

Bonneville Power Administration  
Contract High Water Mark  
Implementation Policy  
Record of Decision

August 14, 2025



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## 1. Introduction

The Bonneville Power Administration (Bonneville) Contract High Water Mark (CHWM) Implementation Policy, August 14, 2025<sup>1</sup> (CHWM Policy), addresses how Bonneville will conduct the fiscal year (FY) 2026 CHWM Calculation Process and describes the Above-Contract High Water Mark (Above-CHWM) Load Process. The CHWM Policy provides the implementation details that supplement the Provider of Choice (POC) Policy, March 2024<sup>2</sup> (POC Policy). It does not reverse, revise or alter any of the decisions in the POC Policy.

The POC Policy included that Bonneville would calculate and establish CHWMs for individual customers in a one-time FY 2026 CHWM calculation. The POC Policy also defined six subsequent CHWM adjustment categories where Bonneville determined certain conditions merited an increase to the amount of power a customer can purchase at a Priority Firm (PF) Tier 1 rate or establishment of a new customer's CHWM, after the one-time FY 2026 CHWM calculation. POC Policy § 2.4.2 at 24.

### Public Process

On September 18, 2024, Bonneville presented in a public workshop its proposal<sup>3</sup> to draft a CHWM Policy to complement Provider of Choice Contract High Water Mark Contract (POC CHWM Contract) Exhibit B language. Bonneville received support in the workshop for the approach. On October 22, 2024, Bonneville previewed the CHWM Policy proposed content during a public workshop.<sup>4</sup> Bonneville answered clarifying questions in the workshop and requested that interested parties submit any suggested changes through the formal comment period.

Bonneville released the draft CHWM Implementation Policy, October 24, 2024<sup>5</sup> (draft CHWM Policy) for comment and accepted comments through November 13, 2024. Bonneville received six comments on the draft CHWM Policy. Bonneville also received a comment during its October 31, 2024 comment period for requests to change a customer's Exhibit A non-federal resource amounts for POC that should have also been submitted in the draft CHWM Policy comment period. The comment, submitted by Pend Oreille County Public Utility District (Pend Oreille), included both a request to change Exhibit A amounts for POC and for Attachment A.

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<sup>1</sup> The CHWM Policy will be published concurrently with this record of decision.

<sup>2</sup> The POC Policy is available at <https://www.bpa.gov/-/media/Aep/power/provider-of-choice/provider-of-choice-policy-march-2024.pdf>.

<sup>3</sup> The September 18, 2024 presentation is available at <https://www.bpa.gov/-/media/Aep/power/provider-of-choice/2024-Workshops/20240918-poc-chwm-implementation-policy.pdf>.

<sup>4</sup> The October 22, 2024 presentation is available at <https://www.bpa.gov/-/media/Aep/power/provider-of-choice/2024-Workshops/20241022-poc-chwm-implementation-policy.pdf>.

<sup>5</sup> The draft CHWM Policy is available at <https://www.bpa.gov/-/media/Aep/power/provider-of-choice/2024-Workshops/draft-chwm-implementation-policy.pdf>.

Bonneville considered the Attachment A requests in concert with comments submitted on the draft final CHWM Policy.

At a February 20, 2025 workshop<sup>6</sup> Bonneville notified interested parties that it would hold a second comment period on the CHWM Policy in response to changes requested and concerns raised at the January 2025 workshop. The final changes included correcting the draft Policy that incorrectly swapped Okanagan County PUD #1's and Okanagan County Electric Cooperative's non-federal resource amounts and setting a consumer-owned resource amount to 0 average megawatts (aMW) for Tacoma Power. These errors were discovered by Bonneville staff shortly after the draft CHWM Policy was published and corrected without comment.

Bonneville published the draft final CHWM Implementation Policy, March 4, 2025<sup>7</sup> (draft final CHWM Policy), and opened a comment period from March 4, 2025, through March 18, 2025. Bonneville published the draft final CHWM Policy in redline to highlight changes from the draft CHWM Policy — made in response to draft CHWM Policy comments and contract workshop requests — as well as updates to Attachment A non-federal resource amounts. In addition to the draft final CHWM Policy, Bonneville provided initial responses<sup>8</sup> to the draft CHWM Policy comments.

Bonneville received nine comments on the draft final CHWM Policy. Comments from both public comment periods are posted to Bonneville's public comment page.<sup>9</sup> Pacific Northwest Generating Cooperative<sup>10</sup> (PNGC) commented in support of the draft final CHWM Policy redlines. PNGC stated, "[t]hese changes provide necessary clarity and set expectations for how BPA intends to implement CHWM over the course of the Provider of Choice contract term." CIP-10-PNGC at 1.

### **Comments Not Addressed in this Record of Decision (ROD)**

Bonneville received one comment from an individual in the process. Priscilla Martinez commented that "We need to take better care of what is left of our environment, for wildlife, marine life, plant life, and people." CIP-8-Martinez at 1. Bonneville thanks Martinez for their comment. The comment is not addressed below as it does not apply to the CHWM Policy.

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<sup>6</sup> The February 20, 2025, presentation is available at <https://www.bpa.gov/-/media/Aep/power/provider-of-choice/2025-workshops/provider-of-choice-chwm-standards-update.pptx>.

<sup>7</sup> The draft final CHWM Policy is available at <https://www.bpa.gov/-/media/Aep/power/provider-of-choice/2025-workshops/draft-final-chwm-implementation-policy-march-2025.pdf>.

<sup>8</sup> The initial responses are available at <https://www.bpa.gov/-/media/Aep/power/provider-of-choice/2025-workshops/chwm-policy-initial-responses-march-2025.pdf>.

<sup>9</sup> Bonneville's public comment website is available at <https://publiccomments.bpa.gov/>.

<sup>10</sup> "PNGC Power is the region[s] only G&T Cooperative, comprised of twenty-five member utilities spanning seven states and nine balancing area authorities." CIP-10-PNGC at 1.

## Final Edits to the CHWM Policy

Bonneville made minor updates to the CHWM Policy following the final publication of the Provider of Choice Master Contract Template, dated June 18, 2025<sup>11</sup> (Master Template) and the 2029 Public Rate Design Methodology Final Proposal, dated July 2025<sup>12</sup> (PRDM). This is consistent with process information shared in the March 2025 initial responses that stated, “[t]he final CHWM Policy will include any changes made as a result of contract finalization. . . .” Initial responses to the draft final CHWM Policy at 1. The majority of the edits Bonneville made were to Section 3 of the CHWM Policy to reflect the data that will be needed to calculate the marginal energy true up.

## 2. FY 2026 CHWM Calculation

In Section 2.4 of the POC Policy, Bonneville outlined the POC CHWM calculation and committed that Bonneville would perform the calculation in FY 2026. Section 2 of the CHWM Policy defines the public process for the calculation and associated dispute resolution.

### Issue 1: Should Bonneville extend the length of the comment period for the FY 2026 CHWM Calculation Process?

#### Policy Proposal

In Section 2.1 of the draft CHWM Policy, Bonneville proposed a two-week public comment period for the FY 2026 CHWM Calculation Process that would start when draft CHWMs are published. Draft CHWM Policy § 2 at 2.

#### Public Comments

On the draft CHWM Policy, Northwest Requirements Utilities<sup>13</sup> (NRU) requested that the comment period be revised to at least 10 business days. NRU explained that adding “‘at least’ language . . . will allow BPA and customers more flexibility in determining the appropriate comment period length for the draft CHWMs as the specific timing of the FY 2026 CHWM Calculation Process is locked down.” CIP-3-NRU at 1. Public Utility District No. 1 of Snohomish County (Snohomish) suggested that the comment period be adjusted to one month “to give customers ample time to digest the information, run their own numbers and work with BPA to address issues.” CIP-5-Snohomish at 1. Pend Oreille requested “BPA consider extending the comment period to a minimum of 15 business days.” CIP-11-Pend-Oreille at 3.

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<sup>11</sup> The Master Template is available at <https://www.bpa.gov/-/media/Aep/power/provider-of-choice/contract-templates/20250618-poc-final-master-template-external.docx>.

<sup>12</sup> The PRDM is available at <https://www.bpa.gov/-/media/Aep/rates-tariff/PRDM/PRDM-26-A-03.pdf>.

<sup>13</sup> “NRU is a coalition of 56 mostly small, mostly rural utilities and one generation & transmission cooperative, all of which are customers of the Bonneville Power Administration.” CIP-12-NRU at 1.

## Evaluation and Decision

NRU, Snohomish, and Pend Oreille requested that Bonneville consider a longer comment period for the FY 2026 CHWM Calculation Process. NRU and Pend Oreille requested that Bonneville set a minimum length for the comment period but remain open to establishing a longer comment period, while Snohomish proposed a one-month comment period. CIP-3-NRU at 1; CIP-5-Snohomish at 1; CIP-11-Pend-Oreille at 3.

Bonneville included a two-week comment period in the draft CHWM Policy because many of the inputs to the FY 2026 CHWM calculation will have been reviewed in advance of completing the final calculation. Bonneville understands that much of the data review had not occurred as of November 2024 and customers that commented on the draft CHWM Policy did not have assurances about the rigor that would be applied to that data review. Bonneville published a December 17, 2024 letter<sup>14</sup> from Kim Thompson, Bonneville's vice president of Northwest Requirements Marketing (CHWM letter), outlining the outstanding data elements for the FY 2026 CHWM calculation and where data will be resolved, including timelines and steps for the remaining data points. Due to the planned advance review of inputs, Bonneville did not believe that a long comment period was warranted as many data issues should be resolved ahead of the FY 2026 CHWM Calculation Process.

Bonneville will change the comment period length for the FY 2026 CHWM Calculation Process to require a minimum of 10 business days. Bonneville will continue to refine its timeline for the FY 2026 CHWM Calculation Process and will informally seek input from customers whether a longer comment period is needed. Bonneville will look to formalize its FY 2026 CHWM Calculation Process dates in the fall of 2025. Bonneville will determine the length of the comment period and state such a timeline when it publishes draft CHWMs.

Bonneville changed Section 2.1 of the CHWM Policy to read:

The publication of the draft CHWMs will kick off a public comment period of at least 10 business days. Bonneville will state the length of the public comment period on its website when Bonneville publishes the draft CHWMs.

CHWM Policy § 2.1 at 2.

## Issue 2: Should a utility or trade association have the right to dispute any utility's CHWM?

### Policy Proposal

Bonneville proposed a dispute resolution process in Section 2.1.1 of the draft (and draft final) CHWM Policy and stated that the process "may be invoked by a customer only in regard to their own CHWM." Draft CHWM Policy § 2.1.1 at 4; draft final CHWM Policy § 2.1.1 at 4.

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<sup>14</sup> The December 2024 letter is available at <https://www.bpa.gov/-/media/Aep/power/provider-of-choice/Implementation/20241217-chwm-letter.pdf>.

## Public Comments

NRU's comment on the draft final Policy stated its "intent to preserve the right to dispute the CHWM Policy and process overall, not just the CHWM of a single NRU member." CIP-12-NRU at 2.

## Evaluation and Decision

NRU commented it wished to retain the right to dispute any customer's CHWM during the FY 2026 CHWM calculation. *Id.* Specifically, NRU requested this in regard to Public Utility District No. 2 of Grant County, Washington's (Grant) non-federal resource dedication, which Bonneville considered in Issue 13. *Id.*

The dispute resolution process outlined in Section 2.1.1 of the draft final CHWM Policy is intended to provide a final opportunity for a customer to dispute its own CHWM if, after all other CHWM comment opportunities have passed, a customer is concerned with its published CHWM. Prior to the opportunity to initiate the dispute resolution process, customers and interested parties have many opportunities to comment on any of the inputs to the CHWM calculation.

NRU, and other interested parties, have had multiple opportunities to raise concerns with the CHWM Policy and this ROD during the public process. If NRU or any party has a remaining issue with the CHWM Policy, they will have up to 90 days after publication to dispute the CHWM Policy or ROD determinations. NRU, along with any interested party, will also have the opportunity to comment during the FY 2026 CHWM Calculation Process comment period. There are no restrictions on what a party can comment on in that comment period.

It is only after all of the aforementioned processes that a customer can invoke the dispute resolution process. The dispute resolution process is further restricted to those disputes that would result in a 10% or greater change in a customer's own CHWM. CHWM Policy § 2.1.1 at 4. This is also expected to be limited in nature as each individual customer will have had additional opportunities to review their data inputs for the FY 2026 CHWM calculation. In the CHWM letter, Bonneville published each of the upcoming steps to review data and deadlines associated with those steps. This included a number of opportunities to provide feedback and input to data elements throughout FY 2025.

Given public process opportunities to comment on the CHWM Policy and the FY 2026 CHWM Calculation Process, and the bilateral contractual relationship between Bonneville and each customer individually, Bonneville does not believe it is reasonable to allow entities to invoke dispute resolution for CHWMs other than their own. Privity of contract applies, and trade associations do not have a contract relationship with Bonneville. Bonneville did not change Section 2.1.1 of the CHWM Policy to allow an entity to dispute a CHWM other than its own.

### 3. Above-CHWM Load Process

In Section 2.4.2 of the POC Policy, Bonneville committed to establishing a process “to update CHWMs for any changes based on the subsequent CHWM adjustment categories and to calculate the amount of Above-CHWM load a customer has in any given rate period for use in the rate case process.” POC Policy § 2.4.2 at 24. During the policy implementation and contract development phase, Bonneville defined the Above-CHWM Load Process in the POC CHWM Contract. Bonneville decided to address the details of the Above-CHWM Load Process in the CHWM Policy rather than during the FY 2026 CHWM Calculation Process to provide customers with more detailed information on how the POC CHWM Contract Exhibits B and C provisions would be implemented. Section 3 of the CHWM Policy explains how the Above-CHWM Load Process will be conducted, how new public CHWMs will be determined, and other related actions.

#### Issue 3: Should Bonneville offer a dispute resolution process for the Above-CHWM Load Process?

##### **Policy Proposal**

Bonneville defined a dispute resolution process in Section 2.1.1 of the draft CHWM Policy. Section 3 of the draft CHWM Policy, which covered the Above-CHWM Load Process, did not establish a dispute resolution process.

##### **Public Comments**

In Snohomish’s comments on the draft CHWM Policy, Snohomish requested Bonneville clarify whether the dispute resolution process defined for the FY 2026 CHWM Calculation Process “would be available for any subsequent adjustments made to a utility’s CHWM for future rate periods.” CIP-5-Snohomish at 1.

##### **Evaluation and Decision**

Snohomish looks to clarify whether the Above-CHWM Load Process will include a dispute resolution process. *Id.* Bonneville does not intend to offer a dispute resolution process for the Above-CHWM Load Process. Changes to individual customer CHWMs made during the Above-CHWM Load Process will be consistent with the POC Policy, CHWM Policy, and pursuant to the terms of a customer’s individual POC CHWM Contract Exhibit B. Customers and interested parties have had the opportunity to negotiate and comment on the various elements of the process during the POC process.

The Above-CHWM Load Process is different from the Rate-Period High Water Mark (RHWM) process conducted during Regional Dialogue (RD). The RHWM process adjusted every customer’s CHWM based on expected firm energy output of the Tier 1 System Firm Critical Output (T1SFCO) resources. Due to the changes in T1SFCO each rate period which necessitated a re-calculation of every CHWM, Bonneville included a dispute resolution process applicable to

the RHEM process. Customers' CHWMs will not change based on changes to the T1SFCO in the Above-CHWM Load Process under POC, and the parameters for CHWM changes have been described clearly, so the impetus for including a dispute resolution process no longer exists.

Customers and interested parties will retain the opportunity to comment on the Above-CHWM Load Process outputs. Bonneville will work with customers to address any concerns raised following the comment period and before final values are published. If a customer is still not satisfied with its new CHWM or Above-CHWM load amounts, it may choose to trigger its POC CHWM Contract dispute resolution provisions when those numbers are included in Exhibit B and C respectively.

Bonneville did not change Section 3 of the CHWM Policy to include a dispute resolution process.

#### Issue 4: Should Bonneville be less specific on the forecast vintage for determining preliminary net requirements in the Above-CHWM Load Process?

##### Policy Proposal

Section 3.1 of the draft CHWM Policy stated:

Bonneville will calculate a Preliminary Net Requirements for each fiscal year of the upcoming rate period to ensure that it considers only load that is eligible to be served at a PF rate in the Above-CHWM Load Process. The Preliminary Net Requirements will be based on the load forecast provided by December of the previous year pursuant to Provider of Choice CHWM Contracts and resource amounts will be based on Exhibit A values.

CHWM Policy § 3.1 at 7.

##### Public Comments

NRU requested that Bonneville be less specific about the forecast vintage that will be used to calculate preliminary net requirements during the Above-CHWM Load Process in the draft CHWM Policy. CIP-3-NRU at 1. NRU commented that Load Following customers do not have a load forecast deadline in their contracts. *Id.* NRU suggested the following edit: "The Preliminary Net Requirements will be based on the most recently agreed-upon load forecasts and resource amounts will be based on Exhibit A values." *Id.*

##### Evaluation and Decision

NRU recommended that Bonneville allow for the most recent agreed-upon load forecast to be used in the Above-CHWM Load Process. *Id.* Bonneville's inclusion of the December load forecast deadline was meant to tie the POC CHWM Contract Block and Slice/Block Section 17.5.2 forecast deadline to the Above-CHWM Load Process and provide clarity on where Bonneville intended to pull data from for the process. NRU flagged that the Load Following POC

CHWM Contract template did not include a forecast deadline. *Id.* Bonneville changed the POC CHWM Contract Load Following Section 17.5 to now include the December forecast deadline for Load Following customers.

Bonneville agrees with NRU that if a customer has submitted, and Bonneville has agreed to, a more recent forecast, then that forecast should be used in the Above-CHWM Load Process. Bonneville will retain the reference to the December forecast deadline, but will include a provision to allow use of a more recent forecast if mutually agreed upon by Bonneville and the customer. Bonneville changed Section 3.1 of the CHWM Policy to read:

The Preliminary Net Requirements and Preliminary Member Net Requirements will be based on the load forecast provided by December of the previous year, or a more recent agreed upon load forecast if available, pursuant to POC CHWM Contracts and resource amounts will be based on Exhibit A values.

CHWM Policy § 3.1 at 7.

[Issue 5: Should Bonneville change language regarding Above-CHWM load amounts and rounding to be inclusive of PRDM provisions?](#)

### **Policy Proposal**

Section 3.3 of the draft CHWM Policy proposed:

If a customer's Above-CHWM load amounts in any year of the rate period are less than 1 aMW, the customer's Above-CHWM load amount may be subject to rounding pursuant to Exhibit C of their POC CHWM Contract.

Draft CHWM Policy § 3.3 at 15.

### **Public Comments**

NRU sought clarity on Bonneville's inclusion of rounding language in Section 3.3 of the draft CHWM Policy. NRU commented:

Is this sentence a new Provider of Choice policy regarding Above-CHWM load service less than 1 aMW or is it intending to capture the 0.999 aMW operational convenience language in the PRDM? If the former, will this load be served at Tier 1 rates? If the latter, will a customer's election to have up to 0.999 aMW of its Above-CHWM Load served through the core Tier 1 rate design result in a modification of its published Above-CHWM Load amounts?

CIP-3-NRU at 1.

## Evaluation and Decision

NRU asked Bonneville to clarify its intent in including language about rounding Above-CHWM load amounts in Section 3.3 of the draft CHWM Policy. *Id.* Specifically, NRU requested clarity on whether the POC CHWM Contract Exhibit C captured the operational convenience language in the PRDM. *Id.*

The POC CHWM Contract Exhibit C refers to a rounding option that is meant to mirror the PRDM provisions NRU referenced in its comments. Despite the difference in language, it is Bonneville's intent that the POC CHWM Contract Exhibit C will document whether a customer elected the rounding option that would be implemented pursuant to the PRDM provisions. Bonneville updated POC CHWM Contract Exhibit C after the CHWM Policy comment period to better align with the rounding provisions in the PRDM. Bonneville also updated the draft final CHWM Policy to provide clarity. Bonneville continued to monitor the contract and PRDM changes to determine whether at any point further changes to the CHWM Policy were required. Bonneville did not find any need to make further edits to POC CHWM Contract Exhibit C.

Bonneville clarified in the CHWM Policy when rounding would take place in response to NRU's question. Bonneville will publish the Above-CHWM load amounts in the Above-CHWM Load Process as they are determined by the calculation. Those published amounts are what will be included in a customer's POC CHWM Contract Exhibit C. If a customer has elected the rounding option, the rounding will be applied through the rate application.

Bonneville changed Section 3.3 of the CHWM Policy to read:

While a customer's or JOE member's Above-CHWM load amount may be subject to the rounding option in Exhibit C of its POC CHWM Contract for rate application purposes, its Above-CHWM load amount will be published in the Above-CHWM Load Process without any rounding election applied.

CHWM Policy § 3.3 at 16.

[Issue 6: Should Bonneville update the Above-CHWM Load Process final amounts if a load forecast changes or an annexation occurs?](#)

## Policy Proposal

The draft CHWM Policy did not contemplate updating Above-CHWM Load Process final amounts.

## Public Comments

During the January 22 and 23, 2025, workshops, parties requested that Bonneville include language in the POC CHWM Contract committing to transparency if a customer's Above-CHWM load amounts change after the final amounts are published in the Above-CHWM Load Process.

The first request was related to the Block and Slice/Block Section 17.6.4 of the POC CHWM Contract, which allows a customer to update their forecast and change their preliminary net requirements after the Above-CHWM Load Process is complete. Parties sought contract language that committed Bonneville to publishing updated amounts. The second request raised in the workshops was to publish updated CHWM amounts should an annexation or cessation of CHWM, as defined in Exhibit B Sections 1.2.1 through 1.2.4 of the POC CHWM Contract, occur between Above-CHWM Load Processes.

