UNITED STATES OF AMERICA
U.S. DEPARTMENT OF ENERGY
BEFORE THE
BONNEVILLE POWER ADMINISTRATION

Tiered Rate Methodology Rate Case	)	BPA Docket TRM-12-B-AT-1

AFFILIATED TRIBES OF NORTHWEST INDIANS ECONOMIC DEVELOPMENT CORPORATION BRIEF

Pursuant to the Rules of Procedure Governing Rate Hearings, Section 1010.13, Affiliated Tribes of Northwest Indians Economic Development Corporation (ATNI-EDC) submits its Initial Brief on issues with the Bonneville Power Administration (BPA) Tiered Rates Methodology Proposal (TRM) and subsequent documents admitted into the record of this proceeding[1].

ATNI-EDC participated with BPA and other parties to this rate proceeding in settlement discussions on September 12, 2008. During those discussions, ATNI-EDC proposed to settle the matters described in this Initial Brief if the number of new small utilities which are eligible for an exception to the 50 aMW rate case limit on new publics found in Section 4.1.6.3.1 were increased in such a manner so as to accommodate the likely number of new small public utilities that may be expected during the term of the TRM. In response to our proposal, BPA has agreed to increases the number of excepted new small utilities from five to ten, in exchange for ATNI-EDC's willingness to settle the matters

[1] See Order Ruling on Motions to Admit testimony into the Record, TRM-12-HOO-17.

herein. Because this settlement is subject to comment by other rate case parties, and is not yet final, ATNI-EDC hereby presents the following legal arguments.

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I. Introduction

It has been the purpose of ATNI-EDC in this rate proceeding to assure the opportunity for the formation of new public preference customers, and in particular new tribal utilities, and the sharing of the benefits of the Federal Columbia River Power System (FCRPS) by those customers. The FCRPS is a public resource administered by BPA that by law must be assured widespread use. We object to the limitations on new public utilities contained in this twenty year long TRM in the form of augmentation limits, rate period limits, restrictive and unnecessary notice provisions, and a burdensome veto process available to existing customers on many issues that could impact new publics. These limitations will most certainly prohibit new publics' access to the benefits of the FCRPS during the term of the TRM.

ATNI-EDC and its parent company Affiliated Tribes of Northwest Indians have fifty-four member Indian tribes from the states of Washington, Oregon, Idaho, Montana, and a few member tribes from Alaska and Northern California. These Indian tribes have diverse cultures, backgrounds, and interests. Many have small reservations, and many have very large reservations. The ATNI-EDC member tribes also have many issues and concerns in common. For example, tribal populations are growing faster than that of the general public, and along with population growth many tribal governments are developing social, educational, and business opportunities to serve their people. Indian reservations have long been lacking in many basic infrastructure necessities. Where infrastructure exists, it is sometimes of poor quality or inadequate to meet needs of growth. Expensive line extension policies leave many reservation residents and tribal governments underserved, or delay projects. When infrastructure is built, it is often paid for by the tribes, but owned by third parties. In spite of some recent business and social developments, most Indian reservations have much higher rates of poverty and much higher rates of unemployment than non-Indians, making issues of increasing energy costs for average consumers of much greater impact. Indian tribal governments rarely can tax their people, therefore, tribal governments are having difficulty meeting higher energy cost budgets on fixed and generally inadequate budgets. Despite these challenges, Indian tribal governments vehemently protect their rights as sovereign governments: the rights to set their own destinies and govern themselves honoring their cultures and traditions. Tribes recognize that self-sufficiency is a key to meeting their goals and protecting the interests of their members.

As tribes consider self-sufficiency goals, expand existing infrastructure, build businesses and member services, and seek to create jobs, many tribes are exploring the

option of tribal utilities to meet these needs, and to encourage business development on their lands. Many of the tribes with cultural histories that depended on the blessings of the Columbia River and its tributaries now wish to continue to take part in the benefits of the rivers to the region. The Columbia Basin tribes have experienced devastating reductions in their ability to harvest salmon, steelhead, lamprey and to protect and manage other important resources. This has adversely affected tribal economies, cultures and religion. It is important to keep this history in mind in developing policies for new public utilities.

