INDEX

TESTIMONY of

MICHAEL R. NORMANDEAU, BYRNE E. LOVELL, and ARNOLD L. WAGNER

Witnesses for Bonneville Power Administration

**SUBJECT: SUPPLEMENTAL RISK MITIGATION**

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**SUBJECT: SUPPLEMENTAL RISK MITIGATION**

**Section 1: Introduction and Purpose of Testimony**

*Q. Please state your names and qualifications.*

A. My name is Michael Normandeau and my qualifications are contained in WP-07-Q-BPA-43.

A. My name is Byrne Lovell and my qualifications are contained in WP-07-Q-BPA-32.

A. My name is Arnold Wagner and my qualifications are contained in WP-07-Q-BPA-50.

*Q. What is the purpose of your testimony?*

A. The purpose of our testimony is to sponsor the Supplemental Risk Analysis Study (Study), WP-07-E-BPA-48, and the Supplemental Risk Analysis Study Documentation (Documentation), WP-07-E-BPA-48A. Also we describe the risk mitigation tools used in this rate case and the calculation of the probability of BPA making U.S. Treasury (Treasury) payments on time and in full during the one-year rate period for this rate proceeding. This testimony also examines additional Risk Mitigation Tools and efforts to reduce the cost of risk mitigation in rates.

*Q. How is your testimony organized?*

A. Our testimony includes 11 sections including this introductory section. Section 2 summarizes the methodology for calculating the probability of making all Treasury payments in full and on time. Section 3 surveys the risk mitigation tools used in the ToolKit model. Section 4 discusses financial reserves. Section 5 goes over Planned Net Revenues for Risk (PNRR). Section 6 is devoted to the Cost Recovery Adjustment Clause (CRAC). Section 7 describes the NFB Adjustment to the CRAC. Section 8 explains the Dividend Distribution Clause (DDC). Section 9 details the calculation of Modified Net Revenue (MNR). Section 10 highlights other possible risk mitigation measures that are not quantitatively assessed in this proposal. Section 11 discusses the timing of the provisions of the proposed rates for fiscal year (FY) 2009 with those of the rates currently in effect for FY 2009.

## Section 2: Treasury Payment Probability Methodology

*Q. What is the Treasury Payment Probability)?*

A. Treasury Payment Probability (TPP) is the probability (expressed as a percentage) that BPA will be able to make all of its planned payments to Treasury in a rate period in full and on time. TPP is the means by which BPA tests the financial strength of its rate proposal. Payments to Treasury, in particular principal payments, are by law subordinate to all of BPA's other payment obligations. Therefore, if BPA meets its Treasury payment obligations, it will have met all its other financial obligations as well. For this reason, TPP serves as the key prospective measure of BPA's ability to recover all its costs.

*Q. How do you calculate the TPP?*

A. We calculate TPP using a *Monte Carlo* modeling approach in which 3,000 separate scenarios or *games* are generated. Each game covers two years – the year prior to the rate period, FY 2008, and the single year of the rate period, FY 2009. In each game a test is performed to see if BPA is able to make its Treasury payment during FY 2009. FY 2008 is simulated in order to reflect the effect of uncertainty during FY 2008 on the starting 2009 balance of reserves available for risk. The TPP is the percentage of those 3,000 games in which BPA makes its Treasury payment on time and in full in FY 2009.

*Q. What tool do you use to calculate the TPP?*

A. We use a model called the ToolKit to evaluate Power Services' ability to meet the TPP standard, given the net revenue variability embodied in the distributions of operating and non-operating risks.  ToolKit is used to assess the effects of various policies, assumptions, changes in data, and risk mitigation measures on the level of year-end reserves attributable to generation.

*Q.* *How have you modified the ToolKit Model since the WP-07 Final Proposal?*

A. The version of ToolKit used in the WP-07 Supplemental Proposal is very similar to the version used in the WP-07 Final Proposal.  The ToolKit reads in two files of risk data, one produced by the RiskMod model that reflects operating risks, and one from the Non-Operating Risk Model (NORM).  However, we have modified the Visual Basic for Applications (VBA) code of ToolKit to account for two changes:  the IOU REP Settlement is no longer in effect; and the rate period is now a single year (FY 2009) instead of three years (FY 2007-2009.)  *See* Russell, *et al.*, WP-07-E-BPA-67 for an updated discussion of the RiskMod and the NORM and for more details on changes to the ToolKit.

