

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

FY 2020-2021 Proposed Power and)	Docket No. BP-20
Transmission Rate Adjustment Proceeding)	
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**PETITION TO INTERVENE
BY IDAHO CONSERVATION LEAGUE, IDAHO RIVERS
UNITED, AND COLUMBIA RIVERKEEPER**

Idaho Conservation League (“ICL”), Idaho Rivers United (“IRU”), and Columbia Riverkeeper (“Riverkeeper”), hereby petition to intervene as parties in the Bonneville Power Administration’s (“BPA”) 2020-2021 Joint Power and Transmission Rate Proceeding for the 2020-2021 Proposed Power and Transmission Rate Adjustments, as publicly announced in the Federal Register Notice published last Thursday, 83 Fed. Reg. 62849 (December 6, 2018).

Petitioners bring this petition to intervene pursuant to Section 1010.6 of the Procedures Governing Bonneville Power Administration Rate Hearings (“BPA Rate Case Rules”), 83 Fed. Reg. 39993, 40004 (August 13, 2018). The petition is timely filed within the period specified by the December 6, 2018 Federal Register notice.

As explained below, intervention should be granted because Petitioners have a substantial, relevant interest in unbundling BPA’s forecasted costs of the lower Snake River dams¹ from BPA’s other hydropower operations, and determining what portion of BPA’s proposed rates cover those costs. This information is key to Petitioners’ interest in analyzing the

¹ As used herein, the “four lower Snake River dams” refers to the Ice Harbor, Little Goose, Lower Monumental, and Lower Granite dams located on the lower Snake River in eastern Washington. See <https://www.nww.usace.army.mil/Missions/Lower-Snake-River-Dams/>.

true costs, and cost-effectiveness, of the lower Snake River dams, and it will inform Petitioners' policy positions in advocating for both salmon and steelhead recovery and a modern, cost-effective regional power system that supports recovery.

No other party currently represents these interests, which are directly relevant to this proceeding and vital to address in this proceeding to ensure BPA meets its statutory obligations and serves the long-term interests of electricity users and the public in the region.

I. PETITIONERS AND THEIR INTERESTS.

A. Idaho Conservation League.

Idaho Conservation League
c/o Justin Hayes, Program Director
PO Box 844
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ICL is a non-profit conservation organization incorporated under the laws of Idaho with its principal place of business in Boise, Idaho. ICL is recognized by the Internal Revenue Service as a Section 501(c)(3) public charity.

ICL's mission is to protect Idaho's clean water, clean air, healthy families, and unique quality of life. ICL works to protect these values through public education, outreach, advocacy, and policy development. ICL is Idaho's largest state-based conservation organization, representing over 30,000 board members, staff, and supporters. Many of ICL's board, staff and supporters are retail customers of BPA-sourced power.

As an organization, and on behalf of its board, staff, and supporters, ICL is greatly concerned with recovering and sustaining viable populations of Idaho's Snake River sockeye, Snake River fall Chinook, Snake River spring/summer Chinook, and Snake River steelhead, all

deeply imperiled native fish species that are listed as “threatened,” or in the case of sockeye, “endangered” species under the Endangered Species Act (ESA).

In addition, ICL is deeply interested in and has taken numerous steps to advocate for and help transition electric power markets in Idaho and the Pacific Northwest to clean, sustainable electric energy sources that promote economic growth and sustainable fisheries and river conditions and other environmental values.

ICL thus has particular interests in identifying and publicizing the true costs of the lower Snake River dams, and in ensuring that BPA’s rates reflect all the true costs of the lower Snake River dams, for reasons further described below.

B. Idaho Rivers United.

Idaho Rivers United
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IRU is a non-profit corporation organized under the laws of the State of Idaho with its principal place of business in Boise, Idaho. IRU is recognized by the Internal Revenue Service as a Section 501(c)(3) public charity.

IRU and its approximately 3,500 members throughout the State of Idaho are dedicated to the protection and restoration of Idaho’s rivers and river resources. Many of IRU’s board, staff and members are customers of utilities that purchase power from BPA.

A major priority of IRU and its board, staff and members is the recovery of Idaho’s ESA-listed salmon and steelhead species. IRU is one of the plaintiffs in the ongoing *National Wildlife Federation v. National Marine Fisheries Service* (“*NWF v. NMFS*”) litigation over impacts of

lower Snake and Columbia River dams on salmon and steelhead, No. 3:01-cv-640-SI (D. Oregon). IRU also previously intervened in and contributed to the BP-18 rate proceeding.

In addition, IRU has long-standing interests in advocating for and helping transition electric power markets in Idaho and the Pacific Northwest to clean, sustainable electric energy sources that promote economic growth and sustainable fisheries and river conditions and other environmental values.

IRU thus has particular interests in identifying and publicizing the true costs of the lower Snake River dams, and in ensuring that BPA's rates reflect all the true costs of the lower Snake River dams, for reasons further described below.

C. Columbia Riverkeeper.

Columbia Riverkeeper
c/o Lauren Goldberg, Legal and Program Director
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Columbia Riverkeeper is a non-profit public interest organization incorporated in Washington State with its principal place of business in Hood River, Oregon. Riverkeeper is recognized by the Internal Revenue Service as a Section 501(c)(3) public charity.

Riverkeeper has approximately 16,000 members, located primarily in the states of Oregon and Washington; and many of its board, staff and members are customers of utilities who purchase power from BPA.

Riverkeeper's mission is to restore and protect the Columbia River and all life connected to it, from the headwaters to the Pacific Ocean. To achieve these objectives, Riverkeeper works in river communities and enforces laws that protect public health, salmon, and other fish and wildlife in the Columbia River Basin.