### **Evaluation and Decision**

During the POC policy implementation and contract development phase workshops, interested parties requested a change in contract language to require transparency when a customer's CHWM or Above-CHWM load amount changed outside the Above-CHWM Load Process cadence. Bonneville agreed to this data transparency request and committed to updates to the POC CHWM Contract and CHWM Policy. The Block and Slice/Block Section 17.6.4 of the POC CHWM Contract was changed committing Bonneville to publishing updated Above-CHWM load amounts in the event the forecast update provision is triggered. Bonneville did not change the POC CHWM Contract Exhibit B.

Bonneville believes that the commitment should not be documented in the POC CHWM Contract alone. Bonneville changed the CHWM Policy by adding a new Section 3.4,<sup>15</sup> titled "CHWM Changes Between Rate Periods," that reads:

Bonneville will publish updated Above-CHWM Load Process amounts and provide notice to customers prior to the next Above-CHWM Load Process under three circumstances. The first circumstance is if CHWMs change pursuant to Sections 1.2.1 through 1.2.4 of Exhibit B of the POC CHWM Contract. If any customer's or JOE member's CHWM changes due to NLSLs, annexations or ceded load, Bonneville will publish the updated amounts. The second circumstance is if a JOE adds or removes a member from its POC CHWM Contract with such change effective within a rate period. The third circumstance is if Bonneville agrees to revise a customer's Preliminary Net Requirement or a JOE member's Preliminary Member Net Requirement pursuant to Section 17.6.4 of the POC CHWM Contract. Bonneville will publish the updated amounts on its website and notice customers.

CHWM Policy § Section 3.4 at 16.

## **4. Attachment A**

Attachment A documents each prospective POC customer's non-federal resource amounts that will be used in the FY 2026 CHWM calculation. Attachment A is modeled off the Tiered Rate

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<sup>15</sup> Section 3.4, titled "Changes to CHWMs," in the draft CHWM Policy became Section 3.5 after the new Section 3.4, titled "CHWM Changes Between Rate Periods," was added.

Methodology's (TRM) Attachment C, which was used to establish the non-federal resource amounts for the RD CHWMs. Attachment A non-federal resource amounts are consistent with Section 2.4.1.2 of the POC Policy and Section 2.2.3 of the CHWM Policy.

### Issue 7: Should Bonneville set Midstate Electric Cooperative's (Midstate) Gilchrist Forest Products (Gilchrist) resource to 0 aMW for the FY 2026 CHWM calculation?

#### Policy Proposal

Attachment A of the draft CHWM Policy listed Midstate's Gilchrist consumer-owned resource at 0.522 aMW. Draft CHWM Policy, Attachment A at 21.

#### Public Comments

Midstate requested that Bonneville remove the Gilchrist resource from its CHWM and from the draft CHWM Policy Attachment A. CIP-1-Midstate at 1. Midstate stated, "The Gilchrist Forest Products generation hasn't been generating since the mill was sold and the new owners say there is extensive upgrades needed to be able to generate therefore don't plan to do so." *Id.*

#### Evaluation and Decision

Midstate requested that Bonneville set the Gilchrist consumer-owned resource amount to 0 aMW in Attachment A. *Id.* Bonneville reviewed Midstate's claim that the resource had not been generating since the mill was sold. Bonneville confirmed that the last time the consumer-owned resource generated was in July 2018. Bonneville will grant Midstate's request. Bonneville will set the Gilchrist expected generation to 0 aMW for purposes of the FY 2026 CHWM calculation.

Bonneville changed Midstate's Gilchrist consumer-owned resource Attachment A to 0 aMW in the CHWM Policy. CHWM Policy, Attachment A at 21.

### Issue 8: Should Bonneville expedite resource removal determinations?

#### Policy Proposal

Section 2.4.1.2 of the POC Policy described which non-federal resources Bonneville will include in the FY 2026 CHWM calculation. It stated, "[i]f the Administrator grants a permanent resource removal, the removed resource will not be included in the Provider of Choice CHWM calculation." POC Policy § 2.4.1.2 at 19.

Attachment A of the draft CHWM Policy included resource note C which stated:

The customer requested a resource removal determination for this resource by the October 2024 deadline. Bonneville is evaluating the request. If BPA determines resource removal is appropriate, the resource will be removed by September 30, 2028[,] and will not be included in the FY 2026 CHWM calculation.

Draft CHWM Policy, Attachment A at 26.

## Public Comments

In Emerald People’s Utility District’s (Emerald) comment on the draft CHWM Policy, Emerald requested that “Bonneville prioritize any required deliberation and quickly move to a decision so that utilities then understand what kind of future these resources have and can act accordingly.” CIP-2-Emerald at 1. They contend that a “decision before the end of 2024 will help a utility more efficiently develop strategy for 2025 and beyond.” *Id.* Grant, in comments on the draft final CHWM Policy, requested “removal of two small irrigation generation projects from the list of previously dedicated resources: Quincy Chute and PEC Headworks.” CIP-15-Grant at 5.

## Evaluation and Decision

Emerald requested that Bonneville expedite any resource removal requests in its comment on the draft CHWM Policy. CIP-2-Emerald at 1. Bonneville sent an August 27, 2024, letter<sup>16</sup> (August POC letter) from Kim Thompson, Bonneville’s vice president of Northwest Requirements Marketing, notifying customers of upcoming deadlines, including the deadline for requesting resource removal. Bonneville set an October 1, 2024 deadline for any customer seeking to remove a non-federal resource from its RD CHWM Contract Exhibit A or its POC CHWM Contract Exhibit A if the customer wished to have that resource’s Attachment A resource amount set to 0 aMW for the FY 2026 CHWM Calculation Process. For resource removals requested after October 1, 2024, Bonneville would make a removal determination but not change the resource’s Attachment A amount.

Bonneville indicated to interested customers that it would process all resource removal requests by late spring 2025 and that it would notify customers of its determinations. The timeframe ensured that Bonneville would have final resource removal determinations ahead of contract offer preparation in the summer of 2025 and the anticipated publication of the CHWM Policy in August 2025.

Bonneville evaluated whether to expedite its resource removal determination process and decided to retain the original schedule. The timeline accounted for staff availability while ensuring timely delivery of determinations at key points in the POC process.

Grant noted in its comment on the draft final Policy that it requested resource removal for two of its resources. CIP-15-Grant at 5. Bonneville had received those resource removal requests but had not made its determinations at the time the draft final CHWM Policy was published on March 4, 2025. Both non-federal resources included resource note C in the draft final Policy, acknowledging that Bonneville had received Grant’s removal requests and that the resources

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<sup>16</sup> The August POC letter is available at <https://www.bpa.gov/-/media/Aep/power/provider-of-choice/Implementation/20240827-letter-kim-thompson.pdf>.

may be eligible to be set at 0 aMW for the CHWM calculation pending Bonneville determinations on the requests.

Bonneville completed all resource removal determinations by June 2025 and notified customers of its decisions. Those determinations are reflected in Attachment A of the CHWM Policy. Bonneville changed the CHWM Policy Attachment A resource note C to read:

C. The customer requested a resource removal determination for this resource by the October 2024 deadline. Bonneville evaluated the request, granted the resource removal, and will not include the removed resource, or the amounts associated with partial removal, in the FY 2026 CHWM calculation.

CHWM Policy, Attachment A at 26.

[Issue 9: Should Bonneville affirm its approach to using each Packwood owner's resource amount from its RD CHWM Contract Exhibit A for the FY 2026 CHWM calculation?](#)

### **Policy Proposal**

Section 2.4.1.2 of the POC Policy stated, "In order to establish PF-eligible load, Bonneville will deduct dedicated resources the customer used to serve its load during the index year." POC Policy § 2.4.1.2 at 19. Bonneville clarified in the draft CHWM Policy that "Bonneville will use the resources listed in a customer's Regional Dialogue Exhibit A." Draft CHWM Policy § 2.2.3 at 5.

### **Public Comments**

Snohomish supported its Attachment A resource amounts as published in the draft CHWM Policy. CIP-5-Snohomish at 1. Snohomish qualified its support based on its "understanding that Packwood Participants' request to change Exhibit A specified resource amounts does not impact Attachment A amounts because BPA uses what is currently stated in Exhibit A for FY2023 as the amount for calculating CHWMs." *Id.*

### **Evaluation and Decision**

Snohomish sought confirmation that Bonneville will use RD CHWM Contract Exhibit A non-federal resource amounts for the FY 2026 CHWM calculation. *Id.* Snohomish's understanding is correct; Bonneville will use RD CHWM Contract Exhibit A non-federal resource amounts, as published in Attachment A of the CHWM Policy for the FY 2026 CHWM calculation, for those customers with a RD CHWM Contract. Bonneville also recognizes that some owner's shares of Packwood have been assigned over different periods of time during the RD contract period. Bonneville will use the shares as described in each owner's RD CHWM Contract Exhibit A. Bonneville recognizes Packwood participants requested changes for POC CHWM Contract Exhibit A amounts; Bonneville will not use POC CHWM Contract Exhibit A amounts in the FY 2026 CHWM calculation for owners who have a RD CHWM Contract. Therefore, Bonneville confirms Snohomish's assumptions.

Issue 10: Should Bonneville allow a customer requesting a change from its RD CHWM Contract Exhibit A non-federal resource amounts to its POC CHWM Contract Exhibit A amounts to be treated like a permanent resource removal?

**Policy Proposal**

Section 2.4.1.2 of the POC Policy stated:

Bonneville acknowledges that some customers may request a permanent removal of a specified resource, as it is defined in the Regional Dialogue contracts and consistent with Bonneville’s 5(b)9(c) Policy before the expiration of the Regional Dialogue contracts on September 30, 2028. . . . If the Administrator grants a permanent resource removal, the removed resource will not be included in the Provider of Choice CHWM calculation.

POC Policy § Section 2.4.1.2 at 19. Section 2.2.3 of the draft (and draft final) CHWM Policy clarified that “Bonneville will use the resources listed in a customer’s Regional Dialogue Exhibit A.” Draft CHWM Policy § 2.2.3 at 5; draft final CHWM Policy § 2.2.3 at 5.

**Public Comments**

In comments on the draft CHWM Policy, Seattle City Light (Seattle) requested that Bonneville reverse its policy proposal and use a customer’s POC CHWM Contract Exhibit A non-federal resource amounts for the FY 2026 CHWM calculation if a customer had requested a change from the non-federal resource amounts in its RD CHWM Contract Exhibit A. CIP-4-Seattle at 2. Seattle argued that any requested changes would reflect actual operations of resources and, if approved, should go into effect immediately. *Id.*

Seattle stated:

The CHWM Implementation Policy does not explicitly call out how changes to existing resource declared energy values would interact with customer CHWM calculations. However, BPA’s letter to the region implied that changes in existing resource declared energy values would be treated as a resource removal.

In November, City Light received clarity that BPA’s proposal is that it would treat changes to existing resource declarations as coming into effect on October 1st, 2028. In contrast, the Provider of Choice (POC) Policy and draft CHWM Implementation Policy requires resource removals to occur prior to September 30, 2028 to qualify as resource removal for the purposes of CHWM implementation. This means changes to existing resource declarations would be excluded from the calculation of a customer’s CHWM.

City Light disagrees with this application and interaction of changes to existing resource declarations with CHWM implementation. City Light believes the current

proposed interaction is a matter of technicality, rather than of actual resource capability.

*Id.* at 1-2 (footnote omitted).

In comments on the draft final CHWM Policy, Snohomish and Mason Public Utility District 3 (Mason 3) requested that their “share of Packwood’s Specified Resource Amount in Attachment A of the Draft Final Contract High Water Mark Implementation Policy be adjusted to reflect the change in generation resulting from the Federal Energy Regulatory Commission’s relicensing of Packwood.” CIP-9-Snohomish at 1; CIP-14-Mason3 at 1.

### **Evaluation and Decision**

Seattle requested Bonneville use POC CHWM Contract Exhibit A non-federal resource amounts in the FY 2026 CHWM calculation if a customer had requested a change from its RD CHWM Contract Exhibit A amounts. CIP-4-Seattle at 1. Specifically, Seattle commented that it submitted changes to its Exhibit A values for its Ross, Diablo, Gorge and Boundary resources that it believed should be “effective immediately, not on October 1, 2028 . . . .” *Id.* at 1-2.

Similarly, Snohomish and Mason 3 asked Bonneville to use the Federal Energy Regulatory Commission (FERC) relicensed amounts that will appear in their POC CHWM Contract Exhibit A tables for Packwood in the FY 2026 CHWM calculation. CIP-9-Snohomish at 1; CIP-14-Mason3 at 1. For Snohomish, this is a reversal from its draft CHWM Policy comment requesting confirmation that Bonneville was planning to use the published Attachment A amount for Packwood in the FY 2026 CHWM calculation (see Issue 9). CIP-5-Snohomish at 1. The request Snohomish and Mason 3 refer to in their comments is a request made by all Packwood owners to reduce the Packwood non-federal amounts for each owner’s POC CHWM Contract Exhibit A as a result of Packwood’s relicensing. Bonneville has agreed to this request with an effective date of October 1, 2028, which is the start of POC power sales. Therefore, Snohomish and Mason 3 are asking for Bonneville to use POC CHWM Contract Exhibit A amounts for the FY 2026 CHWM calculation.

Bonneville stated in Section 2.2.3 of the draft (and draft final) CHWM Policy that it would use RD CHWM Contract Exhibit A values for the FY 2026 CHWM calculation. Draft CHWM Policy § 2.2.3 at 5; draft final CHWM Policy § 2.2.3 at 5. This approach was decided on in response to questions raised during the policy implementation and contract development phase. Bonneville affirms this position in Issue 9 of this ROD in response to comments submitted on the draft CHWM Policy.

Seattle stated that “BPA’s letter to the region implied that changes in existing resource declared energy values would be treated as a resource removal.” CIP-4-Seattle at 1. Bonneville’s August POC letter stated:

BPA is also considering Exhibit A non-federal resource values for Provider of Choice contracts. If a customer would like to see a specific change to their non-

federal resource amount(s) currently included in their Regional Dialogue Exhibit A, then the customer should submit a request to BPA by October 31, 2024. The customer should identify the non-federal resource(s) and the change they are requesting. BPA will follow up with customers on collecting appropriate documentation or data as needed to support approval of the request, which could result in needing to submit a resource removal request.

August POC letter at 3 (formatting omitted). Seattle misinterpreted Bonneville's intent. Bonneville has experienced situations where a customer has asked for a change to a customer's non-federal resource amount that should have been a resource removal request for a partial loss of resource. The letter intended to clarify that if it was determined the customer should have instead requested a resource removal that Bonneville would allow the customer to submit a resource removal request, and if it met all conditions, be counted like a resource removal that was submitted by October 1, 2024, as discussed in Issue 8.

Bonneville will not grant Seattle's request to use its POC CHWM Contract Exhibit A amounts in the FY 2026 CHWM calculation. Bonneville also does not agree with Seattle's framing of changed energy values being akin to resource removal. Seattle did not request a loss of resource determination, nor did they present information that triggered Bonneville to suggest Seattle to do so. Rather, Seattle sought to adjust its non-federal resource amounts to align with a change in its modeling methodology. A change in resource amounts due to a change in methodology is not a statutory resource removal.

Seattle requested that Bonneville implement any changes to non-federal resource amounts ahead of October 1, 2028. Seattle also stated that Bonneville should grant this request given Bonneville's change to firm monthly 10<sup>th</sup> percentiles (P10) water in 2022. CIP-4-Seattle at 2.

During the 2022 public process where Bonneville proposed its change from 1937 critical water to the firm monthly P10 methodology, customers asked whether Bonneville would allow customers with hydropower resources the opportunity to update their RD CHWM Contract Exhibit A amounts. Bonneville confirmed that customers could request a change in their RD CHWM Contract Exhibit A non-federal resource amounts given Bonneville's change in methodology. No customer elected to update their non-federal resource amount(s) at that time and no customer requested a change after that process until the October 31, 2024, deadline for changes to POC CHWM Contract Exhibit A amounts.

If a customer requests a change to its RD CHWM Contract Exhibit A non-federal resource amounts, Bonneville would review whether it agrees with the methodology proposed as well as whether to implement the change for the BP-26 rate period given the rate period starts October 1, 2025. Even if Bonneville did allow a change to a RD CHWM Contract Exhibit A amount starting in FY 2026, this would not result in an adjustment to the Attachment A amount as Bonneville has committed to using FY 2023 amounts in the FY 2026 CHWM calculation. Any

changes would only impact a planned product customer’s annual net requirement determination for the remainder of the BP-26 rate period.

Bonneville did not change the CHWM Policy to use POC CHWM Contract Exhibit A non-federal resource amounts in the FY 2026 CHWM calculation nor will it treat changes in amounts from RD CHWM Contract Exhibit A to POC CHWM Contract Exhibit A as resource removals.

**Issue 11: What non-federal resource amounts should be included in Attachment A for Pend Oreille?**

**Policy Proposal**

Attachment A of the draft CHWM Policy listed the following resource amounts for Pend Oreille:

BES	Customer Name	Resource Name	FY 2023 Exhibit A Amount (aMW)	CHWM Calculation Amount (aMW)	Resource Notes
10306	Pend Oreille County PUD #1	Boundary Dam	0.000	0.000	
10306	Pend Oreille County PUD #1	Boundary Encroachment on Box Canyon Dam	3.581	3.581	
10306	Pend Oreille County PUD #1	Box Canyon Dam (Serving General Requirements)	10.020	10.020	
10306	Pend Oreille County PUD #1	Box Canyon Dam (Serving NLSL)	30.011	0.000	H
10306	Pend Oreille County PUD #1	Calispell Creek	0.300	0.000	B
10306	Pend Oreille County PUD #1	Kalispel Settlement for Box Canyon	0.830	0.000	P

Draft CHWM Policy, Attachment A at 22.

Bonneville updated Pend Oreille’s Attachment A amounts in the draft final CHWM Policy to:

BES	Customer Name	Resource Name	FY 2023 Exhibit A Amount (aMW)	CHWM Calculation Amount (aMW)	Resource Notes
10306	Pend Oreille County PUD #1	Boundary Dam	42.718	TBD	R
10306	Pend Oreille County PUD #1	Boundary Encroachment on Box Canyon Dam	3.581	3.581	
10306	Pend Oreille County PUD #1	Box Canyon Dam	40.049	TBD	R

10306	Pend Oreille County PUD #1	Calispell Creek	0.300	0.000	B
10306	Pend Oreille County PUD #1	Kalispel Settlement for Box Canyon	0.830	0.000	P

Draft final CHWM Policy, Attachment A at 22. Bonneville added resource note R to the draft final CHWM Policy, which read:

Pend Oreille’s non-federal resource amounts that Bonneville will include in the FY 2026 CHWM calculation are contingent on the actual FY 2023 TRL and NLSL amounts that are in the equation. The resource amount to be included will be 82.767 aMW minus the FY 2023 NLSL aMW amount. This math will be completed during the FY 2026 CHWM calculation. Bonneville will first apply Boundary to serve the NLSL, then serve any remaining amount by applying a portion or all of Box Canyon.

*Id.* at 27.

### Public Comments

Pend Oreille expressed concerns about its non-federal resource amounts included in the CHWM calculation model<sup>17</sup> and how those non-federal resources were categorized. CIP-6-Pend-Oreille at 1. Pend Oreille stated, “[t]he inconsistent treatment of the District’s resources has been a common theme throughout the term of the RD power contract, and District staff believes that this stems from a unique special provision in the District’s RD contract which moves resource amounts between Section 2 and Section 4 of Exhibit A.” *Id.*

Pend Oreille raised two issues and recommendations:

Issue #1 – The District’s ‘Other Resources’ of 57.46 [a]MW do not meet BPA’s definitions for SNEER, COR, or Green Exception. The large value placed in this category should in reality be zero, and is the primary driver of Pend Oreille’s PF Eligible load having a zero-value determination.

Issue #2 – In the PoC CHWM model, the District’s Existing Resources are listed as pegged at 30 MW. For the index year of 2023, Pend Oreille’s existing resources were actually 12.86 [a]MW, as memorialized in the FY 2023 Net Requirements calculation and the District’s RD Exhibit A.

*Id.* at 2 (underline omitted).

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<sup>17</sup> The most recent published CHWM calculation model was published March 4, 2025, and is available at <https://www.bpa.gov/-/media/Aep/power/provider-of-choice/2025-workshops/provider-of-choice-chwm-calculation-model-march-2025.xlsx>.

Regarding the draft final CHWM Policy, Pend Oreille contended that its Attachment A amounts were not correct as they did not match the amounts listed in its RD Exhibit A for FY 2023. CIP-11-Pend-Oreille at 2. Pend Oreille stated, “BPA’s sudden policy shift introduces uncertainty in how CHWM determinations are calculated.”

Pend Oreille submitted that resource note R should be removed and the non-federal resource amounts in Attachment A should read:

Resource Name	Resource Amount (aMW)
Box Canyon	10.020
Boundary Encroachment on Box Canyon Dam	3.581
*Calispell Creek	0.300
*Kalispel Settlement for Box Canyon	0.830
Boundary Dam	0.000

\*Resource less than 1 MW and below the non-federal minimum threshold in POC.

*Id.* at 1, 3 (formatting changed). Pend Oreille argued Bonneville that the non-federal resource amounts included in the formula are not correct and it “sends incorrect signals to the region and has made resource planning for POPUD extremely difficult.” *Id.* at 2.

### Evaluation and Decision

Pend Oreille requested two changes regarding its CHWM – one for the way resources were categorized in the CHWM calculation model and the other regarding the non-federal resource amounts themselves. *Id.* at 2.

Bonneville addresses making changes to the data in the CHWM calculation model in Issue 16. The resource categorization Pend Oreille raised concerns about was based on source records used for earlier versions of this informational model, which Bonneville had acknowledged were not reflective of what likely would be included in the final CHWM calculation. Bonneville does not intend to include multiple resource categories referred to by Pend Oreille in the FY 2026 CHWM calculation model so the issue should not exist in the FY 2026 CHWM Calculation Process.