*Q.* *What TPP percentage is BPA targeting with its WP-07 Supplemental Proposal?*

A. In this Supplemental Proposal, BPA is implementing its long-standing TPP standard of 95 percent.  That standard, adopted in 1993 as part of BPA's 10-Year Financial Plan, applies to a two-year rate period.  Because the FY 2009 rate period is a one-year period, we must convert the 95 percent TPP for two-year rate periods into the equivalent TPP percentage for a one-year rate period.  The one-year equivalent TPP is 97.5 percent.

*Q.* *How do you measure TPP for comparison to its TPP standard?*

A. We measure TPP in the ratesetting process used by each business function.  The TPP standard is a ratesetting standard, and because BPA now sets rates separately for the power and transmission functions, the TPP test must be made separately also.  BPA believes that if each business function is meeting the TPP standard, then the Agency as a whole is ensuring timely payment of its Treasury obligations sufficiently to comply with the thrust of the TPP standard. Therefore, the proposed power rates must meet the one-year standard of 97.5 percent.

**Section 3: Risk Mitigation Tools in the ToolKit Model**

*Q. What risk mitigation tools is BPA using to achieve the 97.5 percent TPP standard?*

A. BPA identified a list of potential risk management tools to be used as part of a comprehensive risk management plan in Supplemental Risk Analysis Study, WP-07-E-BPA-48. The tools that are included in the ToolKit analysis for the Supplemental Proposal are liquidity reserve level, starting Power financial reserves available for risk, temporary availability of Transmission financial reserves, a Cost Recovery Adjustment Clause (CRAC), a Dividend Distribution Clause (DDC), and Planned Net Revenues for Risk (PNRR). These tools address the uncertainties BPA is facing for FY 2008 and 2009, particularly hydro conditions, market prices, operating and non-operating costs, and fish and wildlife costs while assuring that reserves available for risk that are attributed to Power Services do not accumulate to unnecessarily high levels.

*Q. Does the Supplemental Proposal contain other risk mitigation tools that are not modeled in ToolKit?*

A. Yes. We are proposing to continue the NFB Adjustment (National Marine Fisheries Service [NMFS] Federal Columbia River Power System [FCRPS] Biological Opinion [BiOp] Adjustment) and the Emergency NFB Surcharge, but are not modeling them or the risks they mitigate. The NFB Adjustment is an upward adjustment to the CRAC Maximum Planned Recovery Amount (Cap) for FY 2009 if unforeseen fish and wildlife costs or financial impacts of operational changes arise from a prescribed set of circumstances in FY 2008 related to the litigation over the FCRPS BiOp. The Emergency NFB Surcharge mitigates the risks of the same set of possible events that might occur during FY 2009 should BPA be experiencing a cash crunch during FY 2009. We are not modeling the impacts of these risk tools or the risks they cover because BPA would prefer not to model in a rate case the potential independent actions of the Federal court or the possible outcomes of on-going negotiations for long-term agreements regarding fish funding levels. *See* Section 7 for further discussion of the NFB Adjustment.

*Q. What do you mean by a "cash crunch"?*

A. A cash crunch is defined as occurring when the Agency Within-year TPP for the fiscal year in which the NFB Trigger Event has occurred is calculated to be less than 80 percent when the financial effects of the Trigger Event, but not the revenues from the NFB Surcharge, are taken into account.

*Q. Will the risk mitigation package apply to Slice purchases?*

A. No. The Slice product is not subject to the proposed risk mitigation package because Slice customers cover their proportional share of risk by paying actual costs via a true-up mechanism and they receive their proportional share of actual secondary power.

**Section 4: Financial Reserves Available for Risk**

*Q. Please explain the term "starting financial reserves available for risk."*

A. Starting financial reserves available for risk comprise cash in the Bonneville Fund and cash equivalents in the form of a deferred borrowing balance at the start of the first fiscal year of the rate period, *i.e.*, FY 2009. Since BPA is setting rates only for power in this rate case, it is only referring to those financial reserves attributable to the generation function.