Of the fifty-four ATNI-EDC members, three have utilities operated by a tribe or tribes serving local loads. At least nine others are now actively considering tribal utility formation. Over the twenty-year period of this TRM, additional tribes will certainly consider formation of tribal utilities or will grow existing small utilities. New tribal utility formation is generally only economically feasible if a share of the benefit of the FCRPS is available to them. The TRM will directly impact the ability of ATNI-EDC member tribes to form utilities and to participate in and encourage other business development and energy development on their reservations.

II. New Public Utilities

As is described herein, based upon the law, BPA's Tiered Rates Methodology should encourage and even create incentives for new public utilities to form and to be eligible to receive power at the Tier I rate. Regarding tribal utilities, BPA has a direct statutory obligation to encourage tribal energy businesses. However, BPA's internal policy is that

"BPA is neutral on new publics formation"[2]. Contrary to even this internal policy, BPA's TRM contains clear *limitations* on new publics, and in the case of new publics larger than 10 aMW wishing to form to serve loads now served by investor owned utilities, the TRM contains such restrictive provisions, that such new publics, which could take customers away from certain regional for-profit utility businesses, are very unlikely[3]. BPA appears to be protecting investor owned utilities at the expense of public power, to whom BPA is statutorily required to give preference.

a. *New Public Utilities Introduction*

ATNI-EDC generally supports the concept of Tiered Rates, even though we agree with the Western Public Agency Group's testimony[4] that "Adopting tiered rates as the method of allocating resource costs to rates for preference customers is a major departure from the historical approach of melding resource costs that BPA has used since the passage of the Northwest Power Act." The TRM is proposed to be effective for a 20-year period, through September 30, 2028[5] and therefore represents a long term major departure from

[2] See Motion to Admit Evidence into the Record, TRM-12-N-AT-1, and related document TRM-12-E-AT-3-AT1. It is noted for the record that ATNI-EDC did not learn of this document or initially receive this document from any employee of BPA.
[3] *Id.* As is set forth in these BPA "Internal Use Only" talking points titled "BPA is neutral on new publics formation", "With the potential sale of Puget Sound Energy, grass-roots groups in areas served by Puget have been pushing to give their local water-service public utility districts the authority to become electricity providers. BPA has been getting media calls about how it will treat potential new public utilities that could form…."
[4] Direct Testimony of the Western Public Agencies Group, TRM-12-E-WA-01, page 3 lines 20-22.
[5] TRM Section 11, Line 3. All citations in this Brief to the Tiered Rate Methodology are to the version of the BPA TRM Supplemental Proposal with Errata added August 27, 2008. Such version reflects BPA's rebuttal testimony, TRM-12-E-BPA-15 through 19. BPA used the Public Power Group's proposed TRM (Attachment to TRM-12-E-PPG-01) that was a red-lined version of the TRM Supplemental Proposal (TRM-12-E-BPA-09. See also Cherry

current policy and business models. However, this long term change in business models should not and does not alter BPA's statutory obligations, nor does it alter the fundamental legal premises by which the benefits of the FCRPS are to be shared. Congress has repeatedly and consistently required BPA to give preference to public bodies and cooperatives and other non-profit organizations. No statute authorizes greater preference to those forming earlier in time.

When Congress has wished to grant a preference to certain customers it has done so expressly through legislation. For example, in the Hungry Horse Dam Act[6], Congress authorized a geographic preference in the sale of power produced at Hungry Horse for use in Montana and BPA has acted in accordance with that preference. Consequently, BPA has denied a subsequent request from Montana users for an allocation of electricity produced at the Libby Dam and Reservoir based on the rationale that Congress has not created an express preference for Libby as it did in the case of Hungry Horse.[7] Furthermore, on appeal the Ninth Circuit affirmed BPA's decision and also refused to imply preferences and reservations for power absent express authority from Congress.[8]

Section 9 of the Reclamation Project Act of 1939[9] states, "That in said sales or leases preference shall be given to municipalities and other public corporations or agencies; and

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et al., TTRM-12-E-BPA-15, section 2. It is ATNI-EDC's understanding that this is the most recent version of the TRM available to date, incorporating BPA's proposal up to August 27, 2008.

[6] 43 U.S.C. § 593a (1944) (amended 1958) (originally enacted as Act of June 17, 1902, 32 Stat. 388).

[7] Id.

[8] *Central Mont. Elec. Power Coop., Inc. v. Administrator*, 840 F.2d 1472 (9th Cir. 1988).