The second issue Pend Oreille raised is what non-federal resource amounts should be included in Attachment A. Pend Oreille referenced that in FY 2023 its existing resource amounts serving general requirements load were memorialized in its RD CHWM Contract Exhibit A as 12.86 aMW. In its comments on the draft CHWM Policy, Pend Oreille requested that Bonneville use the 12.86 aMW amount in the FY 2026 CHWM calculation. *Id.* at 2. Pend Oreille changed this value in its comments on the draft final CHWM Policy to 13.601 aMW. *Id.* at 1.

Pend Oreille has a unique situation with its non-federal hydropower resources and its New Large Single Load (NLSL). Pend Oreille’s Box Canyon and Boundary non-federal resources

existed prior to the Pacific Northwest Electric Power Planning and Conservation Act<sup>18</sup> (Northwest Power Act). Resources that existed and were being used by a customer to serve their firm power load in the year prior to December 8, 1980, are identified as Northwest Power Act section 5(b)(1)(A) resources and must continue to be so used until such resource has been statutorily discontinued. Bonneville power sales contracts account for such resources which are included in Bonneville's determination of a customer's net requirement. Pend Oreille's hydro resources are section 5(b)(1)(A) resources and are by statute and contract required to be used to serve Pend Oreille's firm power load. Every long-term power sales contract since 1981 has included the resources and consequently reduced the amount of firm power sold by Bonneville to meet Pend Oreille's retail load obligation.

According to the Northwest Power Act and the Revised Policy on Determining Net Requirements of Pacific Northwest Utility Customers Under Sections 5(b)(1) and 9(c) of the Northwest Power Act, March 19, 2009<sup>19</sup> (5(b)9(c) Policy), legacy hydropower resources must be conserved for use in the region and Bonneville is required to decrement its sale of power at PF rates to a customer that fails to do so. 5(b)9(c) Policy § IV.B.6(b) at 15; 16 U.S.C. §§ 839c(b), 839f(c). Hydro – whether legacy or not – triggers the application of section 3(d) of the Pacific Northwest Consumer Power Preference, dated August 31, 1964<sup>20</sup> (Preference Act), which contains the test of whether the hydro resource (if exported/sold out of the region) could have been conserved by reasonable measures for use by the utility to serve its own load in the Pacific Northwest. 16 U.S.C. § 837b(d). This test is performed by Bonneville in determining the energy requirements of the customer.

Bonneville determined Ponderay Newsprint Company – Fibermill (Ponderay Newsprint) was an NLSL served by Pend Oreille on January 13, 1990. This NLSL determination was made over a decade before Bonneville would publish the New Large Single Load Policy, April 2001<sup>21</sup> (NLSL Policy), which provided additional guidance on resources dedicated to serve NLSLs. Under the 1984 and Subscription power sales contracts, which were both executed prior to the 2001 NLSL Policy going into effect, Pend Oreille was allowed to serve its NLSL with the Box Canyon and Boundary resources.

The NLSL Policy established that a “customer may declare all or a portion of a customer-owned resource which is not included in the utility's Net Requirements Exhibit or Firm Resources Exhibit (FRE) in its power sales contract or which has been withdrawn from such exhibit may be dedicated to serving a NLSL.” NLSL Policy at 2. Bonneville allowed Pend Oreille to maintain

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<sup>18</sup> The Northwest Power Act is included in the BPA Statutes available at <https://www.bpa.gov/-/media/Aep/power/provider-of-choice/gi-BPA-Statutes.pdf>.

<sup>19</sup> The 5(b)9(c) Policy is available at <https://www.bpa.gov/-/media/Aep/power/regional-dialogue/2009-03-25-5b9c-final-revised-policy.pdf>.

<sup>20</sup> 16 U.S.C. § 837 *et seq.* The Preference Act is included in the BPA Statutes available at <https://www.bpa.gov/-/media/Aep/power/provider-of-choice/gi-BPA-Statutes.pdf>.

<sup>21</sup> The NLSL Policy is available at <https://www.bpa.gov/-/media/Aep/power/regional-dialogue/nsl-policy-04-2001.pdf>.

some resource dedication to its Ponderay Newsprint NLSL into the RD CHWM Contract because that dedication was made prior to the NLSL Policy release. Bonneville does not allow customers with new NLSLs to re-dedicate resources due to the NLSL Policy now in place.

Near the end of the Subscription contract period, Ponderay Newsprint's production load had dropped and become less consistent with trends seen across other newsprint and paper product manufacturers in the region. Bonneville included a special provision in Pend Oreille's RD CHWM Contract regarding how Boundary and Box Canyon would be applied. The provision allowed for Pend Oreille to dedicate the majority of Boundary and Box Canyon to serve its NLSL if its NLSL forecast was equal to or greater than its non-federal resource amounts in its RD CHWM Contract Exhibit A. If the NLSL forecast was less, Pend Oreille was required to apply any excess amounts of those resources to PF-eligible load. This provision allowed Pend Oreille to retain its unique NLSL resource treatment while modernizing the provision to meet the intent of the NLSL Policy while balancing the Preference Act's section 3(d) directive to use hydro to serve Pend Oreille's load.

Bonneville determined Pend Oreille's non-federal resource amounts for the BP-22 rate period based on forecasted total retail load (TRL) and NLSLs in the summer of 2020. Bonneville determined that 12.86 aMW of Boundary and Box Canyon must be applied to PF-eligible load. This is the non-federal resource amount that Pend Oreille requested in its November 2024 comment to be used in the FY 2026 CHWM calculation. The FY 2026 CHWM calculation is based on actual loads; therefore, Bonneville will use resource amounts in the calculation that reflect actual TRL and NLSL values rather than forecasted values.

In the POC Policy, Bonneville stated, "Resources that were temporarily removed in FY 2023 will be included in the calculation and treated how they were originally dedicated in Regional Dialogue at pre-removal levels." POC Policy § 2.4.1.2 at 18-19. While Pend Oreille's non-federal resources were not temporarily removed, the resource amounts were altered for FY 2023 on a forecast basis, similar to how a temporary removal is implemented. Bonneville believes that Pend Oreille's full non-federal resource amounts should be considered in the FY 2026 CHWM calculation as it requires all other customers to fully account for non-federal resources in FY 2023 regardless of temporary removal.

Pend Oreille contended that its resource values should not be accounted for that way in its second set of comments, stating that Bonneville must use the resource values listed in its RD CHWM Contract Exhibit A in the FY 2026 CHWM calculation. CIP-11-Pend-Oreille at 1. Pend Oreille incorrectly assumes that all other customers' RD CHWM Contract Exhibit A FY 2023 amounts are what is used in Attachment A. Bonneville's inclusion of all temporarily removed resources means those customers' Attachment A amounts and their RD CHWM Contract Exhibit A amounts for FY 2023 do not match.

Bonneville recognizes that TRL and NLSL amounts will not be considered final until the FY 2026 CHWM Calculation Process. Bonneville will adopt a formula approach to determining the non-

federal resource amounts for Boundary and Box Canyon in the FY 2026 CHWM Calculation Process, similar to how Bonneville determined the amounts under RD. Bonneville will calculate the actual non-federal resource amounts by taking the aggregation of Pend Oreille’s RD CHWM Contract Exhibit A Boundary and Box Canyon non-federal resource amounts and then subtracting any NLSL amount. The calculation will be:

$$\text{Pend Oreille's Box Canyon and Boundary CHWM Nonfederal Resource Values} \\ = 82.767 \text{ aMW} - \text{FY 2023 NLSL aMW}$$

Bonneville will first reduce the amount listed for Boundary and then reduce any remaining amount via Box Canyon.

Bonneville recognizes that this treatment may result in Pend Oreille not having a POC CHWM. If Pend Oreille’s weather normalized TRL is less than its dedicated non-federal resource amounts, then this treatment will result in a net requirement of 0 aMW. If a customer does not have a net requirement then it does not have the basis to establish a CHWM.

Bonneville changed Pend Oreille’s Attachment A resource amounts in the CHWM Policy to read:

BES	Customer Name	Resource Name	FY 2023 Exhibit A Amount (aMW)	CHWM Calculation Amount (aMW)	Resource Notes
10306	Pend Oreille County PUD #1	Boundary Dam	42.718	TBD	R
10306	Pend Oreille County PUD #1	Boundary Encroachment on Box Canyon Dam	3.581	3.581	
10306	Pend Oreille County PUD #1	Box Canyon Dam	40.049	TBD	R
10306	Pend Oreille County PUD #1	Calispell Creek	0.300	0.000	B
10306	Pend Oreille County PUD #1	Kalispel Settlement for Box Canyon	0.830	0.000	P

CHWM Policy, Attachment A at 22.

Bonneville added resource note R to Attachment A of the CHWM Policy to read:

Pend Oreille’s non-federal resource amounts that Bonneville will include in the FY 2026 CHWM calculation are contingent on the actual FY 2023 TRL and NLSL amounts that are in the equation. The resource amount to be included will be 82.767 aMW minus the FY 2023 NLSL aMW amount. This math will be completed during the FY 2026 CHWM calculation. Bonneville will first apply Boundary to serve the NLSL, then serve any remaining amount by applying a portion or all of Box Canyon.

CHWM Policy, Attachment A at 27.

Issue 12: Should Bonneville clarify how Flathead Electric Cooperative's (Flathead) Offsite Green Exception/Offsite Renewables Exception will be accounted for in the FY 2026 CHWM calculation versus the Above-CHWM Load Process?

### **Policy Proposal**

The draft CHWM Policy included resource note G, which identified the "Flathead NLSL Green Exception resource." Draft CHWM Policy, Attachment A at 27. The draft final CHWM Policy updated resource note G to read:

Flathead NLSL Green Exception resource. If Flathead elects the exception for Provider of Choice, Bonneville intends to set the resource amount for the contract period, which would be reflected in the FY 2026 CHWM calculation. If Flathead elects to sunset the exception, the Weyerhaeuser NLSL would be deducted in its entirety from the CHWM calculation. The amount listed in Attachment A may not be the amount included in the FY 2026 CHWM calculation for the resource. For more information, see Issue 105 in the POC Policy ROD.

Draft final CHWM Policy, Attachment A at 27.

### **Public Comments**

Flathead commented that it agreed "in principle" with resource note G. CIP-7-Flathead at 1. However, Flathead clarified that:

[T]he actual amounts used for Weyerhaeuser deliveries and the Above-CHWM Load calculations during Provider of Choice contract period may differ based on Weyerhaeuser's planned operating schedule and their ability to adjust their annual schedule by July 31 for each upcoming Fiscal Year.

*Id.*

### **Evaluation and Decision**

Flathead sought to clarify how its Offsite Green Exception/Offsite Renewables Exception would be accounted for in the FY 2026 CHWM calculation compared to how it would be treated for purposes of the Above-CHWM Load Processes. *Id.* Bonneville determined in Issue 105 of the Provider of Choice Policy Record of Decision, dated March 21, 2024<sup>22</sup> (POC Policy ROD) that Flathead could maintain the Offsite Green Exception/Offsite Renewables Exception for the Weyerhaeuser NLSL, but that Bonneville would seek "to reduce the complexity and variability

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<sup>22</sup> The POC Policy ROD is available at <https://www.bpa.gov/-/media/Aep/about/publications/records-of-decision/2024-rod/rod-20240321-bonneville-power-administration-provider-of-choice.pdf>.

for both parties and gain implementation efficiencies.” POC Policy ROD § 5 at 218. Bonneville clarifies its treatment of the Offsite Green Exception/Offsite Renewables Exception below.

For the FY 2026 CHWM calculation, Bonneville will set a non-federal resource amount for the resource(s) included in resource note G based on the Offsite Green Exception/Offsite Renewables Exception included in Flathead’s POC CHWM Contract Exhibit D, or in PNGC’s POC CHWM Contract if Flathead maintains its membership in the joint operating entity. Bonneville will work with Flathead, and/or PNGC, to determine the resource amount that will be included in the FY 2026 CHWM calculation no later than when Flathead, and/or PNGC, sign its POC CHWM Contract. Given the timing of contract signing compared to the publication of the CHWM Policy, the non-federal resource amount(s) included in the FY 2026 CHWM calculation may differ from what is published in Attachment A.

For determining amounts to be included in each Above-CHWM Load Process, Flathead, or PNGC on behalf of Flathead, will elect how it wishes to implement the Offsite Green Exception/Offsite Renewables Exception for the coming rate period. Flathead, or PNGC on behalf of Flathead, must submit the updated load forecast for the Weyerhaeuser NLSL by March 31 of each forecast year. This will allow Bonneville to confirm with Flathead, or PNGC, that the appropriate amounts are accounted for in the Above-CHWM Load Process for the coming rate period.

To reflect this clarification, Bonneville changed resource note G in Attachment A of the CHWM Policy to read:

G. Flathead NLSL Green Exception resource. If Flathead elects the exception for Provider of Choice, Bonneville intends to set the resource amount for the FY 2026 CHWM calculation at contract signing based on the final terms of the Offsite Green Exception/Offsite Renewables Exception provision. If Flathead elects to sunset the exception, the Weyerhaeuser NLSL would be deducted in its entirety from the CHWM calculation. The amount listed in Attachment A may not be the amount included in the FY 2026 CHWM calculation for the resource. For more information, see Issue 105 in the POC Policy ROD.

CHWM Policy, Attachment A at 27.

[Issue 13: How should Bonneville account for Grant’s non-federal resource amounts for determining its POC contract period net requirements and its PF-eligible load<sup>23</sup> in the FY 2026 CHWM calculation?](#)

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<sup>23</sup> The POC Policy defined PF-eligible load as: “Total Retail Load – New Large Single Loads – Dedicated Resources.” POC Policy § 2.4.1.2 at 16.

**Policy Proposal**

Section 2.2.3 of the draft CHWM Policy and draft final CHWM Policy stated, “[f]or a returning utility that did not have a Regional Dialogue CHWM Contract, the customer’s POC CHWM Contract Exhibit A values will reflect the information about the customer’s resources.” Draft CHWM Policy at 5-6; draft final CHWM Policy at 6. The non-federal resource amounts for Grant in Attachment A of the draft CHWM Policy read:

BES	Customer Name	Resource Name	FY 2023 Exhibit A Amount (aMW)	CHWM Calculation Amount (aMW)	Resource Notes
10190	Grant County PUD #2	Priest Rapids	TBD	TBD	F, L
10190	Grant County PUD #2	Wanapum	TBD	TBD	F, L
10190	Grant County PUD #2	PEC Headworks	TBD	TBD	F
10190	Grant County PUD #2	Quincy Chute	TBD	TBD	F
10190	Grant County PUD #2	Yakama Nation	0.000	0.000	P

Draft CHWM Policy, Attachment A at 20.

Between the draft CHWM Policy and the draft final CHWM Policy, Bonneville made its preliminary determination of the amounts of Grant’s non-federal resources that would be reflected in Attachment A. In January and February policy implementation and contract development phase workshops, Bonneville received requests to make those determinations public ahead of the final CHWM Policy expected to be published in August 2025. The draft final CHWM Policy Attachment A non-federal resource amounts for Grant read:

BES	Customer Name	Resource Name	FY 2023 Exhibit A Amount (aMW)	CHWM Calculation Amount (aMW)	Resource Notes
10190	Grant County PUD #2	Priest Rapids Project	300.730	300.730	F, L, S
10190	Grant County PUD #2	Priest Rapids Project (NLSL)	153.648	0.000	F, H, L, T
10190	Grant County PUD #2	PEC Headworks	2.910	2.910	C, F
10190	Grant County PUD #2	Quincy Chute	3.390	3.390	C, F

1019 0	Grant County PUD #2	Yakama Nation	0.000	0.000	P
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Draft final CHWM Policy, Attachment A at 20. The draft final CHWM Policy also included two new resource notes:

S. The Priest Rapids Project, which is made up of the Priest Rapids and Wanapum hydropower resources, amount includes: (1) resource amounts dedicated to load under Grant PUD’s Subscription contract, (2) the resource amount that was recalled ahead of Regional Dialogue (consistent with Issue 2 starting on page 66 of the Regional Dialogue Policy Record of Decision); and (3) the remaining portion of the relicensed physical rights to the Priest Rapids Project not dedicated to serve NLSLs. This Attachment A amount is subject to change pending final NLSL determinations.

T. The Priest Rapids Project (NLSL) amount includes a portion of Grant PUD’s relicensed physical rights to the Priest Rapids Project not dedicated to serve Grant PUD’s general requirements load based on FY 2010 NLSLs. This Attachment A amount is subject to change pending final NLSL determinations.

*Id.* at 27 (footnote omitted).

### Public Comments

Grant commented that it did not agree with the non-federal resource amounts Bonneville proposed in the draft final CHWM Policy’s Attachment A, which would also be used in Grant’s POC CHWM Contract Exhibit A. CIP-15-Grant at 2. Grant argued because it did not have a RD CHWM Contract, except for Load Following service to its Grand Coulee load, Bonneville has made speculative assumptions regarding the dedication of Grant’s Priest Rapids Resource (PRP) and “[t]hese assumptions violate BPA’s 2024 POC Policy and BPA’s 2000 ‘5(b)/9(c) Policy’ (as adopted in 2011 and including clarifications in 2003).” *Id.*

Grant stated that Bonneville should “use Grant PUD’s actual, documented dedication of monthly amounts of [Priest Rapids Project (PRP)] identical to those identified in Exhibit C of Grant’s Subscription contract, as formally amended.” *Id.* at 5. NRU also did not agree with the non-federal resource amounts but for a different reason. NRU stated its understanding is that Grant “agreed to declare 100 percent of its Priest Rapids Project to load . . . .” CIP-12-NRU at 2. NRU argued the declaration should be interpreted that all of the PRP should have served general requirements<sup>24</sup> load growth. *Id.*

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<sup>24</sup> General requirements is defined in the Northwest Power Act, section 7(b)(3), and means firm power purchased from Bonneville for service to load, exclusive of any NLSL. 16 U.S.C. § 839e(b)(4).

Grant argued that it should not be required to dedicate any portion of the PRP to its NLSLs. Grant commented that “Grant PUD did not dedicate, nor was it required to dedicate any specific amounts of PRP (or any other non-federal resource) during the Subscription contract to match or track Grant PUD’s NLSLs under the pre-RD contract.” CIP-15-Grant at 3. In contrast, NRU argued that “[a]llowing Grant PUD to siphon a portion of PRP to its NLSL in Provider of Choice effectively ignores the general requirements load growth that Grant PUD experienced since 2012 and, perhaps more importantly, the language and intent of the Regional Dialogue Policy Record of Decision (ROD).”<sup>25</sup> CIP-12-NRU at 2.

Grant and NRU also raised several issues regarding Bonneville’s 5(b)9(c) Policy.

Grant believed that “offering to sell specific amounts of PF-eligible power (i.e., CHWM) at the Tier 1 rate based on hypothetical data violates BPA’s ‘Revised Policy on Determining Net Requirements’ (issued on May 23, 2000, clarified in March 2003, revised in March 2009, and effective in October 2011, aka the 5(b)/9(c) Policy).” CIP-15-Grant at 4. Grant argued that under its Subscription contract a portion of the PRP had been “undeclared” and pointed to the 5(b)9(c) Policy Clarification #3 that states a “customer may or may not apply such resource to its load under the next contract.” *Id.* It further cited Clarification #7 to support its position that “Grant PUD’s declaration (dedication) of part of PRP to load under its Subscription contract could not force the remaining part of PRP to be dedicated to any load under any contract.” *Id.* Grant commented that Bonneville cannot require Grant to dedicate additional amounts of PRP nor should it reduce Grant’s right to PF-eligible load. *Id.*

NRU commented it was concerned about the precedent being set regarding FERC relicensing and 5(b)9(c) Policy resource dedication. NRU stated, “this is the first instance that we are aware of where the relicensing of a resource resulted in a change in that resource’s dedication.” CIP-12-NRU at 2. NRU challenged that Grant should not be able to change its resource declaration, to use even a portion of the PRP to serve NLSLs, as a result. *Id.*

## **Evaluation and Decision**

### *I. Background*

Section 5(b) of the Northwest Power Act requires Bonneville to take into account a customer’s section 5(b)(1) resources available to serve their load.<sup>26</sup> Bonneville must do so for several reasons. One reason a customer’s resource amount is important is to determine the customer’s

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<sup>25</sup> NRU references Section II.H Issue 2 of the Long-Term Regional Dialogue ROD. CIP-12-NRU at 2.

<sup>26</sup> Section 5(b) of the Northwest Power Act requires that “[w]hen requested, the Administrator shall offer to sell to each requesting public body and cooperative . . . electric power to meet the firm power load of such public body, cooperative or investor-owned utility in the Region to the extent that such firm power load exceeds the capability of such entity’s firm peaking and energy resources used in the year prior to December 5, 1980, to serve its firm load in the region, and such other resources as such entity determines, pursuant to contracts under this chapter, will be used to serve its firm load in the region.” 16 U.S.C. § 839c(b)(1).

net requirement – this is the amount of firm requirements power Bonneville is obligated to provide a customer to serve its regional firm power load. As part of this determination, Bonneville must consider all hydropower resources owned or purchased by a customer available to serve its TRL when determining the amount of firm power a customer can purchase from Bonneville. This determination is made pursuant to section 3(d) of the Preference Act and section 9(c) of the Northwest Power Act. Bonneville is obligated under section 3(d) of the Preference Act to consider a customer’s regional hydropower resource available to serve the customer’s regional load – its TRL – calculating that customer’s entitlement to firm power – its net requirement

Another reason a customer’s resource amount is important is to determine their CHWM for the purpose of applying tiered rates. Whether a customer’s non-federal resource is used to serve a customer’s general requirements load or an NLSL affects the customer’s CHWM—the amount of power the customer can purchase at a PF Tier 1 rate. For purposes of the POC CHWM Contracts, the larger the amount of PRP Bonneville considers as serving Grant’s general requirements, or PF-eligible load, the smaller Grant’s CHWM will be and its eligibility to purchase firm power at the PF Tier 1 rate. Any power needed by Grant above its CHWM if supplied by Bonneville will be subject to an applicable PF Tier 2 rate.