*Q. What does the phrase "available for risk" mean?*

A. Some of the reserves attributed to Power Services at the beginning of FY 2008 are not considered to be available for risk because they are virtually certain to be distributed to customers in the near future. These are the reserves that BPA has accumulated due to the cessation in May 2007 of residential exchange benefit payments to the IOUs.

During the remainder of FY 2007, BPA's power rates continued to generate revenue to cover the expense of the residential exchange benefit payments even though these payments had been stopped. At the start of FY 2008, this had amounted to a total of $141.3 million. That amount has been subtracted from the reserves attributed to Power Services at the beginning of FY 2008 in BPA's calculation of the starting reserves available for risk.

*Q. Please explain how financial reserves are modeled as a risk mitigation tool.*

A. Financial reserves are BPA's central risk mitigation tool. During years of low secondary revenue or other financial exigencies, reserves can be drawn upon to provide funds for paying operating expenses and paying the Treasury, and during years of high net revenue reserves they can be replenished. The first step in BPA's calculation of TPP is modeling starting financial reserves available for risk for the rate period.

*Q. What are you assuming for FY 2009 starting reserves?*

A. At the time of this analysis, the actual starting reserve level for FY 2009 cannot be known because of the uncertainty regarding Power Services' cash flow during the remainder of FY 2008. To account for this uncertainty, we have modeled 3,000 games for FY 2008 to produce 3,000 separate starting reserve values for FY 2009. The result showed an expected value of Power starting reserves available for risk for FY 2009 of $1,031 million.

*Q. Does this mean BPA will have Power reserves available for risk of $1,031 million at the start of FY 2009?*

A. No. The actual amount of starting reserves for FY 2009 is unknown. We are using the ToolKit model, along with RiskMod and NORM, to compute a distribution of 3,000 different starting reserve values for FY 2009. The expected value of our distribution of starting reserves is $1,031 million; the distribution ranges from a low of $50 million (reflecting a deferral of part of the Treasury payment for FY 2008) up to $2,712 million.

*Q. Does the Supplemental Proposal risk mitigation rely solely upon reserves attributed to Power?*

A. Yes, the reserves relied upon are only those reserves available for risk that are attributed to Power, and not other agency reserves, with the exception that the definition of cash crunch involves an assessment of the Agency Within-year TPP.

*Q. The temporary availability of other reserves for use in PBL rate-setting was one of the tools in the WP-07 Final Proposal. Why are you not including such reserves in the Supplemental Proposal?*

A. The WP-07 Final Proposal assumed some reserves attributed to the Transmission function could be temporarily used by PBL in only one of the three years covered by that PBL rate case, FY 2007. This possibility and the amount was calculated in the Transmission Business Line's TR-06 rate case; no similar amount was determined from Transmission Services' rate cases for other years to be temporarily available to the Power function, therefore we have not assumed that any reserves that are not attributed to Power are available, even temporarily, in the Supplemental Proposal.

**Section 5: Planned Net Revenues for Risk**

*Q. What is the role of Planned Net Revenues for Risk?*

A. BPA often includes PNRR as a component of the revenue requirement to bolster reserves to mitigate the impacts of operating and non-operating risks. However, in this Supplemental Proposal, we are not proposing to include PNRR. The rate period comprises only a single year, which reduces the total amount of risk to be mitigated, and the projections of starting reserves available for risk are unusually robust. These reserves, combined with a modest CRAC (*see* next section,) are sufficient to meet BPA's TPP standard without reliance on PNRR.

**Section 6: Cost Recovery Adjustment Clause (CRAC)**

Q. *Is the CRAC in the Supplemental Proposal similar to the CRAC in the WP-07 Final Proposal?*

A. Yes. It is a temporary upward adjustment to the power rates if forecast Accumulated Modified Net Revenues (AMNR) fall below the threshold shown on Table A, Attachment 1. The adjustment will be made by a percentage increase in light load hour (LLH), heavy load hour (HLH) energy and load variance rates. *See* Supplemental Wholesale Power Rate Development Study (WPRDS), WP-07-E-BPA-49.

