

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

| | | |
|---|---|------------------------------|
| In the Matter of |) | |
| |) | |
| BONNEVILLE POWER ADMINISTRATION |) | PETITION TO INTERVENE OF THE |
| |) | ALLIANCE OF WESTERN ENERGY |
| |) | CONSUMERS |
| Suspension of the Financial Reserves Policy |) | |
| Surcharge for the Remainder of the BP-20 Rate |) | |
| Period. |) | |

Pursuant to Section 1010.6 of the Bonneville Power Administration’s (“BPA”) Rules of Procedure, and Part III off BPA’s June 22, 2020 Federal Register Notice for this proceeding^{1/} the Alliance of Western Energy Consumers (“AWEC”) respectfully petitions BPA for an Order granting AWEC full party status in the above-referenced proceeding. AWEC fully supports BPA’s proposal to suspend the Financial Reserves Policy (“FRP”) Surcharge for the remainder of the BP-20 rate period in light of the unprecedented economic effects of COVID-19. AWEC does not intend to object to the June 22, 2020 Federal Register Notice,^{2/} nor the expedited process and schedule described within. According to BPA’s Rules of Procedure, petitioners “must explain their interests in sufficient detail to permit the Hearing Officer to determine whether they have a relevant interest in the proceeding.”^{3/} As set forth below, AWEC members have federally adjudicated interests based on their pass-through power and transmission rates. Further, some AWEC members have in the past, currently, or in the future will likely, purchase products directly from BPA. As such, AWEC’s members include entities

^{1/} Suspension of the Financial Reserves Policy Surcharge for the Remainder of the BP-20 Rate Period, 85 Fed. Reg. 120 (June 22, 2020).

^{2/} Id.

^{3/} BPA Rules of Procedure, Section 1010.6(b).

that meet the “relevant interest” standard of Section 1010.6(b). Therefore, as a representative of these members, AWEC adequately meets the requirements to be granted full party status in the above-referenced proceeding.

In support of this petition, AWEC represents as follows:

1. The business address of AWEC is:

Alliance of Western Energy Consumers
818 SW 3rd Ave, #266
Portland, OR 97204

2. AWEC will be represented in this proceeding by Davison Van Cleve, P.C.

(“DVC”). AWEC requests that the following names be added to the official service list for this proceeding and that all documents relating to this proceeding be served on the following:

Joshua D. Weber
Davison Van Cleve, P.C.
1750 SW Harbor Way, Suite 450
Portland, OR 97201
E-Mail: jdw@dvclaw.com
Telephone: (503) 241-7242
Facsimile: (503) 241-8160
Counsel for AWEC

Annick Chaliier
1750 SW Harbor Way, Suite 450
Portland, OR 9720
E-Mail: achalier@hotmail.com
Telephone: (971) 235-2275
Consultant for AWEC

Corinne O. Milinovich
Davison Van Cleve, P.C.
1750 SW Harbor Way, Suite 450
Portland, OR 97201
E-Mail: com@dvclaw.com
Telephone: (503) 241-7242
Facsimile: (503) 241-8160
Counsel for AWEC

Jesse O. Gorsuch
Davison Van Cleve, P.C.
1750 SW Harbor Way, Suite 450
Portland, OR 97201
E-Mail: jog@dvclaw.com
Telephone: (503) 241-7242
Facsimile: (503) 241-8160
Paralegal for DVC

3. On June 22, 2020, BPA published the Federal Register Notice regarding the Suspension of the FRP Surcharge for the Remainder of the BP-20 Rate Period.^{4/} BPA will conduct a formal hearing as part of this public process.

4. AWEC is an incorporated, non-profit association of large energy consumers in the Pacific Northwest, with offices in Portland, Oregon. Many members of AWEC are end-use customers of BPA. These members include: 1) members with power and transmission contracts that pass BPA's rates directly to the member, 2) direct service industries, and 3) Transmission customers. According to BPA's Rules of Procedure, "[e]ntities that directly purchase power or transmission services under Bonneville's rate schedules, or trade organizations representing those entities, will be granted intervention, based on a petition filed in conformity with this Section 1010.6."^{5/} As such, AWEC, as an organization that represents the above-mentioned members, meets the requirements for full party status.

5. AWEC's members have relevant, direct, and substantial interests in the outcome of this proceeding. Since 1981, AWEC, formerly known as the Industrial Customers of Northwest Utilities, has been a party to all of BPA's rate cases including most recently the BP-20 rate case. Many of AWEC's members obtain electric service from public agencies that receive all or a majority of their power and transmission from BPA, and many of these members take service through contracts that pass BPA's rate changes directly to the AWEC member. AWEC members have federally adjudicated interests based on their pass-through power and transmission rates. The U.S. Ninth Circuit Court of Appeals recognizes the interests of end-use

^{4/} Suspension of the Financial Reserves Policy Surcharge for the Remainder of the BP-20 Rate Period, 85 Fed. Reg. 120 (June 22, 2020).

