

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

**FISCAL YEAR (FY) 2029 PUBLIC RATE  
DESIGN METHODOLOGY; PUBLIC  
HEARING AND OPPORTUNITIES FOR  
PUBLIC REVIEW AND COMMENT**

**BPA Docket No. PRDM-26**

**RESPONSE IN OPPOSITION TO WESTERN PUBLIC AGENCIES GROUP'S  
MOTION TO SUPPLEMENT THE RECORD**

Pursuant to Section 1010.5(g) of the Bonneville Power Administration (“BPA” or “Bonneville”) Rules of Procedure, Pacific Northwest Generating Cooperative d/b/a PNGC Power (“PNGC Power”) hereby files this Response in Opposition to Western Public Agencies Group’s (“WPAG”) Motion to Supplement the Record (“Motion”) filed May 30, 2025. For the reasons set forth below, WPAG’s Motion should be denied.

1. The Motion should be denied because it is untimely and procedurally improper.

WPAG’s Motion must be denied because it does not satisfy any of the Rule 1010.5(g) requirements.

A motion seeking the opportunity to *rebut any facts or contentions* in an Ex Parte Communication *must be filed within five Business Days* of Bonneville’s notification that the communication has been posted on Bonneville’s website. The Hearing Officer will grant such a motion if he or she finds that providing the opportunity to rebut the Ex Parte Communication *is necessary to prevent substantial prejudice to a Litigant*.

Rule 1010.5(g) (emphasis added).

Here, the Motion was filed late, does not seek to rebut any fact or contention in the subject communication, and does not allege prejudice, let alone substantial prejudice, to any Litigant.

Bonneville provided notice that the subject communication was posted on its website on May 14, 2025. The deadline for motions to respond was May 21, 2025. The Motion was filed seven business days after the deadline without any explanation or justification for its untimeliness. The Motion was not proceeded by a motion or order extending the 5-day deadline. The Motion “must” have been filed by May 21, 2025. It was not, and for this reason the Motion must be denied as untimely.

Additionally, the Motion does not seek to rebut facts or contentions in the subject communication. Instead, the Motion seeks to “supplement the record” by describing WPAG’s membership, reciting provisions of Section 7(i), pontificating on the sanctity of the section 7(i) process, and complementing Bonneville. Nowhere in the Motion is there (i) a request to rebut the facts or contentions in the subject communication, or (ii) any actual rebuttal of facts or contentions. The Motion is grandstanding, which may help an association placate its members, but it does not satisfy the requirements of Rule 1010.5(g).

Finally, the Motion fails to allege or show prejudice, let alone substantial prejudice, to any Litigant. Under the rule, the Hearing Officer cannot grant the motion unless he or she finds it necessary to prevent substantial prejudice to a Litigant. The Motion does not claim any Litigant will be prejudiced in the instant proceeding, instead it speculates about possible impacts to future Section 7(i) proceedings. This does not satisfy Rule 1010.5(g). For the foregoing reasons, the Motion must be denied.

2. PNGC Power's response to WPAG's specific claims about the PRDM proceeding and the Section 7(i) process.

PNGC Power would not normally acknowledge WPAG's inflammatory and alarmist claims, but since WPAG makes uninformed and erroneous assertions about PNGC Power's knowledge and intent, the response that follows is in order.

The integrity of this Section 7(i) proceeding was an issue before Congress started asking questions. Congress unanimously enacted Section 5(b)(7) of the Northwest Power Act (the "Act"), recognizing JOEs as a special and unique entity, in 2000. Since that time, Bonneville treated PNGC Power – as the statute directs – as a legal entity comprised of many rural cooperatives that came together to address their energy needs together. Now, without warning or explanation, Bonneville wants to break from its historical treatment of the JOE in this proceeding. It seeks to prospectively pierce PNGC's corporate status as an Oregon cooperative and its statutory status as a JOE, and impose obligations and ramifications on (i) PNGC that may be inconsistent with its bylaws and contracts, and (ii) members of PNGC who are no longer individual customers of BPA.

WPAG refers to this issue as "a discrete and otherwise unremarkable rate design dispute," (Motion p. 6) in an otherwise "grand compromise between BPA and its diversely situated customer base ...." (Motion p. 3). Nothing could be further from the truth. The reality is that Bonneville's change of course represents a fundamental shift that will shape rates – and increase costs to Bonneville's largest customer – for generations. WPAG erroneously downplays that PRDM is how "BPA will establish power rates during the term of the Provider of Choice Contracts." Motion p. 3. The reality is much starker. Bonneville has admitted that unlike its predecessor methodology (the Tiered Rate Methodology) "PRDM does not expire on September 30, 2044; *it has no express expiration date.*" Draft ROD, p. 71 (emphasis added).

In recognition of this foundational and possibly permanent change, on February 20, 2025, PNGC Power filed a request to engage in settlement discussions with Bonneville. Bonneville refused, which, while not required by (or even mentioned in) the Act, is standard procedure in a Section 7(i) proceeding. Bonneville then expressly stated that the era of compromise and negotiation are gone. Draft ROD, p. 57. Perhaps “forever.” Bonneville also made the decision to refer to the JOE as a fiction that only offers paper diversity. Draft ROD, pp. 51-52.

Based on these facts, the integrity of this Section 7(i) process was already called into question, PNGC as is its right spoke with members of Congress, and those members saw the urgency and responded. But one fact must be underscored: the members of Congress simply requested that DOE follow the law and not act arbitrarily (remember, other members of Congress have asked questions about Bonneville’s day ahead market decision, but apparently that does not implicate integrity issues). WPAG transforms this direction from members of Congress into a claim that PNGC was trying to change the law and cheat the 7(i) process. This is the anthesis of PNGC’s goal and the Congressional letter.

WPAG seems to believe that Bonneville has no obligation to negotiate with its preference customers and that Congress cannot ask Bonneville and DOE to follow the law. In this vein, it is WPAG’s mischaracterization of events, not Congress’s request to follow the law, that is absurd and dangerous.

### **CONCLUSION**

For the reasons stated above, PNGC Power respectfully requests that Western Public Agencies Group’s Motion to Supplement the Record, filed May 30, 2025, be denied. Bonneville has already taken the action for posting of a claimed ex parte communication required by Rule

1010.5 when it posted the subject communication. PNGC did not object to that action. WPAG has not raised any issue that required further action by Bonneville.

DATED this 3rd day of June 2025.

Respectfully submitted,

/s/ **Richard W. Stover**

Richard W. Stover,  
Chief Legal Officer  
PNGC Power

## CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing on June 3, 2025, by uploading it to the Bonneville Power Administration's secure website. Pursuant to Section 1010.10(a) of the Rules of Procedure of the Bonneville Power Administration, such filing constitutes service on all Litigants.

Respectfully Submitted,

*/s/ Richard W. Stover*

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