Q. *Please explain the timing of the CRAC adjustment.*

A. Before the end of FY 2008, BPA will determine if the forecast of year-end AMNR is below the CRAC threshold for the CRAC applying to FY 2009. If AMNR is below the threshold, BPA will adjust energy rates for FY 2009. The adjustment will be a percentage increase to the applicable posted rates. This initial proposal does not call for a forecast of AMNR to be made in FY 2009, since the next year, FY 2010, is outside the rate period, and any CRAC that might apply to FY 2010 would be described in the rate case for that subsequent rate period.

Q. *How was the CRAC threshold derived?*

A. The threshold was originally discussed in terms of reserves because reserves are easier for many people to relate to BPA's financial position. BPA determined in the WP-07 Final Proposal that approximately $750 million was an appropriate threshold level because it represented an appropriate compromise between a lower threshold that would trigger less frequently but require higher PNRR, and a higher threshold with higher total CRAC revenues but a lower level of PNRR. We propose to continue to use $750 million of reserves available for risk as the CRAC threshold in this Supplemental Proposal.

*Q. Why is $36 million the maximum recovery amount instead of $300 million?*

A. Because the projections of reserves available for risk are unusually robust, and this is a one-year rate period instead of a three-year rate period, a $36 million cap is sufficient to meet the 97.5 percent TPP standard without relying on PNRR with the risks of FY 2008 and FY 2009 that we have modeled.

*Q. What would be the effect of changing the maximum recovery amount of the CRAC?*

A. If the cap were increased above $36 million, the TPP would be higher than the targeted standard of 97.5 percent; if the cap were decreased below $36 million, the TPP would be below the targeted TPP standard and PNRR would have to be added to the revenue requirement.

*Q. How is the total amount to be recovered through the CRAC adjustment determined?*

A. The total amount to be recovered through the CRAC adjustment is the lesser of the amount by which AMNR is below the threshold and the maximum recovery amount shown in Attachment 1, Table A.

*Q. How is the amount of rate increase calculated?*

A. The CRAC amount will be recovered from the energy rates subject to the CRAC, which would both increase revenues from adjustable power rate sales and decrease the REP payments to exchanging utilities by increasing the PF Exchange rate.

*Q. Please explain the CRAC Revenue Basis.*

A. The CRAC Revenue Basis is the total LLH and HLH generation revenue for products and benefits that are subject to the CRAC, based on the most current revenue forecast available in September 2008 for FY 2009.

*Q. How will the CRAC percentage be applied to customer bills?*

A. The CRAC percentage will be applied as a mills/kWh rate to the customer's HLH and LLH energy and load variance rates.  The CRAC adjustments will be shown as separate line items on each customer's bill. *See* Bolden, *et al*., WP-07-E-13-BPA, for an explanation about the CRAC application to the demand rate.

*Q. Will there be a true-up of the CRAC?*

A. No. The CRAC adjustment to the rates is made based on the CRAC percentage calculated prior to the start of the fiscal year with no true-up. Any over-collection or under-collection due to changes between the third quarter review and the end of the fiscal year will be addressed in the next fiscal year's analysis of the need for a CRAC.

*Q. Is the CRAC robust enough to mitigate all of BPA's risk?*

A. It is robust enough to meet BPA's TPP standard without any reliance on PNRR for the FY 2009 rate period; this does not eliminate or totally mitigate risk, because the TPP standard allows a 2.5 percent chance of a Treasury deferral in FY 2009.

**Section 7: The NFB Adjustment and the Emergency NFB Surcharge**

*Q. Are fish and wildlife issues being handled in the TPP modeling in a fashion similar to the approach in the WP-07 Final Proposal?*

A. Yes. A base river operation is used in RiskMod, and a base F&W program is reflected in the revenue requirement. Then some uncertainty over some program elements is modeled in NORM (BPA direct program costs, and U.S. F&WS Lower Snake River Hatcheries. *See* Risk Analysis Study, WP-07-E-BPA-48, Section 2.5.3.7.