At issue here is how Bonneville should determine Grant’s non-federal resource amounts. Grant has a large hydropower resource known as PRP. Three factual developments have occurred which impact how Bonneville accounts for the size of the PRP in calculating Grant’s non-federal resource amounts. The first factual consideration is the way in which Grant treated PRP in its Subscription contract with Bonneville. The second factual consideration is that Grant sold to and then recalled a portion of PRP from other Bonneville contract holders in 2008. The third factual consideration is that FERC relicensed the PRP facility in 2008, increasing Grant’s physical rights to the output of the facility. Bonneville will discuss each of these factual situations below, analyzing and explaining how they have impacted Bonneville’s determination of Grant’s PRP resource amount and how Bonneville is using that determination in different contexts.

## *II. Parties’ arguments and Issues*

Grant and NRU commented that the non-federal resource amounts included in Attachment A should be adjusted. Grant argued that the non-federal resource amounts were too high and that they should be set to Subscription contract amounts, while NRU argued the entire PRP should be dedicated to serving Grant’s general requirements load. Bonneville recognizes this is a significant matter given the large size of Grant’s hydroelectric resources.

Grant is in a unique position compared to other customers due to its contractual history with Bonneville and its ownership of pre-1980 hydroelectric resources. The PRP is made up of Priest Rapids and Wanapum dams that started generating electricity in 1959 and 1963 respectively. Under its initial FERC license, Grant had the physical rights to about 36.5% of the PRP. *Pub. Util. Dist. No. 2 of Grant County, Wash.*, 14 F.P.C. 1067 (1955) (granting a 50-year license); *Pub. Util.*

*Dist. No. 2 of Grant County, Wash.*, 123 FERC ¶ 61,049 at P 132 (2008) (License Order). Grant used a portion of its PRP to serve its own load prior to the Northwest Power Act’s initial long-term section 5(b) power sales contracts that went into effect in 1981. Under the original FERC license, Grant was required to sell a reasonable portion of the output of PRP in 50-year contracts. *Id.*

Grant dedicated its share of the PRP output to load under the 1981 and Subscription contracts. Grant’s Subscription contract was in effect from 2000 through 2011. Under the Subscription contract, that amount was 234.869 aMW. Grant’s last purchase obligation under Subscription was for 187 aMW of block and a load following purchase for its City of Grand Coulee load.

In 2008, FERC issued Grant a new 44-year license for the PRP. License Order at P 187. FERC explained that under Grant’s original license, Grant had the right to 36.5% of PRP for its own use and sold the remaining 63.5% to other utilities. *Id.* at P 132. FERC then summarized its “*Kootenai orders*” from the 1990s in which it had determined that, upon relicensing, Grant would be required to make only 30% of PRP available to others. *Id.* at P 133.<sup>27</sup> Thus, upon relicensing, Grant could retain the remaining 70% for its own use.

Grant confirmed in official documents, as early as 2005, that it would be able to retain 70% for its own use. *See* Grant 2005 Wanapum Hydroelectric Development Revenue and Refunding Bond Declaration, at 24 (stating that “[Grant] will dedicate 30% of the combined output of the Developments (the ‘Reasonable Portion’) for sales within the region based on market principles. The remaining 70% of the combined firm energy output of the Developments will be used by [Grant’s] Electric System and sold to the Power Purchasers to the extent surplus to the Electric System’s needs.”).<sup>28</sup>

Of the 70% that Grant retained, Grant has further explained in official documents that it has certain long-term agreements, which reduce its physical rights to 63.3%. In Grant’s 2013 Priest Rapids Hydroelectric Project Revenue Bond Declaration (2013 Bond Declaration) Grant explained that it “can use up to 63.3% of the output of the Priest Rapids Project to serve retail load, 6.7% is sold to the Power Purchasers via Exchange Agreements and Product Sales Contracts . . . .” 2013 Bond Declaration at 23.<sup>29</sup> Similarly, Grant’s 2024 Official Statement for Revenue Refunding Bonds (2024 Official Statement) on PRP stated that “[Grant’s] Electric System can use up to 63.3% (Adjusted District Reserve Share) of the output of the Priest Rapids Project to serve its retail load.” 2024 Official Statement at 29; *see also id.* at 44; *id.* at Appendix

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<sup>27</sup> *See id.* nn.151, 153 (citing *Kootenai Elec. Coop. v. Pub. Util. Dist. No. 2 of Grant County, Wash.*, 72 FERC ¶ 61,222, at 62,031, *reh’g denied*, 73 FERC ¶ 61,307 (1995); *Kootenai Elec. Coop. v. Pub. Util. Dist. No. 2 of Grant County, Wash.*, 82 FERC ¶ 61,112 (1995), *reh’g denied*, 83 FERC ¶ 61,289 (1998), *aff’d*, *Kootenai Elec. Coop. v. FERC*, 192 F.3d 144 (D.C. Cir. 1999).

<sup>28</sup> Grant’s 2005 Wanapum Hydroelectric Development Revenue and Refunding Bond Declaration is publicly available at <https://emma.msrb.org/MS229978-MS205286-MD398913.pdf>.

<sup>29</sup> The 2013 Bond Declaration is publicly available at <https://emma.msrb.org/EA555699-EA433454-EA829635.pdf>.

G at G-1.<sup>30</sup> Likewise, Grant’s 2024 Integrated Resource Plan<sup>31</sup> stated that Grant “holds the physical rights to 63.31% of [Wanapum and Priest Rapids dams, *i.e.*, the PRP project]” and “[t]hese large hydroelectric, carbon-free resources provide Grant PUD’s foundational supply of electricity.”

Between 2008 and 2011, Grant recalled its sales of the PRP from Bonneville’s other customers and signaled its intent not to request a RD CHWM Contract. Grant ultimately decided to only pursue a Load Following contract for its City of Grand Coulee load. As part of the Long-Term Regional Dialogue Policy, dated July 19, 2007<sup>32</sup> (RD Policy), and CHWM determinations, Bonneville acknowledged the recall and made resource removal determinations that the four customers had lost their contract rights to purchase PRP (see below and Issue 14 for more details).

In 2010, in response to Grant’s recall of PRP contract rights from other Bonneville customers, and Public Utility District No. 1 of Cowlitz County’s (Cowlitz) accompanying request to Bonneville to remove PRP from Cowlitz’s list of dedicated resources, Cowlitz and Grant sent formal letters explaining the recall. Grant’s letter stated that it was “clarifying for you, and the Bonneville Power Administration” that Grant can “claim 70 percent of the [PRP] firm power output to serve [Grant’s] loads and commitments.” Letter from Tim Culbertson, Grant, to Brian Skeahan, Cowlitz, (June 24, 2010). Cowlitz’s letter to Bonneville elaborated further, explaining its understanding that Grant was making the recall because “Grant PUD’s 2009 load forecast shows that it will need the full 63.31% of [PRP] output in 2011 to serve its own load.” Letter from Brian Skeahan, Cowlitz, to Steve Wright, Bonneville Power Administration, (June 29, 2010).

These letters are consistent with the 63.3% output rights identified in Grant’s 2013 and 2024 bond documents, and in its 2024 Integrated Resource Plan. Bonneville therefore concludes that, following the 2008 FERC relicensing process, Grant has consistently represented in official documents that it can use up to 70% of the output of PRP to serve its retail load but is limited by its power sale contracts to taking 63.3%. Accordingly, Bonneville finds it is reasonable to rely on these long-standing and consistent representations. Bonneville will therefore use 63.3% to reflect Grant’s rights to PRP resulting from the 2008 FERC relicensing.

As noted above, Grant had a small portion of its load that it served under RD. Grant’s RD CHWM Contract was for its City of Grand Coulee load only, a load with which Bonneville has had a unique relationship with since the 1960s. That RD CHWM Contract makes no attempt to capture Grant’s overall TRL or capture Grant’s notable non-federal resources. It is clearly

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<sup>30</sup> The 2024 Official Statement is publicly available at <https://emma.msrb.org/P21839998-P21410080-P21852544.pdf>.

<sup>31</sup> Grant’s 2024 Integrated Resource Plan is publicly available at <https://www.grantpud.org/templates/galaxy/images/2024.0909-IRP-Online.pdf>.

<sup>32</sup> The RD Policy is available at <https://www.bpa.gov/-/media/Aep/power/regional-dialogue/07-19-07-rd-policy.pdf>.

limited in scope to the unique load pocket of the City of Grand Coulee and should not be conflated with Grant's overall loads and resources over the duration of the RD CHWM Contract. Grant did not dedicate any of its non-federal resources to serve the City of Grand Coulee load, which was roughly 5 aMW at the start of the RD contract period. Grant acquired the service territory in the late 1970's and Bonneville acknowledged the load obligation in Grant's 1981 power sales contract. It is physically located in Bonneville's balancing authority and served out of the Grand Coulee switchyard. Under Grant's Subscription contract, Bonneville included a special provision that provided Load Following service for the Grant Coulee load under their Subscription Block contract.

Grant served its primary loads during the RD contract period with its non-federal resources. Grant notified Bonneville in 2022 that it intended to request a net requirements section 5(b) power sales contract to serve its retail firm power load starting October 1, 2028. In the POC Policy, Bonneville referred to Grant's situation as a "returning utility." This is the first time that Bonneville has had to determine a CHWM for a returning utility because CHWMs were first established under RD. The circumstances surrounding Grant's return are unique for the following reasons: (1) Grant has not continuously held a Bonneville 5(b) power sales contract for the entirety of its load, (2) Grant has significant PF-eligible and NLSL load growth, and (3) Grant has experienced a significant change in its right to PRP output.

At issue is how Bonneville should apply the PRP to (1) determine Grant's net requirement and (2) calculate Grant's CHWM that will set the amount of firm power Grant is eligible to purchase at a PF Tier 1 rate.

In reviewing Grant's expected request to purchase firm power, Bonneville is cognizant of the changes Grant has experienced over the intervening years since it last purchased firm power from Bonneville under Subscription. Significantly, Grant went through a successful PRP relicensing at FERC which resulted in an increase in its share of the PRP and it has experienced increases in its retail loads—both general requirements and NLSL.

Bonneville cannot ignore these facts and therefore must address Bonneville's statutory determination of Grant's net requirement on the one hand, and on the other hand Bonneville's need to calculate for policy purposes a CHWM for Grant considering Grant's resources. The POC Policy stated:

Grant will be subject to the same data requirements and transparent processes that all other Bonneville customers will be subject to in determining its net requirements load, including determining NLSLs, and CHWM. Bonneville will not pursue any special data provisions or unique process based on Grant's status as a returning public utility.

POC Policy § 2.4.1.9 at 34. The data gathering and determination of net requirements that Bonneville has initiated with Grant is no different than how it works for all other customers. As Bonneville reviewed Grant's data, it was not apparent how the PRP should be applied for

determining a net requirement and CHWM. Additionally, Bonneville's 5(b)9(c) Policy does not directly address this issue and therefore the Administrator must determine how to apply Grant's PRP for purposes of determining Grant's CHWM.

### *III. PRP Dedicated Under Subscription*

Section 5(b)(1) of the Northwest Power Act obligates Bonneville to offer a contract for the sale of electric power to a requesting eligible customer to serve its firm power load that exceeds the capability of the customer's resources. 16 U.S.C § 839c(b)(1). Bonneville referred to the amount of firm requirements power a customer is entitled to purchase as the customer's net requirement. The Northwest Power Act includes two categories of resources: section 5(b)(1)(A) and section 5(b)(1)(B). Section 5(b)(1)(A) applies to resources used by a customer to serve its firm load in the region in the year prior to December 5, 1980. 16 U.S.C. § 839c(b)(1)(A). Section 5(b)(1)(B) applies to other resources a customer determines under their Bonneville contract will be used to serve its regional firm load. 16 U.S.C. § 839c(b)(1)(A). Section 5(b)(1)(A) and (B) resources are generally known as dedicated or declared resources and are legally required to continue being used under later contracts, except if use of the resource is permanently discontinued. 16 U.S.C. § 839c(b)(1).

Based on statute and Bonneville's 5(b)9(c) Policy, once a non-federal resource has been dedicated to serve its firm power load, it remains dedicated unless the customer requests and receives approval for a resource removal pursuant to section 5(b)(1) and the 5(b)9(c) Policy. *Id*; 5(b)9(c) Policy § III.B at 8. Grant did not request resource removal for the amounts of the PRP dedicated under its Subscription contract; therefore, it must remain dedicated under any future 5(b) contract. Bonneville finds it reasonable that Grant's Subscription PRP amount will be included in determining Grant's net requirement for the POC contract period.

Grant had dedicated 234.869 aMW of the PRP to its PF-eligible load under its Subscription contract. Bonneville will require Grant to dedicate 234.869 aMW to PF-eligible load under its POC CHWM Contract Exhibit A, which will be used to calculate Grant's net requirements during the POC contract period. For the Attachment A amount, Bonneville will net the Canadian Entitlement Allocation Extension Agreement (CEAEA) associated with the resource consistent with its treatment of other mainstem Columbia River hydroelectric projects. For Attachment A, Bonneville will require 213.836 aMW to be dedicated to serve PF-eligible load.

### *IV. Statutory and policy treatment of recalled PRP amounts*

The recalled portion of the PRP refers to the non-federal resource amounts that Grant had sold to and then recalled from other 5(b) contract holders in 2008. Cowlitz, Seattle, and Tacoma Power (Tacoma) each identified their purchases of PRP as 5(b)(1)(A) resources in their Subscription contracts, while Eugene Water & Electric Board (EWEB) identified its purchase of

PRP as a 5(b)(1)(B) resource.<sup>33</sup> Each of these utilities dedicated PRP under their Subscription contract to serve general requirements load.

In the Policy on Determining Net Requirements of Pacific Northwest Utility Customers Under Sections 5(b)(1) and 9(c) of the Northwest Power Act Record of Decision, dated May 2000<sup>34</sup> (5(b)9(c) Policy ROD), Bonneville established that if a resource is sold to another Bonneville customer to serve its load (as was the case for PRP), the purchasing customer must dedicate the resource. The 5(b)9(c) Policy ROD states that the selling customer is not required to dedicate the resource to its load while it is sold but emphasizes that “once the [selling] utility uses the resource to serve its own loads, the resource becomes subject to section 5(b)(1).”<sup>35</sup> 5(b)9(c) Policy ROD § III.A.1.d at 42. Grant’s comments to Bonneville on the draft RD Policy indicate Grant’s understanding of this and the downstream relationship to Grant’s CHWM eligibility under RD. Not only did the four utilities that had power purchase agreements for the output of the PRP dedicate the resources as a 5(b)(1) resource under their Subscription contracts, as noted and below, Grant used the recalled portions to service its own loads. Because these customers dedicated their purchase of the PRP to serve their general requirements loads, when Grant later recalled the sales and applied it to its own loads, the recalled amounts remain subject to 5(b)(1).

The RD Policy captures that Grant notified Bonneville of its intent to recall the sold amounts of PRP via comments it submitted on the RD Policy. The RD Policy described the effect of that recall as “a redistribution of resources among the affected publics” and stated, “[t]o calculate the Contract HWM, Bonneville will adjust the FY 2010 non-Federal resources of Grant and the affected public utilities as proposed by Grant PUD.” RD Policy § II.B.9 at 13. During the process to establish customer resource amounts for the RD CHWM calculation, a party raised a concern that Grant might not use the recalled PRP to serve its load and instead would pursue a portion of the PRP to remain undedicated if Grant were to request a 5(b) contract and CHWM from Bonneville. In the Close-Out Summary: Clarification on the Use of Customer Resource Amounts for High Water Mark Calculations, dated September 17, 2008<sup>36</sup> (RD CHWM Resource Close-out), Bonneville stated the following:

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<sup>33</sup> Bonneville does not have documentation for why the exception was made for EWEB’s portion to be dedicated as a 5(b)(1)(B) resource as it believes that consistent with statute it should be listed as a 5(b)(1)(A) resource.

<sup>34</sup> The 5(b)9(c) Policy ROD is available at <https://www.bpa.gov/-/media/Aep/power/regional-dialogue/rod-20000523-Policy-on-Determining-Net-Requirements-of-Pacific-Northwest-Utility-Customers.pdf>.

<sup>35</sup> The 5(b)9(c) Policy ROD stated “a customer may develop a resource and may choose not to use it to serve its own loads. The customer may choose to sell the output of its resource to another BPA customer to serve its regional load. The customer owning the resource may do this without dedicating the resource to serve its own load. If the output of the resource is sold to another BPA customer for service to its load then that customer must dedicate it as a purchase contract resource. . . . [O]nce the utility uses the resource to serve its own loads, the resource becomes subject to section 5(b)(1). . . .” 5(b)9(c) Policy ROD § III.A.1.d at 42.

<sup>36</sup> The Regional Dialogue CHWM Resource Close-out is available at <https://www.bpa.gov/-/media/Aep/power/regional-dialogue/High-Water-Mark/2008-09-17-closeout.pdf>.

BPA received a letter from Grant dated August 13, 2008, in which Grant affirmed that it would not request service for its load or establish a CHWM for the main (Block) part of its load . . . . BPA will rely upon this affirmation by Grant it will not request service except for the Grand Coulee load . . . .

RD CHWM Resource Close-out § III at 10. Bonneville went on to state this assurance should “assuage” any concerns raised by parties. *Id.*

The August 2008 letter, from Grant’s general manager Tim Culbertson, stated that “Grant PUD agrees with BPA proposed corrections and clarification as they relate to Grant PUD in that we will use 100% of the output from Priest Rapids and Wanapum to serve retail load.” Culbertson letter. Bonneville understood the assurances in Grant’s August 2008 letter to mean that Grant would apply its full physical rights, including the recalled amounts, of the PRP to serve its load and therefore Bonneville would only establish a CHWM for Grant’s City of Grand Coulee load.

In addition to the comments and policy actions taken under RD, Bonneville must consider the operation of statutes, especially in regard to the recalled 5(b)(1)(A) amounts. Section 9(c) of the Northwest Power Act provides that in determining the electric power requirements of a customer, which is a non-federal entity having its own generation, Bonneville must:

exclude, in addition to hydroelectric generated energy excluded from such requirements pursuant to section 3(d) of [the Preference Act], any amount of energy included in the resources of such customer for service to firm loads in the region if (1) such amount was disposed of by such customer outside the region, and (2) as a result of such disposition, the firm energy requirements of such customer or other customers of the Administrator are increased.

16 U.S.C. § 839f(c). Bonneville will not ignore the recall of PRP from other Bonneville customers, the relicensing, redistribution of the share of output, and the disposition and use of PRP power by Grant during the RD contract period.

In addition, because the Northwest Power Act recognized the resource as a 5(b)(1)(A) resource, Bonneville’s long-term power sales contracts with these entities identified it as such. When the resource returned to Grant it increased Grant’s existing PRP amount by operation of section 3(d) of the Preference Act. 16 U.S.C. § 837b(d). Grant would not receive the benefit of additional CHWM for the portion of the resource that has been used to serve regional general requirements load of other Bonneville customers for the past 50 plus years and used to serve Grant’s general requirements load during RD. Bonneville’s approach for treating the returned PRP amount in calculating Grant’s CHWM is reasonable and consistent with the Preference Act and the Northwest Power Act.

For the reasons articulated above, Bonneville will treat Grant’s recalled amounts as serving Grant’s PF-eligible load. The total recalled amount equaled 88.930 aMW. Therefore, an additional 88.930 aMW will be reflected as serving PF-eligible load in Grant’s POC CHWM

Contract Exhibit A. For Attachment A, Bonneville will net CEAEA and include an additional 82.973 aMW as part of the PRP dedicated to PF-eligible load.

To ensure consistent treatment, in Bonneville's next 5(b)9(c) Policy revision, expected to be completed ahead of the Above-CHWM Load Process for the BP-29 rate period, Bonneville intends to specify that a transfer in the rights to firm output of a 5(b)(1)(A) resource will mean that the resource must remain a 5(b)(1)(A) resource and must be dedicated to load in the same manner as originally dedicated. Bonneville intends to build on the foundation the 5(b)9(c) Policy lays that if a utility takes over another utility's dedicated resource that the resource must continue to be dedicated to serve load in the same manner.

#### *V. Statutory and policy treatment of increased amounts of PRP due to relicensing*

Grant commented that only the amounts dedicated under its prior contracts should be considered and that this interpretation was consistent with Bonneville's "existing statutes, policies, or contracts . . ." CIP-15-Grant at 5. In its comments, NRU argued "Grant made the decision to declare and use all of its Priest Rapids Project output to serve its load, reducing its net requirement to zero. The relicensing of all or a portion of the PRP should not change that." CIP-12-NRU at 2. NRU asked Bonneville to clarify its 5(b)9(c) Policy regarding resource relicensing. *Id.* NRU acknowledged that while the 5(b)9(c) Policy is explicit regarding a relicensing that decreases a non-federal resource's firm amount, it does not address what occurs if there is an increase in the amount of power a customer has the right to receive and use as a result from a relicensing. *Id.*

Grant pointed to clarifications 3 and 7 from Bonneville's 2003 clarifications included in the 5(b)9(c) Policy. Grant argued it had not dedicated the relicensed amount under any prior contract, so it should not be required to dedicate those relicensed amounts under POC. CIP-15-Grant at 4. Grant also argued that Bonneville "could not force the remaining part of PRP to be dedicated to any load under any contract." *Id.* (emphasis omitted). On these points Bonneville does not disagree. In the 5(b)9(c) ROD, Bonneville addressed whether 9(c) should apply to "system sales involving hydroelectric resources." 5(b)9(c) ROD § at 123. Bonneville concluded that the customers with "regional hydroelectric resources" should "dedicate them to serve their own retail loads or sell them to someone else in the region for that purpose." *Id.* While the clarifications 3 and 7 address whether the portion must be dedicated in the contract itself, they do not supersede the finding that hydroelectric resources must be conserved for use by the utility or the region. At question is whether Grant is required to dedicate the undeclared portion of the PRP, not whether the undeclared portion should be used to serve Grant's load or a load within region.

