terminates the agreement is responsible for the costs of disconnection except when the termination resulted from the default of the other party or when the “non-terminating Party otherwise is responsible for these costs under this Agreement.” The only provision in the agreement that appears to cover disconnection costs is section 2.4.3, which provides that the generator is responsible for the cost of removal of equipment and facilities. Therefore, under section 2.5, if the transmission provider terminates the agreement, the generator remains responsible for these costs.

Section 2.5, however, applies whichever party is the terminating party. Its general reference to the “non-terminating Party” being responsible for disconnection costs under another section of the agreement suggests that there are cases in which the generator is the terminating party, but under another provision of the agreement the transmission provider is responsible for disconnection costs. Yet there *is* no other provision of the agreement under which the transmission provider is responsible for disconnection costs. By suggesting otherwise, section 2.5 creates an ambiguity and will lead to unnecessary disputes over the party responsible for disconnection costs in the event of termination. This problem can be solved by redrafting the second sentence of section 2.5 to read as follows:

All costs required to effectuate such disconnection shall be borne by the terminating Party, except that a) all such costs shall be borne by the non-terminating Party in the event that the termination resulted from the Default of the non-terminating Party; and b) in the event that the termination did not result from the Default of the non-terminating Party, then regardless of which Party is the terminating Party the Generator shall bear the costs listed in Article 2.5.3 of this Agreement.

3. Article 5.13, Suspension: The last sentence of this Article provides that, if the generator suspends construction of the Interconnection Facilities or Network Upgrades, the agreement will terminate if the generator does not ask the transmission provider to resume the work within three

years. This provision appears to assume that the transmission provider will (and perhaps that it must) simply leave the interconnection facilities or network upgrades in their unfinished state in case the generator requests resumption of the work.

This course may not be feasible. On the one hand, if, for example, a Network Upgrade is near completion, the most cost-effective course may be to complete it. If it is not near completion, the appropriate course may be to dismantle it. In either case, simply leaving the upgrade as is, unfinished, may result in safety concerns and an unnecessary and unsightly addition to the landscape. The transmission provider is liable for liquidated damages if the transmission provider does not meet stringent deadlines, yet the generator has no obligation even to decide whether to proceed with a construction that is half-finished. This is a very unbalanced situation: the generator retains maximum flexibility while the transmission provider cannot even dispose of an unfinished facility.

In addition, under section 5.13 the generator is responsible only for costs incurred to the date of suspension (and the costs of suspension). If the upgrade is almost completed, so that the most cost-effective course is for the transmission provider to finish it, the generator apparently is not responsible for the costs of completion. The generator should not be able to transfer these costs to the transmission provider's other customers.

Article 5.13, as originally proposed by the transmission owners, provided that, in case of suspension, the generator is responsible for the entire cost of Interconnection Facilities and Network Upgrades. Because the facilities and upgrades were constructed for the generator's benefit, and the generator has made the decision to suspend construction, this proposal is reasonable. Alternatively, the agreement could allow the transmission provider the option of dismantling the construction (which in some cases might be the economically better alternative),

at the generator's cost. There is no rationale for allowing the generator to simply leave the construction in limbo for three years or to transfer the cost of a Network Upgrade that was constructed for its benefit.

4. Article 9.7.2.2, Continuity of Service: This Article provides that curtailments will be made on a non-discriminatory basis with respect to all generators directly connected to the transmission system. Section 13.6 of the *pro forma* tariff provides that curtailments of firm transmission will be made on a non-discriminatory basis “to the transaction(s) that effectively relieve the constraint.” BPA is uncertain how section 9.7.2.2 of the interconnection agreement relates to section 13.6 of the *pro forma* tariff. Although the interconnection agreement is not an agreement for transmission delivery service, curtailing generation may entail curtailing the associated transmission. Therefore, the standards for the two should be the same.

Moreover, as the *pro forma* tariff recognizes, reliable operation of the transmission system may depend on curtailing those transactions that relieve the problem. Therefore, a requirement that all generators be curtailed equally may require more curtailments than necessary and may not be the most efficient way to relieve a reliability problem. (BPA is also not sure what the word “curtailment” means when applied to generation rather than transmission. It may be that limiting this section to “interruptions or reductions” would be beneficial.)

5. Article 11.4.1, Refunds of Amounts Advanced for Network Upgrades: Article 11.4.1 provides that, as the generator pays for transmission service, it will receive a refund of the amount it paid for Network Upgrades. In addition, the transmission provider must refund “all amounts paid by Generator for the Network Upgrades” within five years “so long as the Transmission Provider continues to receive payments for transmission service with respect to the Facility during such period.”

Article 11.4.1 requires a refund of *all* amounts paid by the generator if the transmission provider continues to receive *any* payments for use of the generation facility. Thus, for example, another generator may have taken over the project but be purchasing only half of the capacity of the Network Upgrade. Nevertheless, the transmission provider must refund all amounts the original generator paid. Or, the original generator may be purchasing only half the capacity, or even be defaulting on half of its transmission bill each month. Nevertheless, the transmission provider must refund all amounts the generator paid.

The Commission should not rescue this provision through more careful drafting. There is no reason the generator should be entitled to a refund over an arbitrary five-year period. If the amounts the generator paid are refunded before the generator has purchased an equal amount (in dollars) of transmission service, then the transmission provider's other customers will be financing the remainder of the Network Upgrade. Under the Commission's pricing policy the generator provides the financing for Network Upgrades. There is no reason for other customers to bear this expense, or take the risk that the generator will cease taking transmission service.

6. Article 11.5, Financial Security Arrangements: Under article 11.5, the generator may choose any form of security it wishes (reasonably acceptable to the transmission provider) to secure payment of its obligations under the agreement.

However, the transmission provider is the party at risk of non-payment, and must be able to determine the appropriate security instrument. Alternatively, it is common to provide one safe harbor for the party that must provide the security—for example, the agreement may provide that a letter of credit is automatically acceptable—and allow the at-risk party to determine whether an alternative is acceptable.

DATED this 17th day of June, 2002.

Respectfully submitted,

s/s Barry Bennett

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Comments of the Bonneville Power Administration was served upon each person designated on the official service list in Docket No. RM02-1-000 via regular first-class mail on June 17, 2002.

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