*Q. Are the fish issues that are not modeled being treated the same as in the WP-07 Final Proposal?*

A. Yes. The WP-07 Final Proposal included both the NFB Adjustment and the Emergency NFB Surcharge, and this Supplemental Proposal also includes both.

**Section 8: Dividend Distribution Clause (DDC)**

*Q. Is the DDC in this Supplemental Proposal similar to the DDC in the WP-07 Final Proposal?*

A. Yes. It is virtually identical, except that the threshold as measured in AMNR is different. The starting point for this threshold is the same level of reserves available for risk, $1,050 million. The threshold measured in AMNR is now $218.6 million.

**Section 9: Modified Net Revenue**

*Q. Have changes been made to the manner in which BPA calculates Modified Net Revenue (MNR) or Accumulated Modified Net Revenue (AMNR)?*

A. No, they are calculated in the same way as in the WP-07 Final Proposal.

**Section 10: Additional Risk Mitigation Tools and Efforts**

*Q. Are there other risk mitigation efforts currently underway that are not included in this analysis?*

A. No. If significant issues are raised in the parties' testimony regarding risk mitigation, BPA would consider changes to its risk mitigation approach as necessary.

**Section 11: The Relationship of the Proposed NFB Rate Provisions to the Current NFB Rate Provisions**

*Q. What is an NFB Trigger Event?*

A. According to language agreed to in meetings with customers and other parties during the WP-07 rate proceeding, an NFB Trigger Event is an event of one of the following four events that results in changes to BPA's FCRPS Endangered Species Act (ESA) obligations compared to those in the WP-07 Final Proposal as modified prior to this Trigger Event:

(1) A court order in *National Wildlife Federation vs. National Marine Fisheries Service*, CV 01-640-RE, or any appeal thereof ("Litigation");

(2) An agreement (whether or not approved by the Court) that results in the resolution of issues in, or the withdrawal of parties from, the Litigation;

(3) A new NMFS FCRPS BiOp; or

(4) A BPA commitment to implement Recovery Plans under the ESA that results in the resolution of issues in, or the withdrawal of parties from, the Litigation.

*Q. How would an NFB Trigger Event affect rates?*

A. It depends on when the NFB Trigger Event occurs and whether BPA is in a cash crunch or not (this is what determines whether an NFB Trigger Event might lead to an NFB Adjustment for the following year or an Emergency NFB Surcharge for the current year). If BPA is in a cash crunch when the NFB Trigger Event occurs, then we will follow the GRSPs for possible implementation of an Emergency NFB Surcharge. We are not proposing to change the procedure specified in the GRSPs governing Emergency NFB Surcharges, so we would undertake the same sequence of actions whether an NFB Trigger Event occurs at the time of a cash crunch in FY 2008 or FY 2009.

*Q. What would happen if an NFB Trigger Event occurs in FY 2009 and BPA is not in a cash crunch?*

A. The proposed rates do not provide for any response to those circumstances because the conditions for applying an Emergency NFB Surcharge to FY 2009 rates would not have been met, and any NFB Adjustment that might ensue would occur in FY 2010, and BPA is not proposing any rates that apply to that year.

*Q. OK. What would happen if an NFB Trigger Event occurs in FY 2008 and BPA is not in a cash crunch?*

A. To answer that, let's look in more detail at the timing of the calculations for an NFB Adjustment to FY 2009 rates. The current GRSPs call for calculations in August 2008, at essentially the same time as the calculations for determining whether there will be a CRAC or DDC during FY 2009; we are proposing to change this to early September in this Supplemental Proposal. In either case, BPA will be analyzing the financial impacts in the August-September time frame along with the CRAC/DDC calculations. If BPA anticipates that the proposed rates will receive interim approval from the Federal Energy Regulatory Commission by October 1, 2008, BPA will use the proposed GRSPs to analyze the financial impacts of the NFB Trigger Event to determine how much of a change to the CRAC cap to make, and the financial impact will be calculated in reference to the operation and program for FY 2008 that were assumed in the final Supplemental Proposal. On the other hand, if BPA anticipates that the current rates will be in effect on October 1, 2008, BPA will use the current GRSPs to make the NFB and CRAC calculations, and the financial impact will be calculated in reference to the FY 2008 operation and program, as adjusted, that were assumed in the WP-07 Final Proposal.

