

**Los Angeles Department of Water and Power Comments on
Value-Based Transmission Rates and Section 212(i) of the FPA**

December 7, 2017

Los Angeles Department of Water and Power (“LADWP”) respectfully submits these comments on the items raised in the Bonneville Power Administration’s (“BPA”) Tariff Engagement Design Process.

BPA’s Proposed Value- Based Transmission Rates:

LADWP encourages BPA to reconsider its proposal to establish transmission rates based on value rather than on cost. BPA claims that it needs to establish rates for its non-firm and hourly firm transmission service on the Southern Intertie based on a determination that the value of long-term firm service on the Southern Intertie has deteriorated or may deteriorate in the future. However, BPA is not in a position to speculate on the value of long term transmission service to each individual customer; such value will depend on the customer and the circumstances under which the customer is taking transmission service. Transmission rates must continue to be calculated based on BPA’s costs, which can be shown and are tangible, rather than on BPA’s perceived value imputed on its customers.

LADWP requests that BPA identify the current transmission providers that are being used as a model for its value-based transmission pricing proposal.

BPA’s Proposed Use of Section 212(i) of the FPA to modify its OATT:

Section 9 of BPA’s current Open Access Transmission Tariff (“OATT”) requires any changes to its terms and conditions receive a “determination by the FERC that (i) such change is just and reasonable and not unduly discriminatory or preferential, or (ii) such change meets the non-public utility reciprocity requirements pursuant to a request for declaratory order under 18 CFR § 35.28(e).”

BPA cannot sidestep Section 9 of its existing OATT by unilaterally freezing its applicability and adopting a new OATT pursuant to Section 212(i) of the Federal Power Act (“FPA”). Section 212(i) is available to BPA only following an order by FERC to provide service. BPA cannot act independently. This interpretation is supported by the legislative history of Section 212(i).¹

Section 9 in BPA’s current OATT should remain as is. It serves a significant purpose. It ensures that BPA offers transmission services on terms and conditions that are not unduly discriminatory or preferential as is required by Section 211A of the FPA.²

1 H.R. 776, Energy Policy Act of 1992, Conference Report (Oct. 5, 1992), Joint Explanatory Statement, at 4464-65.

2 FPA § 211A, 16 U.S.C. § 824j-1(b) (“[T]he Commission may, by rule or order, require an unregulated transmitting utility to provide transmission services-- (1) at rates that are comparable to those that the unregulated transmitting utility charges itself; and (2) on terms and conditions (not relating to rates) that are comparable to those under which the unregulated transmitting utility provides transmission services to itself and that are not unduly discriminatory or preferential.”)

Section 212(i) of the FPA addresses process, not terms and conditions that result from that process. The Section 212(i) process does not provide BPA and its transmission customers with assurance that the result is an OATT with terms and conditions of service that are not unduly discriminatory or preferential. Furthermore, this concern is exacerbated by BPA's desire to modify its new OATT by also utilizing a Section 212(i) process rather than vis-à-vis a FERC process. LADWP, therefore, encourages BPA to reconsider its proposal to establish a new OATT, or any amendments thereof, utilizing Section 212(i) of the FPA.

For transparency, LADWP encourages BPA to post all comments received in the Tariff Engagement Design Process on either its OASIS or its public website. LADWP reserves the right to submit additional comments on this topic and other topics in BPA's Tariff Engagement Design Process.

Conclusion:

LADWP appreciates the opportunity to submit comments on BPA's value-based transmission pricing proposal and BPA's proposal to use Section 212(i) of the FPA to modify its OATT. However, for the reasons stated above LADWP encourages BPA to reconsider its proposals.