

FOR SETTLEMENT PURPOSES ONLY

November 2, 2020

SETTLEMENT AGREEMENT FOR REAL POWER LOSS RETURN SERVICES

Bonneville Power Administration

BP-22 Rate Proceeding

TC-22 Tariff Proceeding

This SETTLEMENT AGREEMENT (“Agreement”) is among the Bonneville Power Administration (“Bonneville”) and parties as provided for in section 3 of this Agreement (such parties in the singular, “Party,” in the plural, “Parties”).

Bonneville and the Parties agree to the following:

1. In the BP-22 and TC-22 proceedings, Bonneville staff will file and recommend that the Administrator adopt a proposal (“Settlement Proposal”) consistent with this Agreement for rates, open access transmission tariff (“Tariff”) terms and conditions, and related transmission requirements for Real Power Loss Return services for Fiscal Years (FY) 2022 and 2023. The Settlement Proposal will include only the terms specified in this Agreement and in Attachments 1–3.
2. This Agreement settles, in accordance with its terms, all issues within the scope of the Settlement Proposal for purposes of the BP-22 and TC-22 proceedings.
3. Bonneville will notify the Hearing Officer about this Agreement and move the Hearing Officer to (1) require any party in the BP-22 or TC-22 proceeding that does not sign the Agreement to state any objection to the Settlement Proposal by a date established by the Hearing Officer; and (2) specify that any party in the proceeding that does not state an objection to the Settlement Proposal by such date will waive its rights to preserve any objections to the Settlement Proposal and will be deemed a Party to this Agreement.
4. If, in response to the Hearing Officer’s order made pursuant to section 3, any party to the BP-22 or TC-22 proceeding states an objection to the Settlement Proposal, Bonneville and any Party to this Agreement will have three business days from the date of the objection to withdraw its assent to the Settlement Proposal. If Bonneville or any Party to this Agreement withdraws its assent to the Settlement Proposal, Bonneville shall promptly schedule a meeting with the Parties to this Agreement to discuss how to proceed and will provide notice and the opportunity to participate to parties to the BP-22 and TC-22 proceedings.
5. This Agreement will terminate on September 30, 2023, except that, if either the BP-22 or TC-22 proceeding does not result in the adoption of this Agreement, the Agreement will be void *ab initio*.

FOR SETTLEMENT PURPOSES ONLY
November 2, 2020

6. Preservation of Settlement Proposal
 - a. The Parties agree not to contest this Agreement in the BP-22 and TC-22 proceedings, or other forum, or the implementation of this Agreement pursuant to its terms, through the end of FY 2023.
 - b. The Parties agree to waive their rights to conduct cross-examination and submit data requests, testimony, and briefs in the BP-22 and TC-22 proceedings with respect to any issue within the scope of the Settlement Proposal, except in response to issues raised by any party in the proceeding that objects to this Agreement in response to the Hearing Officer's order made pursuant to section 3.
 - c. Bonneville and the Parties agree that this is a "black box" settlement. Bonneville and the Parties understand, and will not argue otherwise, that this Agreement does not constitute consent or agreement in any future Bonneville proceeding, and that they retain all of their rights to take and argue whatever position they believe appropriate as to such matters in such proceedings.
 - d. Bonneville and the Parties acknowledge that this Agreement reflects a compromise in their positions with respect to the issues within the scope of the Settlement Proposal, and that acceptance of the settlement does not create or imply any agreement with any position of any other Party. Bonneville and the Parties agree not to assert in any forum that anything in the Settlement Proposal, or that any action taken or not taken with regard to this Agreement by Bonneville or any Party, the Hearing Officer, the Administrator, the Federal Energy Regulatory Commission, or a court, creates or implies: (1) agreement to any particular or individual treatment of costs, expenses, or revenues; (2) agreement to any particular interpretation of Bonneville's statutes; (3) any precedent under any contract or otherwise between Bonneville and any Party; or (4) any basis for supporting any Bonneville rate, general rate schedule provision, or term and condition of transmission service for any period after the end of FY 2023.
7. Conduct, statements, and documents disclosed in the negotiation of this Agreement will not be admissible as evidence in the BP-22 or TC-22 proceeding, any other proceeding, or any other judicial or administrative forum, nor will the fact that the Parties entered into this settlement be cited or used in any future proceedings or Administrator decisions as support for any matters, other than application or enforcement of this Agreement.
8. Reservation of rights
 - a. Except as provided in section 6 above, no Party waives any of its rights, under Bonneville's enabling statutes, the Federal Power Act, or other applicable law, to pursue dispute resolution procedures consistent with Bonneville's open access transmission tariff or to pursue any claim that a particular charge, methodology, practice, or rate schedule has been improperly implemented.

FOR SETTLEMENT PURPOSES ONLY

November 2, 2020

- b. Bonneville and the Parties reserve the right to respond to any filings, protests, or claims by Bonneville, any Party, or others; however, the Parties will not support a challenge to any rates, terms and conditions, or other matters described in this Agreement.
9. If, because of a ruling issued in response to a legal challenge, Bonneville is required to materially modify or discontinue any of the rates, terms and conditions, or other matters provided in this Agreement, Bonneville may seek, and the other Parties agree to support, or not contest, a stay of enforcement of that ruling until after the end of FY 2023.
10. Attachment 1, FY 2022-2023 Terms for Real Power Loss Return Services, Attachment 2, Proposed Rate Schedule Provisions, and Attachment 3, Proposed Schedule 11, Real Power Loss Calculation are made part of this Agreement.
11. Nothing in this Agreement is intended in any way to alter the Administrator's authority and responsibility to periodically review and revise the Administrator's rates and terms and conditions of transmission service or the Parties' rights to challenge such revisions.
12. Notwithstanding section 5 of this Agreement, sections 6, 7, and 8 will survive termination or expiration of this Agreement.
13. This Agreement may be executed in counterparts each of which is an original and all of which, taken together, constitute one and the same instrument.

ATTACHMENTS

Attachment 1 – FY 2022-2023 Terms for Real Power Loss Return Services

Attachment 2 - Proposed Rate Schedule Provisions

Attachment 3 – Proposed Schedule 11, Real Power Loss Calculation