Riverkeeper has been actively engaged in a variety of educational and advocacy efforts related to energy policy and improving conditions for fish in the Columbia River and its tributaries, including the lower Snake River. Riverkeeper is also one of plaintiffs in the ongoing *NWF v. NMFS* litigation.

Riverkeeper thus has particular interests in identifying and publicizing the true costs of the lower Snake River dams, and in ensuring that BPA's rates reflect all the true costs of the lower Snake River dams, for reasons further described below.

II. PETITIONERS HAVE SUBSTANTIAL, RELEVANT INTERESTS IN THIS PROCEEDING THAT NO OTHER PARTY REPRESENTS.

The four lower Snake River Dams are primary causes of the decline toward extinction of the Snake River sockeye, Chinook salmon, and steelhead species now listed under the ESA. This key fact is reflected in literally scores of scientific reports and studies, federal agency consultations under the ESA, and court opinions. *See, e.g., NWF v. NMFS*, 184 F. Supp. 3d 861 (D. Or. 2016), *preliminary injunction aff'd*, 886 F.3d 803 (9th Cir. 2018).

In addition, a growing body of data and science demonstrates the lower Snake River dams are also significant contributors to the decline toward extinction of the Southern Resident Killer Whales located in the Puget Sound, primarily due to dam-related declines of Snake River chinook salmon numbers which the orcas depend upon for food sources at critical times of the year. *See, e.g., Scientists' Letter to the Southern Resident Killer Whale Task Force*, October 15, 2018, <https://www.documentcloud.org/documents/5002547-Orca-Scientists-Letter-10-15-18-Final.html>.

BPA has a statutory duty to set rates at levels sufficient to recover, in accordance with sound business principles, its costs, including the costs associated with the acquisition, conservation, and transmission of electric power, fish and wildlife mitigation, amortization of the

Federal investment in the Federal Columbia River Power System (including irrigation costs required to be repaid out of power revenues), and the other costs and expenses incurred by the Administrator pursuant to the Northwest Power Act and other provisions of law. 16 U.S.C. § 839e(a)(1).

Based on BPA's own reports and other publicly-available information, proposed Intervenor are informed and believe, and allege thereon, that BPA is responsible for, and in the next two years (and beyond) will be required to spend, increasingly larger amounts of financial resources as expenses for mitigation of the adverse impacts of the lower Snake River dams on Snake River salmon and steelhead. Based on publicly available information, Intervenor are also informed and believe, and allege thereon, that BPA will incur increasing costs for operation and maintenance of the lower Snake River dams in the next two years (and beyond). Additionally, BPA faces substantial capital costs associated with the lower Snake River dams, including turbine repairs and/or replacements that may be required in the next two years and beyond.

However, BPA does not publicly or adequately disclose these large and growing costs associated with the power it obtains from the lower Snake River dams and markets to its customers, ultimately serving retail customers including many of Petitioners' staff and members. Instead, BPA "bundles" together all its costs on a system-wide basis, thereby masking and concealing the costs associated with specific hydropower generation facilities, including the lower Snake River dams.

By bundling its costs together this way, proposed Intervenor believe that BPA is evading disclosing to its customers, and to the public, the fact that the lower Snake River dams are increasingly uneconomic; and that, in truth and in fact, BPA is not covering the costs of the

lower Snake River dams through the rates it proposes to charge through this proceeding, in violation of sound principles of utility regulation and BPA's statutory mandates.

As Intervenors, ICL, IRU, and Riverkeeper are thus particularly interested in ascertaining through this proceeding the unbundled forecasted costs of the lower Snake River dams—including costs tied to operation, maintenance, and mitigation. This information is key to Petitioners' interest in analyzing the true costs, and cost-effectiveness, of the lower Snake River dams, and it will inform Petitioners' policy positions in advocating for salmon and steelhead recovery and a modern, cost-effective regional power system that supports recovery. If BPA's costs exceed revenue, BPA's future would be in jeopardy, which would have a serious impact on wholesale and retail customers, as well as BPA's fish and wildlife funding in the Basin. In other words, Petitioners' interests in this proceeding are tied both to their concerns regarding the future of Snake River salmon and steelhead and the future of BPA.

Moreover, there is no other party that can adequately represent proposed Intervenors' interests in this proceeding. Their specific interests in the transparent, unbundled costs of the lower Snake River dams, and the effects of those costs on rates, are not the basis for any other party's petition to intervene in this proceeding. Granting the Petition to Intervene will serve the interests of BPA, its customers, and the larger public in ensuring that BPA's rates are transparent and consistent with law.

Accordingly, ICL, IRU, and Riverkeeper have substantial, relevant interests in the outcome of this proceeding and their Petition to Intervene should be granted.

III. COMMUNICATIONS WITH PROPOSED INTERVENORS.

ICL, IRU, and Riverkeeper are appearing through their counsel identified below, and they request that the below-identified counsel be added to the official service list for this

proceeding and that pleadings, communications, correspondence, and documents concerning the BP-20 proceeding be directed to their counsel as follows:

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CONCLUSION

For the foregoing reasons, Idaho Conservation League, Idaho Rivers United, and Columbia Riverkeeper respectfully request that this Petition to Intervene be granted, that they be allowed to intervene in the BP-20 Rate Proceeding, and that their designated representatives be added to the official service list.

Respectfully submitted on this 11th day of December 2018.



Laurence (“Laird”) J. Lucas
Doug DeRoy
Advocates for the West

*Attorneys for Intervenor-Petitioners Idaho
Conservation League, Idaho Rivers United, and
Columbia Riverkeeper*