*Q. What does "as adjusted" mean?*

A. It means that the fish and wildlife operation or fish and wildlife program (or both) that BPA is implements in a fiscal year (*e.g.*, FY 2008) may not be exactly the same as that assumed in the most recent rate case final proposal (*e.g.*, the WP-07 Final Proposal), because BPA may have modified that operation and program after completing the relevant final proposal – that is, the baseline for the "before" part of the NFB Trigger Event impact calculation may have changed. The possibility of changes to the baseline was foreseen during the design of the NFB mechanisms and the writing of the WP-07 Final Proposal GRSPs. The baseline needs to include the possibility of change because customers feared that BPA could voluntarily make changes to the operation and program that would increase expenses, and then, if an NFB Trigger Event occurred, roll the voluntary changes in with the litigation-related changes and increase rates more than could have been justified by the litigation-related changes alone. So "as adjusted" merely means the operation and program that BPA is implementing as of the time immediately before the NFB Trigger Event occurs.

Q. *Does it matter when during FY 2008 an NFB Trigger Event occurs?*

A. Yes, it does, if we anticipate that the proposed rates will go into effect on October 1, 2008. Let's consider first an FY 2008 NFB Trigger Event that occurs after completion of the modeling for the Final Supplemental Proposal. In that case, we will follow the proposed GRSPs, which call for calculating the financial impact of the NFB Trigger Event by comparing estimates of FY 2008 net revenue including the impact of the NFB Trigger Event to estimates of FY 2008 net revenue under the operations and program assumptions of the final Supplemental Proposal, as adjusted.

Q. *What about the case where an NFB Trigger Event occurs before the final Supplemental Proposal is completed and you anticipate that the proposed rates will go into effect on October 1, 2008?*

A. If an NFB Trigger Event occurs in FY 2008 early enough that that its impacts can be factored into the final Supplemental Proposal, that is, modeling of FY 2008 can be updated to reflect the NFB Trigger Event and if the NFB Trigger Event has effects on FY 2009, modeling of FY 2009 can be updated to reflect the NFB Trigger Event, then the calculations are quite different. The Supplemental Proposal GRSPs propose calculating financial impacts of NFB Trigger Events by comparing FY 2008 net revenue after the NFB Trigger Event to FY 2008 net revenue as modeled in the final Supplemental Proposal. Since in this case, the final Supplemental Proposal has already incorporated the NFB Trigger Event, there would be no impacts of the NFB Trigger Event. The updating of the assumptions about operations and program in the final Supplemental Proposal will have superseded the NFB Adjustment, and there will not be an NFB Adjustment for this NFB Trigger Event.

Q. *Doesn't this mean that the net revenue impacts of this NFB Trigger Event are missed, and are not recovered?*

A. No, they are fully recovered. By incorporating the FY 2008 effects into the modeling of FY 2008, which affects FY 2009 starting reserves, and incorporating the FY 2009 effects into the revenue requirement for the FY 2009 rates, and then ensuring that the FY 2009 rates meet BPA's TPP standard, the financial impacts of the NFB Trigger Event on both FY 2008 and FY 2009 are fully accounted for in the revised FY 2009 rates.

Q. *Will BPA still go through the formal process of calculating an NFB Adjustment to the cap on the CRAC if there isn't likely to be a CRAC?*

A. No. In the August-September calculations, BPA will calculate first whether a CRAC will trigger. If the CRAC will not trigger, then an NFB Adjustment would have no impact, and BPA will not necessarily calculate the financial impacts of an NFB Trigger Event with the rigor that would be needed if it were to affect rates.

Q. *Could an FY 2008 NFB Trigger Event affect rates in both FY 2008 and FY 2009?*

A. Yes, there are two scenarios in which this could happen. First, an NFB Trigger Event in FY 2008 could come when there is a cash crunch, but there isn't enough time remaining in FY 2008 to collect additional revenue equal to the magnitude of the financial impact of the NFB Trigger Event. Then the balance of the financial impact could result in an NFB Adjustment to the FY 2009 CRAC cap.