[9] 43 U.S.C. § 485h(c) (1939).

also to cooperatives and other nonprofit organizations financed in whole or in part by loans made pursuant to the Rural Electrification Act of 1936[10] and any amendments thereof."

Section 5 of Pacific Northwest Electric Power Planning and Conservation Act[11] states, "All power sales under this Act shall be subject at all times to the preference and priority provisions of the Bonneville Project Act of 1937."

Congress has also consistently required that BPA ensure the "widest possible use" of the benefits of the federal power system[12]. Section 2 of the Bonneville Project Act[13] states "In order *to encourage the widest possible use* of all electric energy that can be generated and marketed and *to provide reasonable outlets therefore*, *and to prevent the monopolization thereof by limited groups*, the Administrator is authorized and directed to provide, construct, operate, maintain, and improve such electric transmission lines and substations, and facilities and structures appurtenant thereto, as he finds necessary, desirable, or appropriate for the purpose of transmitting electric energy, available for sale from the Bonneville project to existing and potential markets…" (Emphasis added).

Section 6 of the Bonneville Project Act[14] states "…Rate schedules…shall be fixed and established with a view *to encouraging the widest possible diversified use of electric energy*. The said rate schedules may provide for uniform rates or rates uniform throughout prescribed transmission areas in order *to extend the benefits of an integrated transmission system* and *encourage the equitable distribution of electric energy* developed…" (Emphasis added.)

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[10] 7 U.S.C. § 901 (1936).
[11] 16 U.S.C. § 839c(a).
[12] 16 U.S.C. § 832a(b).
[13] 16 U.S.C. § 832(a).
[14] 16 U.S.C. § 832e.

Section 5 of Flood Control Act[15] states "Electric power and energy generated at reservoir projects under the control of the War Department… shall be delivered to the Secretary of the Interior who shall transmit and dispose of such power and energy in such manner as to encourage the most widespread use thereof at the lowest possible rates to consumers consistent with sound business principles…Preference in the sale of such power and energy shall be given to public bodies and cooperatives."

Clearly, Congress intended that the benefits of federal power be utilized by the preference entities of the region, and that all preference entities should be able to share in those benefits. We seek the following changes to the TRM.

b. *BPA's 250 MW limit on augmentation for new publics over the course of the TRM is inconsistent with BPA's obligation to assure the most widespread use of FCRPS power.*

BPA has agreed to augment the federal system to provide new publics up to 250 aMW over the course of the TRM[16]. Effectively, there is a 50 aMW limit of augmentation per rate period, established by a limit on additional CHWM for New Publics[17], with exceptions to the 50 aMW limit for the first five small utilities under 10 aMW and for New Tribal Utilities that already have a CHWM[18].

Under the TRM, the power benefits of the FCRPS are now available to utilities *only* through access to Tier 1 Power. The power produced by the FCRPS and the costs of such production, generally are distributed through access to Tier 1 power. Recovery of all FCRPS

[15] 16 U.S.C. § 825s (1944).

[16] TRM § 3.2.1.2, Page 21, Lines 22-25.
[17] TRM § 4.1.6.3, Page 38, Line 8-17.
[18] TRM § 4.1.6.4, Page 38-39, Starting at Line 19.

costs is done through the Tier 1 cost pool[19] and customer payment of the Tier 1 rate. A new public utility that forms after the TRM limits are reached, will therefore not have access to the benefits of the FCRPS. These new utilities, who are unable to obtain a Tier 1 rate, will have access only to power BPA purchases on the market and sells at Tier 2 rates, or other applicable rates whose costs are not recovered through the Tier 1 cost pool[20].

BPA has insinuated that their obligation is to *sell power* to new publics, but that they are not obligated to sell power to them at the Tier 1 rate. This position is contrary to statute.

Section 4 of the Bonneville Project Act[21] states, "In order to insure that *the facilities for the generation of electric energy at the Bonneville project* shall be operated for the benefit of the general public, and particularly of domestic and rural consumers, the Administrator shall at all times, in disposing of electric energy generated at said project, give preference and priority to public bodies and cooperatives." (Emphasis added.)

Section 10 of Pacific Northwest Electric Power Planning and Conservation Act[22] states, "Nothing in this Act shall alter, diminish, abridge, or otherwise affect the provisions of other Federal laws by which public bodies and cooperatives are entitled to preference and priority in the sale of *federally generated electric power*." (Emphasis added.)