However, regardless of a Grant determination pursuant to section 5(b)(1)(B) to use its increased share of output during a Bonneville contract — which during the RD contract period it appears Grant has physically been using to serve its load irrespective of having a RD CHWM Contract — the determination of Bonneville's obligation to supply firm power under a POC

CHWM Contract must also consider whether Grant has conserved and kept available such amount of PRP to serve its load pursuant to section 3(d) of the Preference Act. 16 U.S.C. § 837b(d). Under this provision of law, if Bonneville determines Grant has exported/sold its hydroelectric power out of region then the Administrator may only sell power that is surplus to replace Grant's export. But, as noted, it appears Grant has been using that power to serve its load. Therefore, because Bonneville is cognizant of the increase in Grant's share of PRP and that Grant is using that increased share to serve its load then Bonneville is authorized to sell firm power net of that increased amount to supply Grant's firm power retail load.

This result effectively applies the recalled and relicensed share of the PRP resource to serving Grant's load notwithstanding sections 5(b)(1)(A) and (B). While this outcome meets Bonneville's determination of Grant's net requirement, it does not determine the type of retail load that is served with such power.

As noted in the NRU comment, Bonneville established in the 5(b)9(c) Policy ROD that any reduction in a dedicated resource due to a FERC relicensing order would allow a customer to increase their purchases from Bonneville. In effect, this establishes that any reduction in firm rights from a FERC relicensing order would be netted against the firm non-federal resource amounts dedicated in a customer's contract. The 5(b)9(c) Policy ROD does not contemplate or address how Bonneville would treat an *increase* in firm rights. However, it is reasonable to apply the same logic to this inverse situation. That is, Bonneville believes it is reasonable and consistent with the 5(b)9(c) Policy ROD to determine that any increase in the proportional amount/share of output to a resource a customer has the right to receive, i.e., first right of refusal, particularly from a hydroelectric resource, would be used to serve a utility's load in a similar fashion to historically dedicated resource amounts. It is important for Bonneville to apply section 3(d) of the Preference Act when it comes to hydroelectric resources and to be consistent in this application to avoid this type of issue in the future. Failing to address the increase due to both recall and relicensing would be counter to the treatment of similarly situated 5(b) regional resources serving load.

Based on this determination, Bonneville will not require that Grant's CHWM Policy Attachment A and POC CHWM Contract Exhibit A non-federal resources be applied in the same manner, which may result in different amounts. Rather the CHWM Policy and this ROD will focus on the non-federal resource application for purposes of the CHWM. Bonneville will work with Grant ahead of its POC CHWM Contract offer to determine its Exhibit A non-federal resource amounts. Bonneville changed Section 2.2.3 of the CHWM Policy to acknowledge this.

Finally, Bonneville must consider the remaining amount of relicensed physical rights to the PRP that Grant received after PRP's FERC relicensing in 2008. This "relicensed" amount was not accounted for in either Grant's PRP amounts dedicated during the Subscription contract or the PRP amounts recalled by Grant prior to the start of the RD contract period. This amount was never officially dedicated in any public customer's power service contract with Bonneville.

In order to determine the total relicensed amount that must be considered, Bonneville needs to establish the total firm capability of the physical rights to the PRP. In the draft final CHWM Policy, Bonneville used the 2023 Pacific Northwest Coordination Agreement (PNCA) final regulation amounts. Upon further review, Bonneville determined that it would use the 2009 PNCA final regulation amounts instead.<sup>37</sup> This is consistent with the Regional Dialogue Standards for Resource Declarations, dated September 9, 2008<sup>38</sup> (RD Standards). The RD Standards state that “[a]ll resources above the tailwater of Bonneville Dam must use the critical water year designated by PNCA” and specifies that those resources will use the “2009 PNCA Final Regulation.” RD Standards at 1. Bonneville carried this forward in the Provider of Choice Contract Exhibit A Standards for Resource Declarations, dated June 2, 2025<sup>39</sup> (POC Standards). The POC Standards state, “[f]or PNCA resources, initial population of Exhibit A will use the 2009 Final Regulation.” POC Standards at 2.

Both Wanapum and Priest Rapids, which make up the PRP, are PNCA resources. Therefore, the standard would be applicable to the PRP. The 2009 PNCA final regulation amount for the total firm capability of PRP is 708.5 aMW.

In April 2025, Grant commented<sup>40</sup> on the Draft Provider of Choice Contract Exhibit A Standards for Resource Declarations, dated April 15, 2025<sup>41</sup> (draft POC Standards) that Bonneville should be open to different monthly and diurnal shaping than granted under PNCA. April 2025 Grant comment at 1. The monthly and diurnal shapes of a specified resource are only important to determine a Load Following customer’s net requirement and the contract provides shaping options for such specified resource. Grant has not requested a Load Following contract. Planned products are based on annual average amounts that then may be shaped across the year dependent on product features. Therefore, Bonneville captures the monthly shaping information as reported by PNCA as it does not factor into product determinations for net requirements.

Grant also commented that “the historical outage assumptions in the 2009 PNCA regulation are not likely to be accurate given Grant’s significant investments at PRP since the early 2000s.” *Id.* If Grant were to have a reasonable basis upon which to change the firm amounts captured in its Exhibit A, Grant may engage Bonneville at any time. Bonneville would need to review any relevant information in making a determination to reduce the resource amounts. Bonneville

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<sup>37</sup> The 2023 PNCA final regulation amounts included incremental hydro that should not be considered as part of the relicensing determination. Aligning PNCA vintage as discussed in this issue ensures Bonneville is not including such incremental hydro values.

<sup>38</sup> The RD Standards is available at <https://www.bpa.gov/-/media/Aep/power/regional-dialogue/data-standards-external-09-09-2008.pdf>.

<sup>39</sup> The POC Standards is available at <https://www.bpa.gov/-/media/Aep/power/provider-of-choice/2025-workshops/poc-standards-for-resource-declarations-final.pdf>.

<sup>40</sup> Grant’s April 2025 comment is available at <https://www.bpa.gov/-/media/Aep/power/provider-of-choice/Implementation/20250429-resource-dedication-standards-grant-pud-comments.pdf>.

<sup>41</sup> The draft POC Standards is available at <https://www.bpa.gov/-/media/Aep/power/provider-of-choice/2025-workshops/poc-standards-for-resource-declarations-final.pdf>.

will also need to work with Grant to track the incremental hydro amounts that are a result of the investments Grant is making in the PRP. In the 2023 PNCA Final Regulation amounts, the PRP had a firm output of 773.9 aMW, about 65 aMW higher than the 2009 amount. Bonneville will need to ensure Grant's share of the incremental hydro is being used to serve its firm power load and is not being exported.

Based on the 2009 PNCA final regulation amount for the total firm capability of PRP (708.5 aMW), and accounting for Grant's right to 63.3% of that amount (as discussed above), Grant's total firm physical right to PRP is 448.481 aMW. The "relicensing" PRP amount is 124.682 aMW (Grant's rights of 448.481 aMW less the Subscription, 234.869 aMW, and recalled amounts, 88.930 aMW, described above). Through operation of section 9(c) of the Northwest Power Act Bonneville finds it is reasonable to treat the relicensed amount for CHWM purposes as either a section 5(b)(1)(A) or (B) resource amount since Grant is using that amount of PRP to serve its regional firm power load. That use avoids Bonneville having to reduce or decrement its firm power supply obligation under section 5(b)(1) by any amount of PRP that is exported out of the Pacific Northwest that through reasonable measures could have been conserved or otherwise kept available for Grant's own needs.

During the development of the RD Policy, contracts and implementation, Bonneville addressed the PRP several times to address Bonneville's PRP treatment given that Grant intended to take the relicensed portion of the PRP to serve its own load. In the RD Policy, Bonneville acknowledged that "there are additional amounts of Federal power freed up by Grant taking almost all load off of BPA." RD Policy § II.B.9 at 13. The Clarification on the Use of Customer Resource Amounts for High Water Mark Calculations, dated June 6, 2008 (RD CHWM Resource Clarifications), stated that Bonneville would, for CHWM purposes equate "the energy amounts of Grant's Priest Rapids and Wanapum shares to Grant's forecast total retail loads minus Grant's other non-Federal resources." RD CHWM Resource Clarifications at 3. It further stated that "Grant PUD's Priest Rapids and Wanapum hydro resource shares will be increased by the amount necessary to result in a zero CHWM for Grant PUD, except for the small amount of Grand Coulee load currently served by BPA as Full Requirements Service." *Id.*

Bonneville held a comment period on the RD CHWM Resource Clarifications and Grant did not submit a comment. However, Grant did send the August 2008 Culbertson letter, as noted above, to reinforce Bonneville's understanding of Grant's intention to use the PRP to serve its own load. Because Grant, ultimately, did not pursue an RD CHWM Contract except for the City of Grand Coulee load, Bonneville did not perform the CHWM calculation based on Grant's TRL. If Bonneville had determined a CHWM for Grant, the intended treatment of the PRP, to increase the resource amounts to net out any net requirements load, was clearly established in the RD CHWM Resource Clarifications.

Further, in the August 2008 Culbertson letter to Bonneville, Grant affirmed that it would declare 100% of the output of the PRP to serve its retail load. Grant's representation that it would not request a firm power sales contract during RD (except for its City of Coulee load)

because it would, and it did, use PRP amounts is evidence of Grant’s use of such power to serve its general requirements load. The Long-Term Regional Dialogue Record of Decision, dated July 19, 2007, (RD ROD), RD CHWM Resource Clarifications, and Grant’s 2008 Culbertson letter confirms this treatment.

Therefore, for purposes of determining Grant’s CHWM, Bonneville will consider 111.494 aMW as serving general requirements load, which nets to 104.027 aMW after CEAEA is applied. This, combined with the recalled amounts, would be equal to Grant’s last Subscription purchase of 187 aMW, which would be what Grant applied to load to net out any PF-eligible load, therefore making it ineligible for an RD CHWM. The remaining 13.187 aMW, 12.304 aMW net of CEAEA, will be counted as serving NLSL loads in Attachment A.

*VI. Conclusion*

Bonneville changed Section 2.2.3 of the CHWM Policy as follows: “For a returning utility that did not have a Regional Dialogue CHWM Contract, Bonneville will use the non-federal resource amounts in Attachment A to determine the customer’s POC CHWM.” CHWM Policy § 2.2.3 at 6. Bonneville also changed Attachment A of the CHWM Policy to reflect Grant’s non-federal resource amounts as:

BES	Customer Name	Resource Name	FY 2023 Exhibit A Amount (aMW)	CHWM Calculation Amount (aMW)	Resource Notes
10190	Grant County PUD #2	Priest Rapids Project	N/A	400.836	F, L
10190	Grant County PUD #2	Priest Rapids Project (NLSL)	N/A	0.000	F, H, L
10190	Grant County PUD #2	PEC Headworks	N/A	2.290	
10190	Grant County PUD #2	Quincy Chute	N/A	0.000	C
10190	Grant County PUD #2	Yakama Nation	N/A	0.000	P

CHWM Policy, Attachment A at 20. Bonneville deleted resource notes S and T and changed resource note F to read:

F. The Priest Rapids Project is made up of the Priest Rapids and Wanapum dams. Bonneville determined the Grant’s Priest Rapids Project Attachment A amounts consistent with Section 2.2.3 of the CHWM Implementation Policy. Information on the determination is available in Issue 13 of the CHWM Implementation Policy ROD.

*Id.* at 26.

## Issue 14: Should Bonneville use the RD ROD as justification in resource note S?

### Policy Proposal

The draft final CHWM Policy Attachment A included resource note S that read:

The Priest Rapids Project, which is made up of the Priest Rapids and Wanapum hydropower resources, amount includes: (1) resource amounts dedicated to load under Grant PUD's Subscription contract, (2) the resource amount that was recalled ahead of Regional Dialogue (consistent with Issue 2 starting on page 66 of the Regional Dialogue Policy Record of Decision); and (3) the remaining portion of the relicensed physical rights to the Priest Rapids Project not dedicated to serve NLSLs. This Attachment A amount is subject to change pending final NLSL determinations.

Draft final CHWM Policy, Attachment A at 27 (footnote omitted).

### Public Comments

Grant commented on the draft final CHWM Policy that it was "improper for BPA to rely on REG-059 in any manner that creates a binding commitment here in the POC process." CIP-15-Grant at 2. Grant argued that the comment was a proposal from Grant and in order for it to be bound to uphold that proposal, all elements of the proposal would have had to been adopted. One example is that "a high priority for Grant PUD was its request that 'BPA reserve 25 aMW at the Tier 1 rate to be made available to the Yakama Nation.'" *Id.* at 3. Grant requested that Bonneville not use the comment as a precursor for non-federal resource amount determination in POC. *Id.* at 3.

NRU argued that the RD comment "clearly states that it was Grant PUD's intent to reduce its net requirement to 0 aMW in Regional Dialogue by completely dedicating its portion of Priest Rapids Project to load." CIP-12-NRU at 2.

### Evaluation and Decision

Grant disputed Bonneville's inclusion of a RD ROD issue as it was "improper" to rely on a comment as a binding commitment. CIP-15-Grant at 2. NRU argued that the comment solidified Grant's intent to take the PRP to load. CIP-12-NRU at 2.

Bonneville disagrees with Grant that Bonneville made its Attachment A determination solely based on Grant's comment (REG-059). Rather Bonneville made its determinations based on changes to the RD Policy, as documented through the RD ROD, and subsequent policy implementation decisions that were precipitated by Grant's comment. Grant submitted a comment on the draft RD Policy and Bonneville made a change to the final RD Policy, which stated:

Grant PUD notified BPA in its comment that it will be recalling power from the Priest Rapids and Wanapum dams to serve its own loads in FY 2012. This results in a reduction of resources for several other publics. To calculate the Contract HWM, BPA will adjust the FY 2010 non-Federal resources of Grant and the affected public utilities as proposed by Grant PUD. In addition to what amounts to a redistribution of resources among the affected publics, there are additional amounts of Federal power freed up by Grant taking almost all load off of BPA. This increases the total Contract HWM amount for all other public utilities and helps to enable the earlier-described Contract HWM exception for tribal utilities.

RD Policy § II.B.9 at 13-14.

Bonneville altered the RD Policy based on its understanding that Grant's comment was a commitment to recall the PRP non-federal resource amounts from other customers. In its comment, Grant further committed to recalling and declaring the resources. In the RD CHWM Resource Close-out, Bonneville implemented the RD Policy determination. Bonneville removed the PRP amounts from Cowlitz's, EWEB's, Seattle's, and Tacoma's contracts and reduced those non-federal resource amounts to 0 aMW in the RD CHWM calculation, which resulted in each customer gaining CHWM or access to power priced at a PF Tier 1 rate. The total recalled amount was equal to 88.93 aMW. RD CHWM Resource Close-out at 11. Therefore, while Grant may contest the comment itself as not a binding commitment, the subsequent actions of Grant submitting a follow-up letter and Bonneville granting resource removal and increasing other customers' CHWMs was a policy decision that constituted a transfer of load obligations.

Grant contended that its comment was not a binding determination. However, the comment is not the only time Grant represented to Bonneville its intent to dedicate 100% of the PRP to its retail load. The RD CHWM Resource Close-out cites an August 2008 Culbertson letter from Grant that "affirmed that [Grant] would not request service for its load or establish a CHWM for the main (Block) part of its load . . ." *Id.* at 10. The Culbertson letter states that Grant would declare 100% of its PRP output to serve retail load. These additional representations make it clear that Grant for all intent and purpose planned to, and under RD did, use its share of physical output from PRP to serving its retail loads.

On the issue regarding whether Bonneville met all the proposed provisions in Grant's comment, Bonneville did meet the requests Grant proposed in its comment on the draft RD Policy and Grant did not challenge the RD Policy or RD ROD. Because Bonneville noted above that the REG-059 comment is not the sole basis on which it has made its decision, Bonneville need not articulate here how it met each of the proposed points. However, because Grant raised the instance of providing CHWM for the Yakama Nation, Bonneville will address such point. Bonneville did provide a tribal utility CHWM adjustment under RD that allowed tribal utilities, not just Yakama Power, to access power priced at a PF Tier 1 rate for their load growth. As of the FY 2026-2028 RHWM process, which is the last process for the RD contract period, Yakama

Power has not needed the full 25 aMW that Grant had requested be granted.<sup>42</sup> In fact, the 2024 RHWM Process is the first time Yakama Power has demonstrated a forecast that could result in Above-Rate-Period High Water Mark load, but that load is 0.04 aMW in FY 2027 and 0.068 aMW in FY 2028. Due to the size of those determinations, Yakama Power will purchase that power at the load shaping rate instead of a PF Tier 2 rate.

Bonneville has also determined that a similar commitment for tribal utilities will continue into the POC contract period. Section 2.4.2.3 of the POC Policy describes the tribal utility subsequent CHWM adjustment, which includes more flexibility as requested by Yakama Power on behalf of the Confederated Tribes and Bands of the Yakama Nation (Yakama Nation) during the policy development process. Therefore, Bonneville has committed to the requested outcome made in Grant’s comment although not in the exact terms Grant requested.

Bonneville will require Grant to dedicate the recalled PRP amounts to their PF-eligible load for Attachment A and its POC CHWM Contract Exhibit A.

### Issue 15: Should Bonneville decrease Grant’s PRP non-federal resource dedication to account for its settlement with the Yakama Nation?

#### Policy Proposal

The draft final CHWM Policy did not address Grant’s settlement with the Yakama Nation.

#### Public Comments

Grant commented on the draft final CHWM Policy that it should be able to reduce its Priest Rapids Project by 10 aMW because “[u]nder the terms of the 2007 Settlement between the Yakama Nation and Grant PUD, §B.2.(b)(ii), the Nation currently holds an option to take ‘physical delivery’ of all or a portion of the Yakama Nation’s ‘Priest Rapids Project Power Allocation’ as defined in the Settlement.” CIP-15-Grant at 6. Grant stated that “[i]t would not be prudent for Grant PUD to dedicate this portion” given that “Grant PUD’s access to Tier 1 federal power would not increase due to the exercise of this option.” *Id.*

#### Evaluation and Decision

Grant requested a reduction to the non-federal resource amounts that must be dedicated to load given its 2007 Settlement with the Yakama Nation. *Id.* Bonneville declines to make this reduction.

Bonneville has customers with similar arrangements or settlements and Bonneville has not preemptively reduced their non-federal resource amounts. Instead, Bonneville has documented these arrangements in the customer’s RD CHWM Contract Exhibit A to acknowledge the arrangement exists and that another entity has the right to call on physical power delivery from

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<sup>42</sup> The FY 2026-2028 RHWM Process final outputs are available at <https://www.bpa.gov/-/media/Aep/rates-tariff/rhwm/FY-2026-2028-RHWM-Process-Material/10012024-final-2026-rhwm-outputs.xlsx>.

the identified non-federal resource. Bonneville includes in that documentation that if the party called on the physical delivery, then Bonneville would decrement the customer's Exhibit A non-federal resource amount by the physical delivery amount called upon. Bonneville does not provide for any change to a customer's CHWM as a result of the change in the resource amount. Bonneville will treat Grant's settlement in the same way.

For Grant, Bonneville will document that the Yakama Nation has a right to call on Grant for physical delivery of 10 aMW of power from the PRP. If the Yakama Nation calls on the physical delivery, Grant would notify Bonneville that the Yakama Nation is exercising its right pursuant to the settlement. Bonneville would work with Grant to reduce the non-federal resource amounts in Grant's POC CHWM Contract Exhibit A by the amount of power called on by the Yakama Nation. Bonneville would also work to update any other contract changes that are a result of the change to Grant's net requirements.

At that time, assuming that the Yakama Nation is calling on the physical delivery for load served by Yakama Power and Yakama Power holds a POC CHWM Contract, Bonneville would also work with Yakama Power to document the new non-federal resource amount in Yakama Power's POC CHWM Contract Exhibit A. This is consistent with 6(b) of the 2003 Clarifications included in the 5(b)9(c) Policy, which states:

If a customer sells a resource or its output to a third party that does have a 5(b) power purchase from BPA, the 5(b)9(c) Policy obligations transfer to the third party, and in such case, the selling customer is no longer responsible for the use of the power by the purchaser under the 5(b)9(c) Policy.

5(b)9(c) Policy, Appendix A at 3.

While the 2007 settlement does not constitute a formal sale, it does create the same transfer of obligation from Grant to the Yakama Nation, assuming Yakama Power is the utility receiving the power and has a section 5(b) contract with Bonneville that is in effect. If the Yakama Nation does not take the power for load served by Yakama Power, Bonneville will still allow Grant to reduce its non-federal resource obligations. However, Grant will be responsible, consistent with the 5(b)9(c) Policy, for ensuring that power is not sold out of region in violation of section 9(c). Bonneville will work with Grant at the time of the requested non-federal resource reduction to ensure Grant is aware of all its requirements.

Bonneville declines to reduce Grant's dedicated PRP amounts in Attachment A of the CHWM Policy or its POC CHWM Contract Exhibit A to account for the settlement amount. Bonneville will work with Grant to establish an appropriate provision in Grant's POC CHWM Contract Exhibit A to acknowledge the settlement and in the event that the Yakama Nation calls on the physical output of the project, Bonneville will work with Grant to amend its POC CHWM Contract Exhibit A.

## 5. CHWM-related Issues

This section covers comments submitted that are not directly covered by the CHWM Policy but are related to CHWMs. This includes comments submitted on the CHWM calculation model or implementation of POC CHWM Contract Exhibit B provisions.

### Issue 16: Should Bonneville address data errors in the CHWM calculation model?

#### Policy Proposal

The CHWM Policy did not address the CHWM calculation model.

#### Public Comments

In comments on the draft CHWM Policy, Emerald raised concerns with its data included in the CHWM calculation model published in conjunction with the final POC Policy. CIP-2-Emerald at 1. Emerald requested that “Bonneville review this information for Emerald and make the required corrections.” *Id.* Emerald also requested for “Bonneville to closely review the CHWM calculation inputs for all utilities before considering the full implications of these values in its policies.” *Id.*

In comments on the draft final CHWM Policy, Seattle commented that it “looks forward to working with BPA to finalize the numbers used in the CHWM Calculation Model in the period leading up to the start of power delivery of the Provider of Choice contract.” CIP-13-Seattle at 1. Seattle noted two data elements in the model that needed to be completed: (1) weather normalization on FY 2023 total retail load and (2) self-funded conservation amounts. *Id.*

#### Evaluation and Decision

Emerald raised concerns over the data included in the CHWM calculation model. CIP-2-Emerald at 1. Seattle commented that it looked forward to finalizing the data in the model. CIP-13-Seattle at 1.

