

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

2010 WHOLESALE POWER)	BPA Docket	BPA-10
AND TRANSMISSION RATE)		WP-10
ADJUSTMENT PROCEEDING)		TR-10

ORDER GRANTING INTERVENTION AND AMENDING SERVICE LIST

By Federal Register Notice dated February 10, 2009 (Vol. 74, No. 26), Petitions to Intervene in this proceeding were required to be filed by 4:30 p.m., Pacific Time, on February 17, 2009. All timely Petitions to Intervene were granted by the Hearing Officer in WP-10-HOO-07 / TR-10-HOO-07.

On March 23, 2009, the Hearing Officer published a Communication, WP-10-HOC-01 / TR-10-HOC-01, notifying Parties of a Petition to Intervene by Columbia Falls Aluminum Company (CFAC) submitted past the deadline. The Communication established a deadline of 4:30 p.m., Pacific Time, on March 25, 2009, for Parties to file responses to CFAC's Petition to Intervene.

On March 25, Public Power Council (PPC) filed a timely response to CFAC's Petition to Intervene. PPC asserts that CFAC's participation would prejudice existing Parties or delay the proceeding if it were allowed to introduce new issues or proposals. PPC observes that existing Parties have already filed their direct cases, are preparing their rebuttal cases, and would have no opportunity to address any new CFAC issues or proposals submitted at a future date. Accordingly, PPC requests that CFAC's intervention, if granted, be limited to responding to issues and proposals already introduced in the proceeding (except for those issues and proposals that all Parties are permitted to introduce in direct testimony pursuant to the Hearing Officer's March 11, 2009 Order, WP-10-HOO-11)

Late Petitions to Intervene are governed by Section 1010.4(c)(2) of Bonneville's Rules of Procedure Governing Rate Hearings ("Rules"):

Late interventions are strongly disfavored. Granting an untimely petition to intervene must not be a basis for delaying or deferring any procedural schedule. A later intervenor must accept the record developed prior to its intervention. In acting on an untimely petition, the hearing officer shall consider whether: (i) the petitioner has a good reason for filing out of time, (ii) Any disruption of the proceeding might result from allowing a later intervention, (iii) The petitioner's interest is adequately represented by existing parties, and (iv) Any prejudice to, or extra burdens on, existing parties might result from permitting the intervention.

In its Petition to Intervene, CFAC states that it filed out of time because it had wrongly assumed that its pre-existing power sales agreement with BPA for the years 2007-2011 meant that it would not have to continue to participate in BPA rate proceedings. However, recent events, including a December 2008, Ninth Circuit Court of Appeals decision, appear to invalidate certain provisions of CFAC's agreement with BPA. As a result, CFAC has determined that the outcome of this proceeding could affect the rates for service that CFAC may pay under the Industrial Firm Power rate, and therefore that it must intervene.

CFAC also represents that its interests in this proceeding are not adequately represented by other Parties because of CFAC's unique project characteristics and locations. In addition, CFAC maintains that its late intervention will not cause any disruption to this proceeding. CFAC agrees to accept the record as it presently exists and to adhere to the existing procedural schedule.

CFAC's Petition to Intervene is granted. CFAC has provided a reasonable explanation for its late filing and has established that its interests may not be adequately represented by other existing parties. However, in accordance with Section 1010.4(c)(2), a Person filing an untimely Petition to Intervene must accept the record developed prior to its intervention. Because the Parties have already filed their direct cases in this proceeding, any testimony filed by CFAC shall be limited to rebutting the Parties' direct cases. The only exception is that CFAC may file direct testimony on April 17, 2009 concerning the specific issues identified in order WP-10-HOO-11. Subject to these limitations, CFAC's intervention will not delay the proceeding, burden the record or prejudice other Parties. The Service List is hereby amended to reflect CFAC's Party status and is attached to this Order.

SO ORDERED, March 26, 2009

/s/ Samuel J. Petrillo
Samuel J. Petrillo
BPA-10 Hearing Officer

ATTACHMENT A

**BPA-10 Wholesale Power and Transmission Rate Adjustment Proceeding
Service List
(alphabetical by Party code)**

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3 – BPA 2010 RATE CASE
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7 – BPA 2010 RATE CASE
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12 – BPA 2010 RATE CASE
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13 – BPA 2010 RATE CASE
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