The result will be that not all preference entities will have equitable access to or be able to obtain full benefit of the FCRPS because there will be no FCRPS power available to share after others have used all available power. There is no statutory expression of a first in time right for access to FCRPS power.

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[19] TRM § 2.2, Page 4, Lines 10-12, and related definition of "Tier I Costs" Page xxi.
[20] TRM Section 2.1, Page 3, Lines 2-19.
[21] 16 U.S.C. § 832(a) (1937).
[22] 16 U.S.C. § 839g(c).

As set forth in our Direct Testimony, the 250 aMW limit for augmentation for new publics will likely be insufficient over the twenty-year course of the TRM to meet the needs of new publics wishing to form and receive a CHWM[23]. The two obvious ways to assure that new publics can access the benefits of the FCRPS include first, either to require existing utilities to share their Tier 1 power when new publics form, or second, to permit additional necessary augmentation for new publics. ATNI-EDC understands the needs for existing customers to have certainty around the amount of their Tier 1 resource, even though in every two-year rate case, the customers Tier 1 resource can be adjusted under the TRM[24]. The second method to assure access to Tier 1 power, augmentation, was therefore chosen under the TRM to provide more certainty of power supply to existing customers.

Because the FCRPS is expected to provide approximately 7100 aMW of Tier 1 power[25], augmentation for new publics in the amount of 250 aMW will allow for a less than 3.5% growth in the Tier 1 resource for new publics. Even a 7% growth would likely assure that many more new publics could form, and would have minimal impact on Tier 1 rates. BPA has even agreed to augment the system up to 300 aMW to meet needs of *existing* publics, who will already have rights to the FCRPS[26]. It is inequitable that a smaller amount of power would be provided for preference public utilities that have no current access to FCRPS power, than to existing customers. New publics will be prevented from accessing

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[23] Direct Testimony of the Affiliated Tribes of Northwest Indians Economic Development Corporation, TRM-12-E-AT-01, Page 7, Lines 12-Page 8, Line 2.
[24] TRM, § 4.2, Page 41, Line 13- Page 42, Line 6.
[25] BPA Long Term Regional Dialogue Policy, Page 9 (July 2007). (In this Section, BPA provides that 300 MW of augmentation for existing publics will be allowed, up to a total of 7400aMW of total system availability.)
[26] *Id.*

FCRPS power if they form in the later period of this methodology after TRM limits are reached.

c. *The TRM should allow the formation and expansion of any new tribal utility using Tier 1 power*

In addition to laws requiring preference and widespread use of the federal system, additional federal laws and policies are relevant to BPA's dealings with Indian tribes[27]. In addition to BPA's trust responsibility to Indian tribes, which is well documented in case law and federal policy[28], Congress specifically establishes policies encouraging tribal energy development and requires certain actions of the BPA Administrator as they relate to Indian tribal energy development. Section 2605 of Title XXVI of the Energy Policy Act of 2005[29] obligates the Administrators of the Federal Power Marketing Administrations to use their authorities to encourage tribal energy development.

Given these mandates to support the development of tribal utilities and the historical inequities in the FCRPS-related costs borne by tribal communities and lack of FCRPS benefits to these communities[30]; the tribes believe that BPA's methodology should allow the

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[27] Indian Affairs, Laws and Treaties, U.S. Documents US-I1.107 (many ATNI member tribes have treaties with the United States that govern relationships between the United States and those tribes and serve as limitations on the exercise of certain federal powers). *See also:* B.P.A. Tribal Policy, (Apr. 29, 1996); U.S. Dept. of Energy American Indian Policy, DOE Order No. 1230.2 (Apr. 8, 1992); Exec. Order No. 13175, 65 Fed. Reg. 218 (Nov. 9, 2000) (Consultation and Coordination with Indian Tribal Governments); Exec. Order No. 13336, 69 Fed. Reg. 25295 (May 5, 2004) (American Indian and Alaska Native Education); and Memorandum on Government-to Government Relations with Native American Tribal Governments for the Heads of Executive Departments and Agencies, 59 Fed. Reg. 85 (Apr. 29, 2008).

[28] Felix S. Cohen, Handbook of Federal Indian Law, Section 5.05, page 423, *et seq.* (2005, with 2007 supplement) (provides summary of federal law regarding trust responsibility of the federal government to Indian tribes).

[29] 25 U.S.C. §§ 3501 *et seq.* (2006).

