



MEMORANDUM

EUGENE WATER & ELECTRIC BOARD
POWER RESOURCES DIVISION

Rely on us.

TO: Commissioners Farmer, Brown, Cassidy, Cunningham and Ernst
FROM: Eric Hiaasen
DATE: September 29, 2009
SUBJECT: BPA Post 2011 Contract Amendments and Tier 2 Election

Issue Statement

EWEB signed a new twenty year power purchase contract with the BPA in December 2008. The contract includes a requirement that EWEB notify BPA by November 1, 2009 of our decision of whether or not EWEB will purchase power from BPA at the Tier 2 Rate for the first three years of the contract, October 2011 through September 2014.¹

In addition to the Tier 2 decision, BPA has contract amendments for both the Power Sales Agreement and Slice Creditworthiness Agreement that EWEB and BPA signed last December. These amendments resulted from a number of minor issues that were discovered too late to change and still meet BPA's December 1, 2008 deadline. BPA and public power customers agreed to fix these issues via amendments to the contracts, which were finalized recently.

Staff considers these decisions to be straightforward. At the September 15, 2009 Board work session staff discussed these issues. We are coming back for final action on October 6.

Background / Discussion

Tier 2

Under the policies in BPA's new Tiered Rates Methodology (TRM) that are the foundation of EWEB's new Power Sales Agreement (PSA) with BPA, BPA has effectively allocated their existing low-cost legacy resources to regional public power utilities. This is referred to as Tier 1 power. BPA will no longer meet EWEB's load growth at the Tier 1 rate, but will charge us a Tier 2 rate that reflects their much higher incremental cost to acquire additional resources.²

Our contract requires EWEB to notify BPA by November 1, 2009 whether we want BPA to serve all or a portion of our forecast load growth for FY 2012 through FY 2014 at the Tier 2 rate.

Staff does not see any advantages to purchasing Tier 2 power from BPA, but sees several disadvantages.

1 In BPA parlance, this is known as Fiscal Year or FY 2012 through FY 2014.

2 Incremental purchases from the market currently cost about twice BPA's Tier 1 rate. New renewable resources cost about three times the Tier 1 rate. These estimates apply whether EWEB purchases these resources from BPA at a Tier 2 rate or directly from other suppliers.

First, staff forecasts that EWEB has more than sufficient surplus resources³ coupled with our ongoing DSM programs to meet anticipated load growth through 2014 and beyond. We have not included in our load forecast the possible repowering of the vacant Hynix facility beyond the ongoing 3 aMW of HVAC conditioning load that remains.⁴

Second, BPA's TRM requires EWEB to purchase Tier 2 from them as a flat annual block of power. EWEB forecasts itself to be surplus most months of the year and deficit only a few months out of the year. If we wanted to purchase power three to five years in advance, purchasing just those months we forecast deficits would be more effective and incur less market risk than purchasing an annual average block of power that would force EWEB to remarket most months.

Third, BPA will not establish the Tier 2 rates until 2011. While staff is comfortable purchasing Tier 1 power from BPA with rates are not known in advance, we do not have that comfort for Tier 2 power. Staff believes that Tier 1 power will be a good deal compared to our alternatives no matter what because they are based on the costs of BPA's low cost, legacy resources. Tier 2 rates will be based on BPA's cost of acquiring resources, and we have seen no indication that BPA will be able to acquire those resources at a cost lower than EWEB could on its own. In fact, given some of the restrictions BPA must operate under to acquire resources, we believe EWEB has an advantage over BPA.

Clean-up Amendments

Last December EWEB signed the *Power Sales Agreement*, Contract No. 09PB-13041 and the *Slice Creditworthiness Agreement*, Contract No. 09PB-13254 with BPA. Those contracts had known issues that were discovered too late to change. BPA committed to fix these issues via amendments, so these amendments we are asking you to approve were anticipated when we signed the contract.

The vast majority of changes in Amendment No. 1 to the Power Sales Agreement are minor language changes that help clarify the intent of the contract. The only proposed change that is not trivial is the optional additional language clarifying the methodology by which a public power utility that owns generation, such as EWEB, would have benefits calculated should EWEB choose to participate in the Residential Exchange Program (REP). The REP language is optional, and does not place any obligations on EWEB.

The changes in Amendment No. 1 to the Slice Creditworthiness Agreement provide clarifications and additional assurances to BPA that EWEB will be able to meet payment obligations for the Slice portion of EWEB's Power Sales Agreement with BPA as well as addressing concerns of some utilities.

For a more thorough discussion on the background issues please see the memo to the Board in preparation for the September 15, 2009 work session [BPA Post-2011 Contract Amendments & Tier 2 Election](#).

3 EWEB's surplus existing resources are EWEB's share of the IP cogen, Stone Creek hydro, Stateline and Klondike 3 wind as well as secondary energy from EWEB owned and Slice hydro. Planned resource additions include the Harvest Wind project and Seneca biomass purchase.

4 In the event that load returns in the future, EWEB could choose to either allocate our surplus power to serve their load, or make separate purchases dedicated to supply that facility. It would be speculative to acquire additional power at this time.

Board Options

Tier 2 Election

The Board can either choose to request no Tier 2 power from BPA, or request all the Tier 2 power we are eligible for, approximately 25 aMW. Or, the Board could choose to purchase any amount between 1 and 25 aMW.