Bonneville developed the CHWM calculation model during the policy development phase to illustrate how policy decisions may play out in the FY 2026 CHWM calculation. Bonneville updated the CHWM calculation model as policy elements changed during the policy development phase. Bonneville provided additional updates as appropriate during the policy implementation and contract development phase. The model includes a disclaimer that reads:

None of the data included in this model is considered final numbers that will be used for the FY 2026 CHWM calculation. Please note this model is for illustrative purposes only and CHWMs provided are considered estimates based on best data available at time of publishing. The model does not include the rigorous data scrubbing that will be conducted during the FY 2026 CHWM Calculation process to calculate final CHWMs. Updates to the data in the model are meant to provide

the best available information to support customers during contract development.

CHWM calculation model (“Info” tab, row 8).

The model was first developed in 2022 leveraging only data that had previously been made available publicly. Bonneville updated the model over time as data sources for the actual FY 2026 CHWM calculation were identified and made available publicly. An updated version of the model published in October 2024 included references to when and where those data inputs to the model not yet finalized would be reviewed ahead of the FY 2026 CHWM calculation. Bonneville updated the model in March 2025 to reflect the draft final CHWM Policy Attachment A non-federal resource amounts and updated Northwest Energy Efficiency Alliance (NEEA) savings.

Emerald requested that Bonneville address the TRL data in the October 2024 version of the model. CIP-2-Emerald. Seattle also noted the TRL data was not yet final. CIP-13-Seattle at 1. Bonneville informed customers of where data would be reviewed and finalized in the CHWM letter.

Consistent with the CHWM letter, Bonneville addressed TRL data during the weather normalization process, which kicked off March 10, 2025. Customers had an opportunity to review their initial load data in March 2025 prior to the weather normalization regression analysis. Customers then had a second opportunity to review their data starting June 16, 2025, after the weather normalization regression was complete, including a review of more granular FY 2023 data. Customers could comment on both their individual data and Bonneville’s approach to weather normalization during that June 2025 review. Bonneville expects to complete the weather normalization process by the end of August 2025 and will publish an updated model this fall reflecting the weather normalization results.

Seattle also commented that self-funded conservation savings data was not yet complete. CIP-13-Seattle at 1. Bonneville will update the self-funded conservation savings to reflect the savings reported and approved by Bonneville for FY 2022 and FY 2023 after December 2022, which was the last point in time self-funded savings were updated for the CHWM model. Customers will have until the final reporting date in late September 2025 to submit their data, as was described in the CHWM letter. Bonneville will ensure updated self-funded conservation savings are incorporated into the draft CHWMs published as part of the FY 2026 CHWM Calculation Process.

[Issue 17: Should Bonneville clarify whether its non-federal resource determination for Grant reflects a revision to Section 2.4.1.9 of the POC Policy?](#)

### **Policy Proposal**

The POC Policy and CHWM Policy did not contemplate re-opening Section 2.4.1.9 of the POC Policy.

### **Public Comments**

In Grant's comments on the draft final CHWM Policy, Grant commented that Bonneville should not have made "assumptions regarding dedicated amounts of Grant PUD's PRP in the absence of an RD contract . . ." CIP-15-Grant at 2. Grant contended that Bonneville had "arbitrarily reversed course on many of its stated POC Policy positions and ROD a year later without a reasoned analysis for doing so." *Id.* at 1.

### **Evaluation and Decision**

Grant argued that by looking at historical data to make its determination on Grant's non-federal resource dedication, Bonneville "reversed course" on the POC Policy. Section 2.4.1.9 of the POC Policy stated:

Bonneville does not believe it is prudent to recalculate what Grant's CHWM could have been under Regional Dialogue as it would require reconstructing a set of assumptions from over a decade ago and would ignore the relationship between Grant and other customer CHWMs.

POC Policy § 2.4.1.9 at 23. Grant argued that recreating Grant's net requirements in FY 2010 violates the policy decision to not reconstruct a set of assumptions. Grant also noted a number of possible past scenarios that Bonneville would need to consider if it back cast. CIP-15-Grant at 2.

Bonneville disagrees with Grant's assertion that Bonneville has "arbitrarily reversed course" on the POC Policy. The POC Policy stated that Bonneville would not reconstruct a RD CHWM for Grant; the POC Policy did not discuss non-federal resource amounts that would be used for Grant in the FY 2026 CHWM calculation. Bonneville elected to choose a proxy value for Grant's base allowance in lieu of recreating a RD CHWM for two reasons. First, had Bonneville not used a proxy, Grant's default base allowance would have been set at the 2024 RHWM for Grant's Grand Coulee load, 5.192 aMW, as that was the only CHWM Grant had during RD. However, during the policy development phase, Bonneville agreed with Grant's comments that a returning utility should not be limited to its existing RHWM for a POC CHWM.

Second, it would have been onerous and inappropriate to re-create the RD CHWM determination for Grant because, due to the interconnected nature of customers' determinations, Bonneville would have to re-create every customer's determination. The TRM outlined the RD CHWM determination process. One step of the RD CHWM calculation was to determine the maximum aggregate amount, in aMW, that CHWMs could be set at. Section 4.1.3.4 of the TRM allowed that each customer's CHWM may be proportionally scaled by each customer's CHWM based on any augmentation limits and those limits were outlined in Section

3.2.1. of the TRM. TRM, BP-12-A-03, § 4.1.3.4 at 40. This is similar to the limitations set under Section 2.4.1.8 of the POC Policy.

The sum of all customers' eligible load was less than the T1SFCO at the time, so all CHWMs were scaled up to provide headroom. If Bonneville had elected to recreate a RD CHWM for Grant, it would have necessitated recalculating all customer CHWMs to correctly account for the augmentation limits and scaling. Bonneville chose not to recreate Grant's RD CHWM for purposes of determining a base allowance due to the complexity of that approach and instead used Grant's last Subscription block purchase amount as its base allowance. As Bonneville did not address Grant's non-federal resource determination or a proxy amount for its non-federal resources in the POC Policy, it is appropriate to address in the CHWM Policy.

Bonneville did not revise or amend Section 2.4.1.9 of the POC Policy.

[Issue 18: Should Bonneville reconsider what Grant, as a returning utility, may claim under the conservation adjustment?](#)

### **Policy Proposal**

Section 2.4.1.9 of the POC Policy stated:

Bonneville will restrict Grant when applying two of the CHWM calculation adjustments—the conservation adjustment and the new specified resource adjustment. The only self-funded conservation that will qualify for an adjustment for Grant are self-funded measures for the load Bonneville served during Regional Dialogue that was reported to Bonneville. Grant's other conservation will not qualify because the rationale for the conservation adjustment is to recognize achievements that helped Bonneville reduce its obligation and meet its total conservation targets; any conservation achieved by Grant for its broader load did not reduce Bonneville's obligation. For this reason, Bonneville will not include any NEEA savings Grant may have acquired during the Regional Dialogue contract period in the conservation adjustment.

POC Policy § 2.4.1.9 at 23.

### **Public Comments**

In support of Grant's draft final CHWM Policy comments for different Priest Rapids Project non-federal resource amounts as discussed in Issue 13, Grant commented that Bonneville made modifications to Grant's CHWM inputs already and should not further modify the CHWM inputs. CIP-15-Grant at 6. Grant stated, "BPA should not include assumptions on certain aspects related to Grant PUD's [CHWM], such as 'new' PRP dedications, and ignore Grant PUD's actual conservation investments or make similar assumptions about additional conservation that might have occurred had Grant PUD had a full net requirements RD contract." *Id.* Grant further highlighted that it had participated in and funded the Northwest Energy Efficiency Alliance

during the RD contract period. *Id.* at 7. Grant also claimed that making any changes to the POC Policy “undermines the integrity of this entire POC process, as well as [Public Power Council’s] vote and support.” *Id.* at 6.

### **Evaluation and Decision**

Grant argued that Bonneville made determinations in the POC Policy regarding Grant’s treatment as a returning utility that were disadvantageous to Grant, such as limitations on the CHWM conservation adjustment, that Grant only accepted based on the policy package. *Id.* Grant contended that Bonneville may need to reconsider those exceptions considering its determination on non-federal resources. *Id.*

The exceptions made for Grant in the POC Policy are based on the fact that Grant did not hold a RD CHWM Contract for the bulk of its total retail load. Several adjustments in the POC CHWM calculation are directly tied to RD policy incentives for customers to reduce the Administrator’s obligations through individual actions. Issue 56 of the POC Policy ROD discusses why the conservation adjustment was crafted to limit the amount of self-funded savings that qualify:

Bonneville’s conservation program is intended primarily to acquire resources that enable reliable, economic load service. Bonneville acknowledges that many of its customers pursue activities within their service territories independent of Bonneville’s conservation program. However, since Bonneville relies on the conservation resource it acquires to meet its load obligations, it is imperative that Bonneville can verify the reliability of the resource when it is acquired and evaluate its performance over time. Conservation not reported to Bonneville cannot be reviewed, its contribution to Bonneville’s resource needs cannot be assessed, and its performance over time cannot be evaluated.

POC Policy ROD § 3.4.1 at 125.

Grant, as the utility itself noted, only held a RD CHWM Contract for its City of Grand Coulee load. Grant did invest in self-funded conservation savings in the Grand Coulee area and Bonneville noted in the POC Policy that it would be able to claim those savings that had been reviewed and approved by Bonneville in the FY 2026 CHWM calculation. However, self-funded conservation completed outside of the Grand Coulee area was never reported to Bonneville nor did that conservation reduce the Administrator’s obligations as Grant did not hold a RD CHWM Contract for the associated load. Therefore, Grant’s situation does not align with the policy rationale for offering the conservation adjustment.

Grant also objected to any changes to what it perceived to be a deal that had been agreed to by public power. CIP-15-Grant at 6. While Bonneville conducts open, collaborative public processes to inform the development of its policies, Bonneville remains solely responsible for determining final policy statements. For the POC Policy, Bonneville solicited input and formal comments on its draft POC Policy, including the specific exceptions to CHWM determination for Grant as a

returning utility. Commenters, across public power, supported the approach, as outlined in the draft POC Policy, which included the exceptions to the CHWM calculation and did not cover non-federal resource determinations for a returning utility. Therefore, Bonneville made the decision to retain the draft POC Policy language in its final version.

Bonneville did not revise or amend Section 2.4.2.9 of the POC Policy.

### [Issue 19: Should Bonneville require Grant to provide net requirements transparency data for the RD contract period?](#)

#### **Policy Proposal**

Section 2.4.1.9 of the POC Policy stated:

Grant will be subject to the same data requirements and transparent processes that all other Bonneville customers will be subject to in determining its net requirements load, including determining NLSLs, and CHWM. Bonneville will not pursue any special data provisions or unique process based on Grant’s status as a returning public utility.

POC Policy § 2.4.1.9 at 24.

#### **Public Comments**

NRU commented on the draft final CHWM Policy that Grant’s net requirement data for the RD contract period should be made available to all customers. CIP-12-NRU at 2. NRU argued that “[a]ll other customers with CHWM Contracts during Regional Dialogue have had their actual loads, load forecasts, and dedicated resources shared on BPA’s website over the years as part of the Net Requirements Transparency Process, RHWM Process, and rate case proceedings.” *Id.* at 2-3.

#### **Evaluation and Decision**

NRU argued that Grant should be required to make their net requirements information available to all customers for the RD contract period. *Id.* at 2. Bonneville will not require Grant to do so.

The data that NRU points to is data that Bonneville required customers make available pursuant to their RD CHWM Contracts. Grant made that data available for its Grand Coulee load, as was required under its contract. Grant was not subject to those reporting requirements for the remaining load it served and was under no obligation to provide such information to Bonneville.

If it signs a POC CHWM Contract, Grant will be subject to the same data reporting requirements as all other customers with a POC CHWM Contract. These requirements include providing Bonneville with sufficient historical data for it to establish a load forecast and determine NLSLs.

Bonneville does not intend to make that information publicly available consistent with its POC Policy stance that Grant would be subject to no more and no less scrutiny than any other customer.

Bonneville will not publish Grant's RD contract period net requirement data except for the Grand Coulee load data it already makes available.

[Issue 20: Should Bonneville clarify why it may reduce a customer's PF-eligible load in the FY 2026 CHWM calculation or the resulting CHWM due to an NLSL determination?](#)

### **Policy Proposal**

Bonneville did not address whether it would reduce a customer's PF-eligible load in the FY 2026 CHWM calculation or the resulting CHWM due to a new NLSL determination in the CHWM Policy or POC Policy.

### **Public Comments**

Grant commented on the draft final CHWM Policy that "the 'first 10 aMW' of power consumed by an NLSL remains eligible for Priority Firm (PF) service even if and when the load grows beyond 10 aMW in a 12-month period." CIP-15-Grant at 5. Grant stated that it "expects to work with BPA to ensure that BPA's calculation of PF-eligible load during FY23 includes the correct amount of power delivered to those NLSLs that crossed the 10 aMW threshold both prior to FY23 and during FY23-24." *Id.*

### **Evaluation and Decision**

Grant claimed that Bonneville's NLSL Policy guarantees that the first 10 aMW a load that is determined to be an NLSL is eligible to be served at power purchased at a section 7(b), or PF, rate. *Id.* This is an incorrect interpretation of the NLSL Policy.

The NLSL Policy does not guarantee that the first 10 aMW of an NLSL is eligible for power priced at a PF rate. The NLSL Policy states the following regarding "phased-in load":

A load can be served with power purchased by a preference customer at the 7(b) rate if the increase in load in any consecutive 12-month period does not reach 10 aMW as compared to the previous 12-month period. Any increase of 10 aMW or more occurring in any consecutive 12-month period causes the load to become a NLSL; the increase and any future increases are to be served at the 7(f) rate.

NLSL Policy at 1. If a customer serves a load that grows more than 10 aMW within a 12-month period, then such load is determined to be an NLSL, not just the portion over 10 aMW. Through notification provisions in its power sales contract, Bonneville works with the customer during

the NLSL determination process to evaluate the appropriate monitoring period and to ensure any qualifying “phased-in load” is documented to ensure it remains accounted for as PF-eligible. As Bonneville completes its determination of Grant’s NLSLs that tripped in FY 2024, Bonneville will need to evaluate whether any portion of the load qualifies as “phased-in load.” Bonneville would ensure that “phased-in load” remains accounted for as PF-eligible. Any portion of the load that is determined to be an NLSL would reduce a customer’s PF-eligible load in the FY 2026 CHWM calculation.

Furthermore, Bonneville has retained the right to reduce a customer’s CHWM in the future if it determines that a load that was included in the FY 2026 CHWM calculation, or a subsequent CHWM adjustment, qualified as an NLSL at the time of calculation or adjustment. Exhibit B Section 1.2.1, titled “Corrections for NLSLs,” of the Master Template reads:

If after BPA establishes «Customer Name»’s CHWM pursuant to section 7 of the body of this Agreement, BPA determines that a load included in «Customer Name»’s Total Retail Load in the CHWM calculation was an NLSL or became an NLSL in FY 2023, then BPA shall adjust «Customer Name»’s CHWM by removing the FY 2023 load associated with the NLSL from «Customer Name»’s weather normalized Total Retail Load.

Master Template, Exhibit B § 1.2.1 at 165.

As Bonneville reserves the right to reduce a customer’s CHWM at a future date in the POC CHWM Contract, Bonneville will make those adjustments ahead of the FY 2026 CHWM calculation if it identifies an NLSL.

## 6. Environmental Analysis

Consistent with the National Environmental Policy Act (NEPA), 42 U.S.C. § 4321, *et seq.*, Bonneville has assessed the potential environmental effects that could result from implementing the proposed CHWM Policy.

A decision to adopt the CHWM Policy would be primarily administrative, strategic, and financial in nature. This CHWM Policy would build on the POC Policy, which addressed Bonneville’s power marketing policy for the POC contract period. The POC Policy “[laid] the foundation for Bonneville’s potential future formation of sales contracts providing for the long-term supply of electric power through standardized products and services and transparent processes” and “describe[d] the underlying principles that would guide” any such process. POC Policy § 12 at 50. Because the POC Policy did not require Bonneville to take any action that would have a potential effect on the environment, Bonneville determined that further NEPA analysis “would be conducted and documented prior to making any final agency decisions about entering into potential Provider of Choice contracts.” *Id.*

The CHWM Policy would provide details for implementation of the POC Policy's guiding principles and for CHWM calculations. This would include establishing CHWMs for individual customers in a one-time FY 2026 CHWM calculation and the implementation of subsequent CHWM adjustment categories where Bonneville determined that certain conditions merited an increase to the amount of power a customer can purchase at a PF Tier 1 rate, as well as establishment of a new customer's CHWM, after the one-time FY 2026 calculation. Bonneville is also considering (in a separate ROD) approval of POC CHWM Contracts for long-term power sales contracts for power delivery from FY 2028 through FY 2044. If Bonneville adopts the CHWM Policy described above, such policy will directly inform implementation of the POC CHWM Contracts. Accordingly, consistent with its determination in the POC Policy that further NEPA analysis "would be conducted and documented prior to making any final agency decisions about entering into potential Provider of Choice contracts," Bonneville has also conducted a NEPA analysis of the CHWM Policy. *Id.*

Bonneville’s implementation of the proposed CHWM Policy would only guide calculation of CHWMs and outline the Above-CHWM load process in support of the POC CHWM contracts. Neither the CHWM Policy nor POC CHWM contracts involve any new facility construction, changes in existing generator operations, or physical changes beyond previously disturbed or developed facility areas. Accordingly, Bonneville has determined that the proposed CHWM Policy falls within a class of actions excluded from further NEPA review pursuant to U.S. Department of Energy NEPA regulations, which are applicable to Bonneville. More specifically, this proposal falls within Categorical Exclusions B4.1 and B4.4, found at Appendix B to 10 C.F.R. § 1021 – as revised by the U.S. Department of Energy’s July 3, 2025 Interim Final Rule published at 90 Fed. Reg 29,676 – Bonneville has prepared a categorical exclusion determination memorandum that documents this categorical exclusion from further NEPA review.<sup>43</sup>

## 7. Conclusion

The above comments expressed issues and concerns that are important to address. Each of the individual customer’s CHWM establishes an important metric for the application of Bonneville’s tiered rate construct for the firm power sold at a PF rate by Bonneville over the POC contract period. Bonneville has taken the time to understand and analyze the issues and concerns raised by customers. Bonneville understands how customers that purchase their long-term power supplies from Bonneville seek an adequate and reliable supply of power. Bonneville believes the POC contract will meet that need.

Issued in Portland, Oregon, this 14th day of August, 2025.

A handwritten signature in blue ink that reads "John L. Hairston". The signature is fluid and cursive, with a large loop at the end of the last name.

**John L. Hairston**  
Administrator and Chief Executive Officer

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<sup>43</sup> The categorical exclusion determination memorandum is available at <https://www.bpa.gov/learn-and-participate/public-involvement-decisions/categorical-exclusions>.