[30] See ATNI-EDC Rebuttal Testimony TRM-12-E-AT-01, page 2, line 12-21.

formation and expansion of any new tribal utility using Tier 1 power. The impacts of such a policy on other customers would be very small and is clearly warranted given Federal law and policies and BPA's Trust obligations to Indian tribes. Without such a policy, only a limited number of new tribal utilities will have the opportunity to form causing greater disparities for tribes in the region. This will mean that some tribal communities will have to wait twenty more years to fully utilize the benefits of the FCRPS.

d. *The exception for 5 new small utilities under the 50 aMW rate period limit for new publics should be expanded.*

Under BPA's proposal for phasing in new public load by limiting new CHWM to 50 aMW each rate period[31], any new utility not falling within the exception would need to purchase market-based power for a significant portion of its load for the first number of years after its formation; this would likely result in rates that are higher than existing service and therefore make new utilities economically infeasible.

While we appreciate the exception for the first five small utilities, it is likely insufficient over the course of the 20 years for new small utilities, including tribal utilities. As soon as one large utility forms, this exception may become an effective limit on the number of new small tribal utilities that can form. Further, there is no prohibition against a larger non-tribal utility breaking itself down into a number of new small utilities and further limiting the availability of the exception. The small amount of augmentation that will be needed for small utilities will not impact BPA's acquisition of power, and will only have a de minimis impact the other customers' Tier 1 rate. Increasing the exception will not increase the overall amount of available augmentation, but will perhaps make some

[31] TRM § 4.1.6.3, Page 38, Line 8-17.

augmentation happen sooner. We request that the exception for new small utilities be expanded such that the Administrator have discretion to accept any new small utility(ies) that will not significantly impact the Tier 1 rates or BPA's ability to augment the system and at a minimum, the Administrator should have the discretion to provide Tier 1 power to any new tribal utility. Such a change would not place a limit on the Administrator's discretion, which is correctly noted by BPA in their Overview to the Supplemental Testimony on page 6, lines 1-10. "BPA reserves its discretion to, in appropriate circumstances, work with potential small Tribal utilities to explore ways to facilitate the development of those utilities."

e. *Notice provisions in the TRM are unduly restrictive and will limit new public formation.*

Congress has authorized BPA's Administrator to create "standards for service" which must be met prior to sales of power to a new public[32]. The standards for service adopted by BPA require that an applicant for BPA power:

1. Be legally formed in accordance with state and federal laws
2. Own a distribution system and be ready, willing and able to take power from BPA within a reasonable period of time;
3. Have a general utility responsibility within the service area;
4. Have the financial ability to pay BPA for the federal power it purchases;
5. Have adequate utility operations and structure; and
6. Be able to purchase power in wholesale, commercial amounts.[33]

The TRM establishes a three-year binding notice period for New Publics forming to serve loads previously served by an entity other than an Existing Public[34]. This notice can only be given after a new public meets the standards for service. For such new small utilities

[32] *See* § 5(b)(4), 16 U.S.C. § 839(b)(4).
[33] Eligibility and Standards for Service to Purchase Federal Power, BPA (1999)
[34] TRM § 4.1.6.2, Page 36, Line 19- Page 37, Line 2.

under 10 aMW, binding notice to BPA is required before July 1 of the Forecast Year to be eligible for the CHWM in the next Rate Period[35]. We understand the need for appropriate notice, however, the notice should not require that all standards for service be met. Rather, a utility can show BPA that it is serious if it is legally formed, has appropriate bank accounts, and has met other standards, but is still in the process of acquiring all necessary facilities and infrastructure to provide service. Further, it is unduly restrictive and expensive to require a utility to form, and acquire all infrastructure and then wait up to three years to be eligible for Tier 1 power while infrastructure must be in use and debt on that acquisition repaid. This notice requirement will make new utility formation infeasible and is contrary to BPA's mandates of widespread use of the FCRPS and to the federal laws and policies supporting the development of new utilities, especially tribal utilities[36]. Such a requirement is also clearly unnecessary, since BPA's need to augment the system is limited to 50 aMW per rate period. BPA will certainly not need *three years* to find 50 aMW of power for augmentation, since it is clearly the largest player in the enormous regional power market.