Amendment No. 1 to the Power Sales Agreement

BPA is allowing utilities the choice of whether or not we want to include the language for the Public Residential Exchange. The remaining Clean-up Amendments can not be altered.

The Board has three choices. It can either sign Amendment No. 1 to Contract No. 09PB-13041, the BPA Power Sales Agreement including the Public Residential Exchange. Or, the Board can sign Amendment No. 1 to Contract No. 09PB-13041, the BPA Power Sales Agreement excluding the Public Residential Exchange. Or, the Board can decline to sign the amendment.

Amendment No. 1 to the Slice Creditworthiness Agreement

The Board can either sign Amendment No. 1 to, Contract No. 09PB-13254, the Slice Creditworthiness Agreement, or the Board can choose to not sign.

Recommendations

Staff does not see any reason to recommend a Tier 2 purchase from BPA for the first three years. First, we do not forecast a need for the power on an annual basis. Second, BPA requires EWEB to take the Tier 2 power as a flat annual block, rather than in just the months we require the power. This will force EWEB into more market activity because we will be purchasing power in the months we need more, and selling the power in the months we don't need the flat block. Third, the costs for any Tier 2 purchase do not look attractive and the rates wouldn't be set until after we have committed to purchase the power.

Staff recommends EWEB sign Amendment No. 1 to the Power Sales Agreement, Contract No. 09PB-13041, and include the optional language for the Public Residential Exchange. Having signed the Power Sales Agreement with BPA in December 2008, staff can think no reason not to sign these amendments. Failing to approve would leave EWEB with a less clear contract with inaccurate references and imprecise definitions.

Staff recommends the Board sign Amendment No. 1 to, Contract No. 09PB-13254. BPA has indicated that they will not sign any of these amendments until all Slice customers have signed. BPA is insisting that all Slice customers have identical contracts, so if any Slicer declines to sign, then we will all remain on the original Slice Creditworthiness Agreement.

Suggested Motions

Staff recommends approval of the attached EWEB Board Resolution 0923 at the October 6, 2009 Board meeting.

Attachment 1

EWEB BOARD RESOLUTION 0923

AUTHORIZING AMENDMENTS TO POST-2011 BPA POWER PURCHASE AND CREDITWORTHINESS AGREEMENTS AND MAKING INITIAL TIER 2 ELECTION

WHEREAS, the Eugene Water & Electric Board (“EWEB”) is a municipal utility formed and operated pursuant to ORS Chapter 225, the Eugene City Charter and Eugene City Code that purchases the majority of its power supply as a preference customer of the Bonneville Power Administration (“BPA”); and

WHEREAS, on December 8, 2008, EWEB and BPA duly executed a new Post-2011 Power Sales Agreement, Contract No. 09PB-13041, in anticipation of BPA wholesale power purchases to commence on October 1, 2011; and

WHEREAS, on December 1, 2008, EWEB and BPA also executed a corresponding Slice Creditworthiness Agreement, Contract No. 09PB-13254, establishing credit requirements associated with billing and payment for power services to be provided under the new Power Sales Agreement; and

WHEREAS, BPA and its preference customers have negotiated certain technical amendments to the Post-2011 Power Sales Agreement and Slice Creditworthiness Agreement deemed necessary for effective implementation, which are now offered by BPA as Amendments No. 1 to each of these Agreements; and

WHEREAS, under provisions of the Post-2011 Power Sales Agreement, the Board must also now elect whether or not to take Tier 2 service from BPA to meet EWEB’s retail load growth during the initial three years of the new contract term; and

WHEREAS, the Board reviewed related background information and discussed staff recommendations at its September 15, 2009 Work Session in preparation for formal action and approval concerning these matters; and

WHEREAS, based on its review and consideration, the Board finds that the following actions are necessary, appropriate, and in EWEB’s interest for purposes of implementing the new BPA Agreements;

NOW, THEREFORE BE IT RESOLVED as follows:

- 1) The General Manager is hereby authorized and directed to execute Amendment 1 to BPA Power Sales Agreement No. 09PB-13041, and Amendment 1 to the BPA Slice Creditworthiness Agreement No. 09PB-13254, subject to review and approval by EWEB legal counsel of the associated documents in final their form; and
- 2) In executing Amendment 1 to BPA Power Sales Agreement No. 09PB-13254, the Board directs that the optional language in Exhibit D, retaining EWEB’s right to possible future participation in the BPA Residential Exchange, be incorporated as shown in the amendment draft; and

BE IT FURTHER RESOLVED, that:

- 3) By letter notification or other appropriate and timely means, the General Manager shall notify BPA that EWEB does not plan or elect to take Tier 2 service from BPA under provisions of Power Sales Agreement No. 09PB-13041 during the period October 1, 2011 through September 30, 2014.

THE CITY OF EUGENE, OREGON
Acting by and through the
Eugene Water & Electric Board

President

I, DEBRA J. SMITH the duly appointed, qualified, and acting Assistant Secretary of the Eugene Water & Electric Board, do hereby certify that the above is a true and exact copy of the Resolution adopted by the Board at its October 6, 2009 Regular Board Meeting.

Assistant Secretary