^{5/} BPA Rules of Procedure, Section 1010.6(b).

consumers who pay pass-through rates and has allowed such consumers to litigate settlements that would impact BPA's rates.^{6/} If approved, the proposed suspension of the FRP Surcharge for the remainder of the BP-20 rate period will impact BPA's power and transmission rates and therefore has a direct and substantial impact on the rates paid by AWEC's members. In accordance with Ninth Circuit precedent and previous rate cases—most recently the BP-20 rate case—AWEC's members, including those who pay pass-through rates, meet the “relevant interest” requirement of Section 1010.6(b) for intervention in the current proceeding.

6. Further, AWEC may be granted party status pursuant to Section 1010.6(b) on behalf of its members as a matter of right because AWEC members have in the past, currently, or in the future will likely, purchase products directly from BPA.^{7/}

7. As noted above, AWEC fully supports BPA's proposal to suspend the FRP Surcharge for the remainder of the BP-20 rate period. On May 18, 2020, AWEC submitted a letter to BPA addressing BPA's COVID-19 response and the FRP Surcharge, asserting that similar to energy users across the region, AWEC members have been directly and substantially affected by the pandemic. The suspension of the FRP Surcharge is reasonable, necessary and will not be financially detrimental for BPA. Further, suspending the FRP Surcharge will not inhibit BPA's ability to recover its total system costs.

On May 29, 2020, BPA publicly announced its proposal to suspend the FRP surcharge in light of the COVID-19 pandemic. According to BPA, “[t]he COVID-19 pandemic has created significant challenges and uncertainties for utilities across the Pacific

^{6/} Ass'n of Pub. Agency Customers v. Bonneville Power Admin., 733 F.3d 939, 950-53 (9th Cir. 2013).

^{7/} BPA Rules of Procedure, Section 1010.6(b).

Northwest...and communities are facing unprecedented economic impacts.”^{8/} BPA is proposing to suspend the FRP Surcharge in order to support its customers and provide essential rate relief during the current economic crisis.

8. As explained in detail above, the majority of AWEC members will be directly and substantially affected by the suspension of the FRP Surcharge for the remainder of the BP-20 rate period. AWEC fully supports BPA’s proposal to suspend the FRP Surcharge and does not intend to object to the proposal in the June 22, 2020 Federal Register Notice nor the expedited process and schedule. AWEC’s intervention in this proceeding will assist BPA in resolving the issues in this proceeding and will not unreasonably broaden the issues, burden the record, or unreasonably delay this proceeding. The relevant, direct, and substantial interests of AWEC’s members are not represented by any other potential parties in this proceeding. Further, AWEC’s participation will assist BPA in its consideration of the issues that may arise in this proceeding.

WHEREFORE, AWEC respectfully requests that the Hearing Officer grant its Petition to Intervene with full party status in this proceeding.

DATED this 24th day of June, 2020.

Respectfully submitted,

DAVISON VAN CLEVE, P.C.

^{8/} BPA Administrator Elliot Mainzer’s Letter to Customers Announcing the BP-20E Expedited Rate Case, at 1 (May 29, 2020).

/s/ Joshua D. Weber

Joshua D. Weber

Corinne O Milinovich

1750 SW Harbor Way, Suite 450

Portland, OR 97201

(503) 241-7242 (phone)

(503) 241-8160 (facsimile)

jdw@dvclaw.com

com@dvclaw.com

Of Attorneys for the

Alliance of Western Energy Consumers

ALLIANCE OF WESTERN ENERGY CONSUMERS

*Airgas USA, LLC
Air Liquide
Air Products
*Alcoa
Amcor Rigid Plastics
*Axiall, Inc.
Basic American Foods
*Boeing
*Boise Cascade, LLC
BYU Idaho
Columbia Steel
Cost Management Services
*Dyno Nobel, Inc.
Evraz, Inc.
Freres Lumber Co.
*Georgia-Pacific
Idahoan Foods
IGI Resources
Inland Empire Paper Co.
Intel Corp
*International Paper
*J.R. Simplot
Kaiser Aluminum Trentwood Facility
*Lamb Weston
Linde
*Messer
*Nippon Dynawave
*North Pacific Paper Co.
*Northwest Hardwoods
Packaging Corporation of America
Pendleton
*Ponderay Newsprint
*Schnitzer Steel
*Solvay Chemicals
Supreme Perlite Co.
Swanson Group
*Tek WA
Tesoro Refining and Marketing Co.
Timber Products, Inc.
United Energy Trading
United States Gypsum

*Wah Chang
*WestRock
*Weyerhaeuser NR Co.

**Denotes BPA Customers*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day electronically filed the *Petition to Intervene of the Alliance of Western Energy Consumers* via the Secure Website for this proceeding. Pursuant to Section 1010.10(a) of BPA's Rules of Procedure, such filing constitutes service on all Litigants in this proceeding.

Dated at Portland, Oregon, this 24th day of June, 2020.

Respectfully submitted,

/s/ Jesse O. Gorsuch

Jesse O. Gorsuch

Paralegal