The Bonneville Project Act, in expressing its preference requirement, acknowledged the need for flexibility during utility formation, and "allowance of time for creation and organization" in the manner that was appropriate for the time. Section 5(b)(4) of the Bonneville Project Act[37] states:

> Allowance of time for financing: An application by any public body or cooperative for an allocation of electric energy shall not be denied, or another application competing or in conflict therewith be granted, to any private corporation, company, agency, or person, on the ground that any proposed bond or other security issue of any such public body or cooperative, the sale of which is necessary to enable such prospective purchaser to enter into the public business of selling and distributing the

[35] *Id*.
[36] 25 U.S.C. §§ 3501 *et seq*. (2006).
[37] 16 U.S.C. § 832c(c)-(d).

> electric energy proposed to be purchased, has not been authorized or marketed, until after a reasonable time, to be determined by the administrator, has been afforded such public body or cooperative to have such bond or other security issue authorized or marketed.
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> Congressional declaration of policy; allowance of time for creation and organization: It is declared to be the policy of the Congress, as expressed in this chapter, to preserve the said preferential status of the public bodies and cooperatives herein referred to, and to give to the people of the States within economic transmission distance of the Bonneville project reasonable opportunity and time to hold any election or elections or take any action necessary to create such public bodies and cooperatives as the laws of such States authorize and permit, and to afford such public bodies or cooperatives reasonable time and opportunity to take any action necessary to authorize the issuance of bonds or to arrange other financing necessary to construct or acquire necessary and desirable electric distribution facilities, and in all other respects legally to become qualified purchasers and distributors of electric energy available under this chapter.

It is contrary to this Congressional declaration to establish unnecessary *barriers* to the creation of new publics, which are solely in the discretion of the Administrator, in order to limit the formation of new publics and protect for-profit energy companies. This notice provision is contrary to BPA's obligations under its statutes, the Energy Policy Act of 2005, and is even contrary to their stated policy of remaining "neutral" on new public utility formation.

III. Criteria and conditions for revising the TRM give existing customers a veto and could restrict access to the FCRPS by new customers.

Sections 12 and 13 of the TRM when read together, give BPA's existing customers a "veto" over changes to the TRM during the twenty year term of the TRM to the exclusion of public bodies who may be eligible to become new publics.

These vetos are an improper delegation of the Administrator's statutory obligations to entities with commercial interests. Congress has been quite clear and specific in establishing

BPA's rate making process. Section 7 of the Pacific Northwest Electric Power Planning and Conservation Act contains an exceptionally detailed mandatory process of notice, publication, administrative hearings, decisions, and approval by the Federal Energy Regulatory Commission[38]. By establishing a more rigorous process for the TRM, BPA is changing a balance set by Congress regarding this important administrative process.

Additionally, the extensive new procedures found in sections 12 and 13 of the TRM create expensive and unduly burdensome processes and time lines that are in addition to the statutory procedures already applicable to BPA rate making. Such expensive and unduly burdensome processes inappropriately restrict the access of non-customers to the federal system and to federal processes. They are inappropriately designed to discourage access to statutorily established rate making procedures.

Federal antitrust law prohibits the attempt to monopolize, or combining to conspire with other persons to monopolize any part of trade or commerce[39]. The veto that BPA and its current customers attempt to establish in the TRM could be used to restrict the benefits of the low cost FCRPS to a group of existing customers, to the exclusion of new public customers who have the same statutory eligibility as these customers[40]. If the TRM provisions are used as described in our Testimony, the TRM could be considered as an agreement among competitors to limit competition to others with rights to the resource. Such an agreement clearly limits choices to customers, raises prices, and makes it more difficult for other similar entities to enter the marketplace, contravening antitrust laws.

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[38] 16 U.S.C. § 839e(i).

[39] See, for example, Sherman Antitrust Act, 15 U.S.C. § 2; Clayton Antitrust Act 15 U.S.C. § 12-27, and 29 U.S.C. § 52-53.

[40] ATNI-EDC's Rebuttal Testimony, found at TRM-12-E-AT-1 contains examples of ways in which the existing customers could block a new public's ability to access FCRPS power using these provisions of the TRM. See page 9, lines 1-21.

IV. Conclusion

ATNI-EDC requests that the parties to this rate case support the settlement proposed to address the needs of new public customers.

Respectfully submitted this 18th day of September, 2008.

FOR AFFILIATED TRIBES OF NORTHWEST INDIANS ECONOMIC DEVELOPMENT CORPORATION

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