## Appendix A: Abbreviations/Acronyms

Abbreviation/Acronym	Definition
2013 Bond Declaration	2013 Priest Rapids Hydroelectric Project Revenue Bond Declaration
2024 Official Statement	2024 Official Statement for Revenue Refunding Bonds
5(b)9(c) Policy	Revised Policy on Determining Net Requirements of Pacific Northwest Utility Customers Under Sections 5(b)(1) and 9(c) of the Northwest Power Act, dated March 19, 2009
5(b)9(c) ROD	Policy on Determining Net Requirements of Pacific Northwest Utility Customers Under Sections 5(b)(1) and 9(c) of the Northwest Power Act Record of Decision, dated May 2000
Above-CHWM	Above-Contract High Water Mark
aMW	average megawatt
August POC letter	August 27, 2024, letter from Kim Thompson, vice president of Northwest Requirements Marketing
Bonneville	Bonneville Power Administration
CEAEA	Canadian Entitlement Allocation Extension Agreement
CHWM	Contract High Water Mark
CHWM letter	December 17, 2024, letter from Kim Thompson, vice president of Northwest Requirements Marketing
CHWM Policy	Contract High Water Mark Implementation Policy, August 2025
Cowlitz	Public Utility District No. 1 of Cowlitz County
draft CHWM Policy	Draft Contract High Water Mark Implementation Policy, October 24, 2024
draft final CHWM Policy	Draft Final Contract High Water Mark Implementation Policy, March 4, 2025
draft POC Standards	Draft Provider of Choice Contract Exhibit A Standards for Resource Declarations, dated April 15, 2025
Emerald	Emerald People's Utility District
EWEB	Eugene Water & Electric Board
Flathead	Flathead Electric Cooperative
FERC	Federal Energy Regulatory Commission
FY	fiscal year
Grant	Public Utility District No. 2 of Grant County, Washington
Gilchrist	Gilchrist Forest Products
Mason 3	Mason Public Utility District 3
Master Template	Provider of Choice Master Contract Template, dated June 18, 2025
Midstate	Midstate Electric Cooperative
NEEA	Northwest Energy Efficiency Alliance
NEPA	National Environmental Policy Act

Abbreviation/Acronym	Definition
NLSL	New Large Single Load
NLSL Policy	New Large Single Load Policy, April 2001
Northwest Power Act	Pacific Northwest Electric Power Planning and Conservation Act
NRU	Northwest Requirements Utilities
P10	10 <sup>th</sup> percentiles
Pend Oreille	Pend Oreille County Public Utility District
PF	Priority Firm
PNCA	Pacific Northwest Coordination Agreement
PNGC	Pacific Northwest Generating Cooperative
POC	Provider of Choice
POC CHWM Contract	Provider of Choice Contract High Water Mark Contract
POC Policy	Provider of Choice Policy, March 2024
POC Policy ROD	Provider of Choice Policy Record of Decision, dated March 21, 2024
POC Standards	Provider of Choice Contract Exhibit A Standards for Resource Declarations, dated June 2, 2025
Ponderay Newsprint	Ponderay Newsprint Company – Fibermill
PRDM	2029 Public Rate Design Methodology
Preference Act	Pacific Northwest Consumer Power Preference, dated August 31, 1964
PRP	Priest Rapids Project
RD	Regional Dialogue
RD CHWM Contract	Regional Dialogue Contract High Water Mark Contract
RD CHWM Resource Clarifications	Clarification on the Use of Customer Resource Amounts for High Water Mark Calculations, dated June 6, 2008
RD CHWM Resource Close-out	Close-Out Summary: Clarification on the Use of Customer Resource Amounts for High Water Mark Calculations, dated September 17, 2008
RD Policy	Long-term Regional Dialogue Policy, July 19, 2007
RD ROD	Long-Term Regional Dialogue Record of Decision, July 19, 2007
RD Standards	Regional Dialogue Standards for Resource Declarations, dated September 9, 2008
RHWM	Rate Period High Water Mark
ROD	record of decision
Seattle	Seattle City Light
Snohomish	Public Utility District No. 1 of Snohomish County
T1SFCO	Tier 1 System Firm Critical Output
Tacoma	Tacoma Power
TRL	total retail load
TRM	Tiered Rate Methodology
Yakama Nation	Confederated Tribes and Bands of the Yakama Nation

## Appendix B: List of Comments

CHWM Policy Assigned ROD Comment Reference	Bonneville Public Involvement Assigned Comment Number	Affiliation	Commenter
CIP-1-Midstate	CHWM24240001	Midstate Electric Cooperative	Jami Steinhaur
CIP-2-Emerald	CHWM24240002	Emerald People’s Utility District	Rob Currier
CIP-3-NRU	CHWM24240003	Northwest Requirements Utilities	Emily Traetow
CIP-4-Seattle	CHWM24240004	Seattle City Light	Alan Bach
CIP-5-Snohomish	CHWM24240005	Public Utility District No. 1 of Snohomish County	Marie Morrison
CIP-6-Pend-Oreille	N/A*	Pend Oreille County Public Utility District	John Janney
CIP-7-Flathead	CHWM25250001	Flathead Electric Cooperative	Doug Gilmore
CIP-8-Martinez	CHWM25250002	Individual	Priscilla Martinez
CIP-9-Snohomish	CHWM25250003	Public Utility District No. 1 of Snohomish County	Marie Morrison
CIP-10-PNGC	CHWM25250004	Pacific Northwest Generating Cooperative	Chris Allen
CIP-11-Pend-Oreille	CHWM25250005	Pend Oreille County Public Utility District	Ben Hall
CIP-12-NRU	CHWM25250006	Northwest Requirements Utilities	Emily Traetow
CIP-13-Seattle	CHWM25250008	Seattle City Light	Alan Bach
CIP-14-Mason3	CHWM25250009	Mason Public Utility District 3	Michele Patterson
CIP-15-Grant	CHWM25250010	Public Utility District No. 2 of Grant County	John Mertlich

\*Pend Oreille submitted their comment for the October 31, 2024, deadline to request a change for Provider of Choice CHWM Contract Exhibit A non-federal resource amounts. A portion of the comment should have been submitted for the CHWM Policy comment period ending November 13, 2024.

## Appendix C: ROD Revision History

Bonneville identified an error in Issue 13 of the ROD published August 14, 2025. Grant’s physical right to the output of PRP is 63.3%, not 63.5%. This difference in percentage is not material, as it does not change the CHWM Policy’s reasoning and does not change the non-federal resource amounts listed in Attachment A to be used in the FY 2026 CHWM Calculation Process. This ROD has a revised Issue 13 with the correct 63.3% and an explanation of how that percentage derives from Grant’s 2008 FERC relicensing. The original Issue 13 is provided below with redlines indicating the areas that have changed and is provided for reference only.

### Issue 13: How should Bonneville account for Grant’s non-federal resource amounts for determining its POC contract period net requirements and its PF-eligible load<sup>23</sup> in the FY 2026 CHWM calculation?

#### Policy Proposal

Section 2.2.3 of the draft CHWM Policy and draft final CHWM Policy stated, “[f]or a returning utility that did not have a Regional Dialogue CHWM Contract, the customer’s POC CHWM Contract Exhibit A values will reflect the information about the customer’s resources.” Draft CHWM Policy at 5-6; draft final CHWM Policy at 6. The non-federal resource amounts for Grant in Attachment A of the draft CHWM Policy read:

BES	Customer Name	Resource Name	FY 2023 Exhibit A Amount (aMW)	CHWM Calculation Amount (aMW)	Resource Notes
10190	Grant County PUD #2	Priest Rapids	TBD	TBD	F, L
10190	Grant County PUD #2	Wanapum	TBD	TBD	F, L
10190	Grant County PUD #2	PEC Headworks	TBD	TBD	F
10190	Grant County PUD #2	Quincy Chute	TBD	TBD	F
10190	Grant County PUD #2	Yakama Nation	0.000	0.000	P

Draft CHWM Policy, Attachment A at 20.

Between the draft CHWM Policy and the draft final CHWM Policy, Bonneville made its preliminary determination of the amounts of Grant’s non-federal resources that would be reflected in Attachment A. In January and February policy implementation and contract development phase workshops, Bonneville received requests to make those determinations

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<sup>23</sup> The POC Policy defined PF-eligible load as: “Total Retail Load – New Large Single Loads – Dedicated Resources.” POC Policy § 2.4.1.2 at 16.

public ahead of the final CHWM Policy expected to be published in August 2025. The draft final CHWM Policy Attachment A non-federal resource amounts for Grant read:

BES	Customer Name	Resource Name	FY 2023 Exhibit A Amount (aMW)	CHWM Calculation Amount (aMW)	Resource Notes
10190	Grant County PUD #2	Priest Rapids Project	300.730	300.730	F, L, S
10190	Grant County PUD #2	Priest Rapids Project (NLSL)	153.648	0.000	F, H, L, T
10190	Grant County PUD #2	PEC Headworks	2.910	2.910	C, F
10190	Grant County PUD #2	Quincy Chute	3.390	3.390	C, F
10190	Grant County PUD #2	Yakama Nation	0.000	0.000	P

Draft final CHWM Policy, Attachment A at 20. The draft final CHWM Policy also included two new resource notes:

S. The Priest Rapids Project, which is made up of the Priest Rapids and Wanapum hydropower resources, amount includes: (1) resource amounts dedicated to load under Grant PUD’s Subscription contract, (2) the resource amount that was recalled ahead of Regional Dialogue (consistent with Issue 2 starting on page 66 of the Regional Dialogue Policy Record of Decision); and (3) the remaining portion of the relicensed physical rights to the Priest Rapids Project not dedicated to serve NLSLs. This Attachment A amount is subject to change pending final NLSL determinations.

T. The Priest Rapids Project (NLSL) amount includes a portion of Grant PUD’s relicensed physical rights to the Priest Rapids Project not dedicated to serve Grant PUD’s general requirements load based on FY 2010 NLSLs. This Attachment A amount is subject to change pending final NLSL determinations.

*Id.* at 27 (footnote omitted).

**Public Comments**

Grant commented that it did not agree with the non-federal resource amounts Bonneville proposed in the draft final CHWM Policy’s Attachment A, which would also be used in Grant’s POC CHWM Contract Exhibit A. CIP-15-Grant at 2. Grant argued because it did not have a RD CHWM Contract, except for Load Following service to its Grand Coulee load, Bonneville has made speculative assumptions regarding the dedication of Grant’s Priest Rapids Resource (PRP) and “[t]hese assumptions violate BPA’s 2024 POC Policy and BPA’s 2000 ‘5(b)/9(c) Policy’ (as adopted in 2011 and including clarifications in 2003).” *Id.*

Grant stated that Bonneville should “use Grant PUD’s actual, documented dedication of monthly amounts of [Priest Rapids Project (PRP)] identical to those identified in Exhibit C of Grant’s Subscription contract, as formally amended.” *Id* at 5. NRU also did not agree with the non-federal resource amounts but for a different reason. NRU stated its understanding is that Grant “agreed to declare 100 percent of its Priest Rapids Project to load . . .” CIP-12-NRU at 2. NRU argued the declaration should be interpreted that all of the PRP should have served general requirements<sup>24</sup> load growth. *Id*.

Grant argued that it should not be required to dedicate any portion of the PRP to its NLSLs. Grant commented that “Grant PUD did not dedicate, nor was it required to dedicate any specific amounts of PRP (or any other non-federal resource) during the Subscription contract to match or track Grant PUD’s NLSLs under the pre-RD contract.” CIP-15-Grant at 3. In contrast, NRU argued that “[a]llowing Grant PUD to siphon a portion of PRP to its NLSL in Provider of Choice effectively ignores the general requirements load growth that Grant PUD experienced since 2012 and, perhaps more importantly, the language and intent of the Regional Dialogue Policy Record of Decision (ROD).”<sup>25</sup> CIP-12-NRU at 2.

Grant and NRU also raised several issues regarding Bonneville’s 5(b)9(c) Policy.

Grant believed that “offering to sell specific amounts of PF-eligible power (i.e., CHWM) at the Tier 1 rate based on hypothetical data violates BPA’s ‘Revised Policy on Determining Net Requirements’ (issued on May 23, 2000, clarified in March 2003, revised in March 2009, and effective in October 2011, aka the 5(b)/9(c) Policy).” CIP-15-Grant at 4. Grant argued that under its Subscription contract a portion of the PRP had been “undeclared” and pointed to the 5(b)9(c) Policy Clarification #3 that states a “customer may or may not apply such resource to its load under the next contract.” *Id*. It further cited Clarification #7 to support its position that “Grant PUD’s declaration (dedication) of part of PRP to load under its Subscription contract could not force the remaining part of PRP to be dedicated to any load under any contract.” *Id*. Grant commented that Bonneville cannot require Grant to dedicate additional amounts of PRP nor should it reduce Grant’s right to PF-eligible load. *Id*.

NRU commented it was concerned about the precedent being set regarding FERC relicensing and 5(b)9(c) Policy resource dedication. NRU stated, “this is the first instance that we are aware of where the relicensing of a resource resulted in a change in that resource’s dedication.” CIP-12-NRU at 2. NRU challenged that Grant should not be able to change its resource declaration, to use even a portion of the PRP to serve NLSLs, as a result. *Id*.

## **Evaluation and Decision**

### *I. Background*

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<sup>24</sup> General requirements is defined in the Northwest Power Act, section 7(b)(3), and means firm power purchased from Bonneville for service to load, exclusive of any NLSL. 16 U.S.C. § 839e(b)(4).

<sup>25</sup> NRU references Section II.H Issue 2 of the Long-Term Regional Dialogue ROD. CIP-12-NRU at 2.

Section 5(b) of the Northwest Power Act requires Bonneville to take into account a customer's section 5(b)(1) resources available to serve their load.<sup>26</sup> Bonneville must do so for several reasons. One reason a customer's resource amount is important is to determine the customer's net requirement – this is the amount of firm requirements power Bonneville is obligated to provide a customer to serve its regional firm power load. As part of this determination, Bonneville must consider all hydropower resources owned or purchased by a customer available to serve its TRL when determining the amount of firm power a customer can purchase from Bonneville. This determination is made pursuant to section 3(d) of the Preference Act and section 9(c) of the Northwest Power Act. Bonneville is obligated under section 3(d) of the Preference Act to consider a customer's regional hydropower resource available to serve the customer's regional load – its TRL – calculating that customer's entitlement to firm power – its net requirement

Another reason a customer's resource amount is important is to determine their CHWM for the purpose of applying tiered rates. Whether a customer's non-federal resource is used to serve a customer's general requirements load or an NLSL affects the customer's CHWM—the amount of power the customer can purchase at a PF Tier 1 rate. For purposes of the POC CHWM Contracts, the larger the amount of PRP Bonneville considers as serving Grant's general requirements, or PF-eligible load, the smaller Grant's CHWM will be and its eligibility to purchase firm power at the PF Tier 1 rate. Any power needed by Grant above its CHWM if supplied by Bonneville will be subject to an applicable PF Tier 2 rate.

At issue here is how Bonneville should determine Grant's non-federal resource amounts. Grant has a large hydropower resource known as PRP. Three factual developments have occurred which impact how Bonneville accounts for the size of the PRP in calculating Grant's non-federal resource amounts. The first factual consideration is the way in which Grant treated PRP in its Subscription contract with Bonneville. The second factual consideration is that Grant sold to and then recalled a portion of PRP from other Bonneville contract holders in 2008. The third factual consideration is that FERC relicensed the PRP facility in 2008, increasing Grant's physical rights to the output of the facility ~~from 36.5% to 63.5%.~~ Bonneville will discuss each of these factual situations below, analyzing and explaining how they have impacted Bonneville's determination of Grant's PRP resource amount and how Bonneville is using that determination in different contexts.

## *II. Parties' arguments and Issues*

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<sup>26</sup> Section 5(b) of the Northwest Power Act requires that "[w]hen requested, the Administrator shall offer to sell to each requesting public body and cooperative . . . electric power to meet the firm power load of such public body, cooperative or investor-owned utility in the Region to the extent that such firm power load exceeds the capability of such entity's firm peaking and energy resources used in the year prior to December 5, 1980, to serve its firm load in the region, and such other resources as such entity determines, pursuant to contracts under this chapter, will be used to serve its firm load in the region." 16 U.S.C. § 839c(b)(1).

Grant and NRU commented that the non-federal resource amounts included in Attachment A should be adjusted. Grant argued that the non-federal resource amounts were too high and that they should be set to Subscription contract amounts, while NRU argued the entire PRP should be dedicated to serving Grant's general requirements load. Bonneville recognizes this is a significant matter given the large size of Grant's hydroelectric resources.

Grant is in a unique position compared to other customers due to its contractual history with Bonneville and its ownership of pre-1980 hydroelectric resources. The PRP is made up of Priest Rapids and Wanapum dams that started generating electricity in 1959 and 1963 respectively. Under its initial FERC license, Grant had the physical rights to about 36.5% of the PRP. *Pub. Util. Dist. No. 2 of Grant County, Wash.*, 14 F.P.C. 1067 (1955) (granting a 50-year license); *Pub. Util. Dist. No. 2 of Grant County, Wash.*, 123 FERC ¶ 61,049 at P 132 (2008) (License Order). Grant used a portion of its PRP to serve its own load prior to the Northwest Power Act's initial long-term section 5(b) power sales contracts that went into effect in 1981. Under the original FERC license, Grant was required to sell a reasonable portion of the output of PRP in 50-year contracts. *Id.*

Grant dedicated its share of the PRP output to load under the 1981 and Subscription contracts. Grant's Subscription contract was in effect from 2000 through 2011. Under the Subscription contract, that amount was 234.869 aMW. Grant's last purchase obligation under Subscription was for 187 aMW of block and a load following purchase for its City of Grand Coulee load.

In 2008, FERC issued Grant a new 44-year license for the PRP ~~that included an increase in its share of the total output from the project, including the amounts of power it was selling to other Bonneville firm power customers.~~ License Order at P 187. FERC explained that under Grant's physical rights of the original license, Grant had the right to 36.5% of PRP increased to for its own use and sold the remaining 63.5% to other utilities. *Id.* at PPP 132. FERC then summarized its "Kootenai orders" from the 1990s in which it had determined that, upon relicensing, Grant would be required to make only 30% of PRP available to others. *Id.* at P 133-40.<sup>27</sup> Thus, upon relicensing, Grant could retain the remaining 70% for its own use.

~~Also in 2008~~ Grant confirmed in official documents, as early as 2005, that it would be able to retain 70% for its own use. See Grant 2005 Wanapum Hydroelectric Development Revenue and Refunding Bond Declaration, at 24 (stating that "[Grant] will dedicate 30% of the combined output of the Developments (the 'Reasonable Portion') for sales within the region based on market principles. The remaining 70% of the combined firm energy output of the Developments

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<sup>27</sup> See *id.* nn.151, 153 (citing *Kootenai Elec. Coop. v. Pub. Util. Dist. No. 2 of Grant County, Wash.*, 72 FERC ¶ 61,222, at 62,031, *reh'g denied*, 73 FERC ¶ 61,307 (1995); *Kootenai Elec. Coop. v. Pub. Util. Dist. No. 2 of Grant County, Wash.*, 82 FERC ¶ 61,112 (1995), *reh'g denied*, 83 FERC ¶ 61,289 (1998), *aff'd*, *Kootenai Elec. Coop. v. FERC*, 192 F.3d 144 (D.C. Cir. 1999).

will be used by [Grant's] Electric System and sold to the Power Purchasers to the extent surplus to the Electric System's needs.").<sup>28</sup>

Of the 70% that Grant retained, Grant has further explained in official documents that it has certain long-term agreements, which reduce its physical rights to 63.3%. In Grant's 2013 Priest Rapids Hydroelectric Project Revenue Bond Declaration (2013 Bond Declaration) Grant explained that it "can use up to 63.3% of the output of the Priest Rapids Project to serve retail load, 6.7% is sold to the Power Purchasers via Exchange Agreements and Product Sales Contracts . . ." 2013 Bond Declaration at 23.<sup>29</sup> Similarly, Grant's 2024 Official Statement for Revenue Refunding Bonds (2024 Official Statement) on PRP stated that "[Grant's] Electric System can use up to 63.3% (Adjusted District Reserve Share) of the output of the Priest Rapids Project to serve its retail load." 2024 Official Statement at 29; see also *id.* at 44; *id.* at Appendix G at G-1.<sup>30</sup> Likewise, Grant's 2024 Integrated Resource Plan<sup>31</sup> stated that Grant "holds the physical rights to 63.31% of [Wanapum and Priest Rapids dams, i.e., the PRP project]" and "[t]hese large hydroelectric, carbon-free resources provide Grant PUD's foundational supply of electricity."

Between 2008 and 2011, Grant recalled its sales of the PRP from Bonneville's other customers and signaled its intent not to request a RD CHWM Contract. Grant ultimately decided to only pursue a Load Following contract for its City of Grand Coulee load. As part of the Long-Term Regional Dialogue Policy, dated July 19, 2007<sup>32</sup> (RD Policy), and CHWM determinations, Bonneville acknowledged the recall and made resource removal determinations that the four customers had lost their contract rights to purchase PRP (see below and Issue 14 for more details). ~~Because Grant only requested an RD CHWM Contract for its City of Grand Coulee loads and had signaled it would not pursue a CHWM for its remaining loads, Bonneville did not include PRP accounting in its final CHWM calculation. Bonneville had, however, addressed its intended treatment in the procedural lead-up to CHWM determinations.~~

In 2010, in response to Grant's recall of PRP contract rights from other Bonneville customers, and Public Utility District No. 1 of Cowlitz County's (Cowlitz) accompanying request to Bonneville to remove PRP from Cowlitz's list of dedicated resources, Cowlitz and Grant sent formal letters explaining the recall. Grant's letter stated that it was "clarifying for you, and the Bonneville Power Administration" that Grant can "claim 70 percent of the [PRP] firm power output to serve [Grant's] loads and commitments." Letter from Tim Culbertson, Grant, to Brian

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<sup>28</sup> Grant's 2005 2005 Wanapum Hydroelectric Development Revenue and Refunding Bond Declaration is publicly available at <https://emma.msrb.org/MS229978-MS205286-MD398913.pdf>.

<sup>29</sup> The 2013 Bond Declaration is publicly available at <https://emma.msrb.org/EA555699-EA433454-EA829635.pdf>.

<sup>30</sup> The 2024 Official Statement is publicly available at <https://emma.msrb.org/P21839998-P21410080-P21852544.pdf>.

<sup>31</sup> Grant's 2024 Integrated Resource Plan is publicly available at <https://www.grantpud.org/templates/galaxy/images/2024.0909-IRP-Online.pdf>.

<sup>32</sup> The RD Policy is available at <https://www.bpa.gov/-/media/Aep/power/regional-dialogue/07-19-07-rd-policy.pdf>.

[Skeahan, Cowlitz, \(June 24, 2010\). Cowlitz’s letter to Bonneville elaborated further, explaining its understanding that Grant was making the recall because “Grant PUD’s 2009 load forecast shows that it will need the full 63.31% of \[PRP\] output in 2011 to serve its own load.” Letter from Brian Skeahan, Cowlitz, to Steve Wright, Bonneville Power Administration, \(June 29, 2010\).](#)

[These letters are consistent with the 63.3% output rights identified in Grant’s 2013 and 2024 bond documents, and in its 2024 Integrated Resource Plan. Bonneville therefore concludes that, following the 2008 FERC relicensing process, Grant has consistently represented in official documents that it can use up to 70% of the output of PRP to serve its retail load but is limited by its power sale contracts to taking 63.3%. Accordingly, Bonneville finds it is reasonable to rely on these long-standing and consistent representations. Bonneville will therefore use 63.3% to reflect Grant’s rights to PRP resulting from the 2008 FERC relicensing.](#)

As noted above, Grant had a small portion of its load that it served under RD. Grant’s RD CHWM Contract was for its City of Grand Coulee load only, a load with which Bonneville has had a unique relationship with since the 1960s. That RD CHWM Contract makes no attempt to capture Grant’s overall TRL or capture Grant’s notable non-federal resources. It is clearly limited in scope to the unique load pocket of the City of Grand Coulee and should not be conflated with Grant’s overall loads and resources over the duration of the RD CHWM Contract. Grant did not dedicate any of its non-federal resources to serve the City of Grand Coulee load, which was roughly 5 aMW at the start of the RD contract period. Grant acquired the service territory in the late 1970’s and Bonneville acknowledged the load obligation in Grant’s 1981 power sales contract. It is physically located in Bonneville’s balancing authority and served out of the Grand Coulee switchyard. Under Grant’s Subscription contract, Bonneville included a special provision that provided Load Following service for the Grant Coulee load under their Subscription Block contract.