Second, an NFB Trigger Event could occur that affects operations or program elements in both FY 2008 and FY 2009. This could lead to what was termed a "deemed" Trigger Event in the WP-07 Final Proposal: as soon as FY 2009 begins, an NFB Trigger Event is deemed to have occurred in FY 2009; the event actually occurred in FY 2008, but has effects on FY 2009 financial results. Both the original and the deemed NFB Trigger Event could lead to Emergency NFB Surcharges (for rates in FY 2008 and FY 2009, respectively).

*Q. Could two separate NFB Trigger Events affect FY 2009 rates?*

A. Yes, there are several ways this could occur. First, there could be two or more NFB Trigger Events in FY 2008 in the absence of a cash crunch. These events would be evaluated in the August-September time frame in a single analysis that might lead to an NFB Adjustment to the FY 2009 CRAC cap.

Second, an NFB Trigger Event could occur in FY 2008 in the absence of a cash crunch and lead to a change in the CRAC cap; if the CRAC triggers, this could increase FY 2009 rates. Then an NFB Trigger Event could occur during FY 2009 when a cash crunch is occurring, leading to implementation of an Emergency NFB Surcharge in FY 2009 in addition to the CRAC that had been increased by the FY 2008 NFB Trigger Event.

Third, there could be two or more NFB Trigger Events in FY 2009 that each lead to Emergency NFB Adjustments. One of these events could be a deemed NFB Trigger Event that is assessed as soon as FY 2009 begins. Since the existence of a cash crunch implies that urgent measures are needed, Emergency NFB Surcharges are supposed to be implemented rapidly, so the first Emergency NFB Surcharge might already have been put in place when the second NFB Trigger Event occurs.

*Q. Do you anticipate NFB Trigger Events in FY 2008?*

A. Yes, we believe one NFB Trigger Event is highly likely (issuance of the final FCRPS BiOp is scheduled for May 5, 2008) and another is more likely than not (execution of one or more agreements that results in the resolution of issues in, or the withdrawal of parties from, the Litigation). We also anticipate that there could be a court order regarding the Litigation in FY 2008; however, the timing of the order, and whether or not it would result in changes to BPA's FCRPS obligations compared to those in the final Supplemental Proposal remain uncertain.

*Q. Are there other Biological Opinions being litigated that could affect BPA's fish and wildlife costs?*

A. Yes, there is on-going litigation regarding the issuance of a BiOp for the Willamette Valley Projects of the FCRPS, and on-going litigation regarding a BiOp for the Libby Project.

*Q. Would either of these cases or BiOps be covered under the NFB clauses?*

A. No, by their terms, NFB clauses are limited to events relating to the litigation over ESA obligations in the *National Wildlife Federal v National Marine Fisheries Service* case only.

*Q. Have you considered modifying the NFB Adjustment clause and the Emergency NFB Surcharge to cover litigation over these other BiOps?*

A. Yes, we considered this, but determined it was not needed for this FY 2009 rate period. We believe it is highly unlikely that financial impacts from either BiOp could decrease BPA's net revenue very substantially during FY 2009. We could, however, consider modifying or expanding the NFB clauses in future rate cases if determined necessary or appropriate.

*Q. Does this conclude your testimony?*

A. Yes.

## Attachment 1

### Table A: CRAC Annual Thresholds and Caps

[Dollars in millions]

| AMNR Calculated at end of Fiscal Year | CRAC Applied to Fiscal Year | CRAC Threshold | Approx. Threshold as Measured in PS Reserves | Maximum CRAC Recovery Amount (Cap) |
|---|---|---|---|---|
| 2008 | 2009 | -$81.4 | $750 | $36 |

### Table B: DDC Thresholds

[Dollars in millions]

| AMNR Calculated at End of Fiscal Year | DDC Applied to Fiscal Year | DDC Threshold in AMNR | Approx. Threshold as Measured in PS Reserves |
|---|---|---|---|
| 2008 | 2009 | $218.6 | $1,050 |