Grant served its primary loads during the RD contract period with its non-federal resources. Grant notified Bonneville in 2022 that it intended to request a net requirements section 5(b) power sales contract to serve its retail firm power load starting October 1, 2028. In the POC Policy, Bonneville referred to Grant’s situation as a “returning utility.” This is the first time that Bonneville has had to determine a CHWM for a returning utility because CHWMs were first established under RD. The circumstances surrounding Grant’s return are unique for the following reasons: (1) Grant has not continuously held a Bonneville 5(b) power sales contract for the entirety of its load, (2) Grant has significant PF-eligible and NLSL load growth, and (3) Grant has experienced a significant change in its right to PRP output.

At issue is how Bonneville should apply the PRP to (1) determine Grant’s net requirement and (2) calculate Grant’s CHWM that will set the amount of firm power Grant is eligible to purchase at a PF Tier 1 rate.

In reviewing Grant's expected request to purchase firm power, Bonneville is cognizant of the changes Grant has experienced over the intervening years since it last purchased firm power from Bonneville under Subscription. Significantly, Grant went through a successful PRP relicensing at FERC which resulted in an increase in its share of the PRP and it has experienced increases in its retail loads—both general requirements and NLSL.

Bonneville cannot ignore these facts and therefore must address Bonneville's statutory determination of Grant's net requirement on the one hand, and on the other hand Bonneville's need to calculate for policy purposes a CHWM for Grant considering Grant's resources. The POC Policy stated:

Grant will be subject to the same data requirements and transparent processes that all other Bonneville customers will be subject to in determining its net requirements load, including determining NLSLs, and CHWM. Bonneville will not pursue any special data provisions or unique process based on Grant's status as a returning public utility.

POC Policy § 2.4.1.9 at 34. The data gathering and determination of net requirements that Bonneville has initiated with Grant is no different than how it works for all other customers. As Bonneville reviewed Grant's data, it was not apparent how the PRP should be applied for determining a net requirement and CHWM. Additionally, Bonneville's 5(b)9(c) Policy does not directly address this issue and therefore the Administrator must determine how to apply Grant's PRP for purposes of determining Grant's CHWM.

### *III. PRP Dedicated Under Subscription*

Section 5(b)(1) of the Northwest Power Act obligates Bonneville to offer a contract for the sale of electric power to a requesting eligible customer to serve its firm power load that exceeds the capability of the customer's resources. 16 U.S.C § 839c(b)(1). Bonneville referred to the amount of firm requirements power a customer is entitled to purchase as the customer's net requirement. The Northwest Power Act includes two categories of resources: section 5(b)(1)(A) and section 5(b)(1)(B). Section 5(b)(1)(A) applies to resources used by a customer to serve its firm load in the region in the year prior to December 5, 1980. 16 U.S.C. § 839c(b)(1)(A). Section 5(b)(1)(B) applies to other resources a customer determines under their Bonneville contract will be used to serve its regional firm load. 16 U.S.C. § 839c(b)(1)(A). Section 5(b)(1)(A) and (B) resources are generally known as dedicated or declared resources and are legally required to continue being used under later contracts, except if use of the resource is permanently discontinued. 16 U.S.C. § 839c(b)(1).

Based on statute and Bonneville's 5(b)9(c) Policy, once a non-federal resource has been dedicated to serve its firm power load, it remains dedicated unless the customer requests and receives approval for a resource removal pursuant to section 5(b)(1) and the 5(b)9(c) Policy. *Id*; 5(b)9(c) Policy § III.B at 8. Grant did not request resource removal for the amounts of the PRP dedicated under its Subscription contract; therefore, it must remain dedicated under any future

5(b) contract. Bonneville finds it reasonable that Grant's Subscription PRP amount will be included in determining Grant's net requirement for the POC contract period.

Grant had dedicated 234.869 aMW of the PRP to its PF-eligible load under its Subscription contract. Bonneville will require Grant to dedicate 234.869 aMW to PF-eligible load under its POC CHWM Contract Exhibit A, which will be used to calculate Grant's net requirements during the POC contract period. For the Attachment A amount, Bonneville will net the Canadian Entitlement Allocation Extension Agreement (CEAEA) associated with the resource consistent with its treatment of other mainstem Columbia River hydroelectric projects. For Attachment A, Bonneville will require 213.836 aMW to be dedicated to serve PF-eligible load.

#### *IV. Statutory and policy treatment of recalled PRP amounts*

The recalled portion of the PRP refers to the non-federal resource amounts that Grant had sold to and then recalled from other 5(b) contract holders in 2008. [Public Utility District No. 1 of Cowlitz County \(Cowlitz\), Cowlitz](#), Seattle, and Tacoma Power (Tacoma) each identified their purchases of PRP as 5(b)(1)(A) resources in their Subscription contracts, while Eugene Water & Electric Board (EWEB) identified its purchase of PRP as a 5(b)(1)(B) resource.<sup>33</sup> Each of these utilities dedicated PRP under their Subscription contract to serve general requirements load.

In the Policy on Determining Net Requirements of Pacific Northwest Utility Customers Under Sections 5(b)(1) and 9(c) of the Northwest Power Act Record of Decision, dated May 2000<sup>34</sup> (5(b)9(c) Policy ROD), Bonneville established that if a resource is sold to another Bonneville customer to serve its load (as was the case for PRP), the purchasing customer must dedicate the resource. The 5(b)9(c) Policy ROD states that the selling customer is not required to dedicate the resource to its load while it is sold but emphasizes that "once the [selling] utility uses the resource to serve its own loads, the resource becomes subject to section 5(b)(1)."<sup>35</sup> 5(b)9(c) Policy ROD § III.A.1.d at 42. Grant's comments to Bonneville on the draft RD Policy indicate Grant's understanding of this and the downstream relationship to Grant's CHWM eligibility under RD. Not only did the four utilities that had power purchase agreements for the output of the PRP dedicate the resources as a 5(b)(1) resource under their Subscription contracts, as noted and below, Grant used the recalled portions to service its own loads. Because these customers dedicated their purchase of the PRP to serve their general

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<sup>33</sup> Bonneville does not have documentation for why the exception was made for EWEB's portion to be dedicated as a 5(b)(1)(B) [resource](#) as it believes that consistent with statute it should be listed as a 5(b)(1)(A) resource.

<sup>34</sup> The 5(b)9(c) Policy ROD is available at <https://www.bpa.gov/-/media/Aep/power/regional-dialogue/rod-20000523-Policy-on-Determining-Net-Requirements-of-Pacific-Northwest-Utility-Customers.pdf>.

<sup>35</sup> The 5(b)9(c) Policy ROD stated "a customer may develop a resource and may choose not to use it to serve its own loads. The customer may choose to sell the output of its resource to another BPA customer to serve its regional load. The customer owning the resource may do this without dedicating the resource to serve its own load. If the output of the resource is sold to another BPA customer for service to its load then that customer must dedicate it as a purchase contract resource. . . . [O]nce the utility uses the resource to serve its own loads, the resource becomes subject to section 5(b)(1). . . ." 5(b)9(c) Policy ROD § III.A.1.d at 42.

requirements loads, when Grant later recalled the sales and applied it to its own loads, the recalled amounts remain subject to 5(b)(1).

The RD Policy captures that Grant notified Bonneville of its intent to recall the sold amounts of PRP via comments it submitted on the RD Policy. The RD Policy described the effect of that recall as “a redistribution of resources among the affected publics” and stated, “[t]o calculate the Contract HWM, Bonneville will adjust the FY 2010 non-Federal resources of Grant and the affected public utilities as proposed by Grant PUD.” RD Policy § II.B.9 at 13. During the process to establish customer resource amounts for the RD CHWM calculation, a party raised a concern that Grant might not use the recalled PRP to serve its load and instead would pursue a portion of the PRP to remain undedicated if Grant were to request a 5(b) contract and CHWM from Bonneville. In the Close-Out Summary: Clarification on the Use of Customer Resource Amounts for High Water Mark Calculations, dated September 17, 2008<sup>36</sup> (RD CHWM Resource Close-out), Bonneville stated the following:

BPA received a letter from Grant dated August 13, 2008, in which Grant affirmed that it would not request service for its load or establish a CHWM for the main (Block) part of its load . . . . BPA will rely upon this affirmation by Grant it will not request service except for the Grand Coulee load . . . .

RD CHWM Resource Close-out § III at 10. Bonneville went on to state this assurance should “assuage” any concerns raised by parties. *Id.*

The August 2008 letter, from Grant’s general manager Tim Culbertson, stated that “Grant PUD agrees with BPA proposed corrections and clarification as they relate to Grant PUD in that we will use 100% of the output from Priest Rapids and Wanapum to serve retail load.” Culbertson letter. Bonneville understood the assurances in Grant’s August 2008 letter to mean that Grant would apply its full physical rights, including the recalled amounts, of the PRP to serve its load and therefore Bonneville would only establish a CHWM for Grant’s City of Grand Coulee load.

In addition to the comments and policy actions taken under RD, Bonneville must consider the operation of statutes, especially in regard to the recalled 5(b)(1)(A) amounts. Section 9(c) of the Northwest Power Act provides that in determining the electric power requirements of a customer, which is a non-federal entity having its own generation, Bonneville must:

exclude, in addition to hydroelectric generated energy excluded from such requirements pursuant to section 3(d) of [the Preference Act], any amount of energy included in the resources of such customer for service to firm loads in the region if (1) such amount was disposed of by such customer outside the region,

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<sup>36</sup> The Regional Dialogue CHWM Resource Close-out is available at <https://www.bpa.gov/-/media/Aep/power/regional-dialogue/High-Water-Mark/2008-09-17-closeout.pdf>.

and (2) as a result of such disposition, the firm energy requirements of such customer or other customers of the Administrator are increased.

16 U.S.C. § 839f(c). Bonneville will not ignore the recall of PRP from other Bonneville customers, the relicensing, redistribution of the share of output, and the disposition and use of PRP power by Grant during the RD contract period.

In addition, because the Northwest Power Act recognized the resource as a 5(b)(1)(A) resource, Bonneville's long-term power sales contracts with these entities identified it as such. When the resource returned to Grant it increased Grant's existing PRP amount by operation of section 3(d) of the Preference Act. 16 U.S.C. § 837b(d). Grant would not receive the benefit of additional CHWM for the portion of the resource that has been used to serve regional general requirements load of other Bonneville customers for the past 50 plus years and used to serve Grant's general requirements load during RD. Bonneville's approach for treating the returned PRP amount in calculating Grant's CHWM is reasonable and consistent with the Preference Act and the Northwest Power Act.

For the reasons articulated above, Bonneville will treat Grant's recalled amounts as serving Grant's PF-eligible load. The total recalled amount equaled 88.930 aMW. Therefore, an additional 88.930 aMW will be reflected as serving PF-eligible load in Grant's POC CHWM Contract Exhibit A. For Attachment A, Bonneville will net CEAEA and include an additional [82.967973](#) aMW as part of the PRP dedicated to PF-eligible load.

To ensure consistent treatment, in Bonneville's next 5(b)9(c) Policy revision, expected to be completed ahead of the Above-CHWM Load Process for the BP-29 rate period, Bonneville intends to specify that a transfer in the rights to firm output of a 5(b)(1)(A) resource will mean that the resource must remain a 5(b)(1)(A) resource and must be dedicated to load in the same manner as originally dedicated. Bonneville intends to build on the foundation the 5(b)9(c) Policy lays that if a utility takes over another utility's dedicated resource that the resource must continue to be dedicated to serve load in the same manner.

#### *V. Statutory and policy treatment of increased amounts of PRP due to relicensing*

Grant commented that only the amounts dedicated under its prior contracts should be considered and that this interpretation was consistent with Bonneville's "existing statutes, policies, or contracts . . ." CIP-15-Grant at 5. In its comments, NRU argued "Grant made the decision to declare and use all of its Priest Rapids Project output to serve its load, reducing its net requirement to zero. The relicensing of all or a portion of the PRP should not change that." CIP-12-NRU at 2. NRU asked Bonneville to clarify its 5(b)9(c) Policy regarding resource relicensing. *Id.* NRU acknowledged that while the 5(b)9(c) Policy is explicit regarding a relicensing that decreases a non-federal resource's firm amount, it does not address what occurs if there is an increase in the amount of power a customer has the right to receive and use as a result from a relicensing. *Id.*

Grant pointed to clarifications 3 and 7 from Bonneville’s 2003 clarifications included in the 5(b)9(c) Policy. Grant argued it had not dedicated the relicensed amount under any prior contract, so it should not be required to dedicate those relicensed amounts under POC. CIP-15-Grant at 4. Grant also argued that Bonneville “could not force the remaining part of PRP to be dedicated to any load under any contract.” *Id.* (emphasis omitted). On these points Bonneville does not disagree. In the 5(b)9(c) ROD, Bonneville addressed whether 9(c) should apply to “system sales involving hydroelectric resources.” 5(b)9(c) ROD § at 123. Bonneville concluded that the customers with “regional hydroelectric resources” should “dedicate them to serve their own retail loads or sell them to someone else in the region for that purpose.” *Id.* While the clarifications 3 and 7 address whether the portion must be dedicated in the contract itself, they do not supersede the finding that hydroelectric resources must be conserved for use by the utility or the region. At question is whether Grant is required to dedicate the undeclared portion of the PRP, not whether the undeclared portion should be used to serve Grant’s load or a load within region.

However, regardless of a Grant determination pursuant to section 5(b)(1)(B) to use its increased share of output during a Bonneville contract — which during the RD contract period it appears Grant has physically been using to serve its load irrespective of having a RD CHWM Contract — the determination of Bonneville’s obligation to supply firm power under a POC CHWM Contract must also consider whether Grant has conserved and kept available such amount of PRP to serve its load pursuant to section 3(d) of the Preference Act. 16 U.S.C. § 837b(d). Under this provision of law, if Bonneville determines Grant has exported/sold its hydroelectric power out of region then the Administrator may only sell power that is surplus to replace Grant’s export. But, as noted, it appears Grant has been using that power to serve its load. Therefore, because Bonneville is cognizant of the increase in Grant’s share of PRP and that Grant is using that increased share to serve its load then Bonneville is authorized to sell firm power net of that increased amount to supply Grant’s firm power retail load.

This result effectively applies the recalled and relicensed share of the PRP resource to serving Grant’s load notwithstanding sections 5(b)(1)(A) and (B). While this outcome meets Bonneville’s determination of Grant’s net requirement, it does not determine the type of retail load that is served with such power.

As noted in the NRU comment, Bonneville established in the 5(b)9(c) Policy ROD that any reduction in a dedicated resource due to a FERC relicensing order would allow a customer to increase their purchases from Bonneville. In effect, this establishes that any reduction in firm rights from a FERC relicensing order would be netted against the firm non-federal resource amounts dedicated in a customer’s contract. The 5(b)9(c) Policy ROD does not contemplate or address how Bonneville would treat an *increase* in firm rights. However, it is reasonable to apply the same logic to this inverse situation. That is, Bonneville believes it is reasonable and consistent with the 5(b)9(c) Policy ROD to determine that any increase in the proportional amount/share of output to a resource a customer has the right to receive, i.e., first right of

refusal, particularly from a hydroelectric resource, would be used to serve a utility's load in a similar fashion to historically dedicated resource amounts. It is important for Bonneville to apply section 3(d) of the Preference Act when it comes to hydroelectric resources and to be consistent in this application to avoid this type of issue in the future. Failing to address the increase due to both recall and relicensing would be counter to the treatment of similarly situated 5(b) regional resources serving load.

Based on this determination, Bonneville will not require that Grant's CHWM Policy Attachment A and POC CHWM Contract Exhibit A non-federal resources be applied in the same manner, which may result in different amounts. Rather the CHWM Policy and this ROD will focus on the non-federal resource application for purposes of the CHWM. Bonneville will work with Grant ahead of its POC CHWM Contract offer to determine its Exhibit A non-federal resource amounts. Bonneville changed Section 2.2.3 of the CHWM Policy to acknowledge this.

Finally, Bonneville must consider the remaining amount of relicensed physical rights to the PRP that Grant received after PRP's FERC relicensing in 2008. This "relicensed" amount was not accounted for in either Grant's PRP amounts dedicated during the Subscription contract or the PRP amounts recalled by Grant prior to the start of the RD contract period. This amount was never officially dedicated in any public customer's power service contract with Bonneville.

In order to determine the total relicensed amount that must be considered, Bonneville needs to establish the [total](#) firm capability of the physical rights to the PRP. In the draft final CHWM Policy, Bonneville used the 2023 Pacific Northwest Coordination Agreement (PNCA) final regulation amounts. Upon further review, Bonneville determined that it would use the 2009 PNCA final regulation amounts instead.<sup>37</sup> This is consistent with the Regional Dialogue Standards for Resource Declarations, dated September 9, 2008<sup>38</sup> (RD Standards). The RD Standards state that "[a]ll resources above the tailwater of Bonneville Dam must use the critical water year designated by PNCA" and specifies that those resources will use the "2009 PNCA Final Regulation." RD Standards at 1. Bonneville carried this forward in the Provider of Choice Contract Exhibit A Standards for Resource Declarations, dated June 2, 2025<sup>39</sup> (POC Standards). The POC Standards state, "[f]or PNCA resources, initial population of Exhibit A will use the 2009 Final Regulation." POC Standards at 2.

Both Wanapum and Priest Rapids, which make up the PRP, are PNCA resources. Therefore, the standard would be applicable to the PRP. The 2009 PNCA final regulation amount for the [total firm capability of](#) PRP is 708.5 aMW.

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<sup>37</sup> The 2023 PNCA final regulation amounts included incremental hydro that should not be considered as part of the relicensing determination. Aligning PNCA vintage as discussed in this issue ensures Bonneville is not including such incremental hydro values.

<sup>38</sup> The RD Standards is available at <https://www.bpa.gov/-/media/Aep/power/regional-dialogue/data-standards-external-09-09-2008.pdf>.

<sup>39</sup> The POC Standards is available at <https://www.bpa.gov/-/media/Aep/power/provider-of-choice/2025-workshops/poc-standards-for-resource-declarations-final.pdf>.

In April 2025, Grant commented<sup>40</sup> on the Draft Provider of Choice Contract Exhibit A Standards for Resource Declarations, dated April 15, 2025<sup>41</sup> (draft POC Standards) that Bonneville should be open to different monthly and diurnal shaping than granted under PNCA. April 2025 Grant comment at 1. The monthly and diurnal shapes of a specified resource are only important to determine a Load Following customer's net requirement and the contract provides shaping options for such specified resource. Grant has not requested a Load Following contract. Planned products are based on annual average amounts that then may be shaped across the year dependent on product features. Therefore, Bonneville captures the monthly shaping information as reported by PNCA as it does not factor into product determinations for net requirements.

Grant also commented that "the historical outage assumptions in the 2009 PNCA regulation are not likely to be accurate given Grant's significant investments at PRP since the early 2000s." *Id.* If Grant were to have a reasonable basis upon which to change the firm amounts captured in its Exhibit A, Grant may engage Bonneville at any time. Bonneville would need to review any relevant information in making a determination to reduce the resource amounts. Bonneville will also need to work with Grant to track the incremental hydro amounts that are a result of the investments Grant is making in the PRP. In the 2023 PNCA Final Regulation amounts, the PRP had a firm output of 773.9 aMW, about 65 aMW higher than the 2009 amount. Bonneville will need to ensure Grant's share of the incremental hydro is being used to serve its firm power load and is not being exported.

Based on the 2009 PNCA final regulation amount for the [total firm capability of PRP, \(708.5 aMW\), and accounting for Grant's right to 63.3% of that amount \(as discussed above\)](#), Grant's total firm physical right to PRP is [449.898448.481](#) aMW. The "relicensing" PRP amount is [126.099124.682](#) aMW (Grant's rights of [449.898448.481](#) aMW less the Subscription, [234.869 aMW](#), and recalled amounts, [88.930 aMW](#), described [prior above](#)). Through operation of section 9(c) of the Northwest Power Act Bonneville finds it is reasonable to treat the relicensed amount for CHWM purposes as either a section 5(b)(1)(A) or (B) resource amount since Grant is using that amount of PRP to serve its regional firm power load. That use avoids Bonneville having to reduce or decrement its firm power supply obligation under section 5(b)(1) by any amount of PRP that is exported out of the Pacific Northwest that through reasonable measures could have been conserved or otherwise kept available for Grant's own needs.

During the development of the RD Policy, contracts and implementation, Bonneville addressed the PRP several times to address Bonneville's PRP treatment given that Grant intended to take the relicensed portion of the PRP to serve its own load. In the RD Policy, Bonneville acknowledged that "there are additional amounts of Federal power freed up by Grant taking

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<sup>40</sup> Grant's April 2025 comment is available at <https://www.bpa.gov/-/media/Aep/power/provider-of-choice/Implementation/20250429-resource-dedication-standards-grant-pud-comments.pdf>.

<sup>41</sup> The draft POC Standards is available at <https://www.bpa.gov/-/media/Aep/power/provider-of-choice/2025-workshops/poc-standards-for-resource-declarations-final.pdf>.

almost all load off of BPA.” RD Policy § II.B.9 at 13. The Clarification on the Use of Customer Resource Amounts for High Water Mark Calculations, dated June 6, 2008 (RD CHWM Resource Clarifications), stated that Bonneville would, for CHWM purposes equate “the energy amounts of Grant’s Priest Rapids and Wanapum shares to Grant’s forecast total retail loads minus Grant’s other non-Federal resources.” RD CHWM Resource Clarifications at 3. It further stated that “Grant PUD’s Priest Rapids and Wanapum hydro resource shares will be increased by the amount necessary to result in a zero CHWM for Grant PUD, except for the small amount of Grand Coulee load currently served by BPA as Full Requirements Service.” *Id.*

Bonneville held a comment period on the RD CHWM Resource Clarifications and Grant did not submit a comment. However, Grant did send the August 2008 Culbertson letter, as noted above, to reinforce Bonneville’s understanding of Grant’s intention to use the PRP to serve its own load. Because Grant, ultimately, did not pursue an RD CHWM Contract except for the City of Grand Coulee load, Bonneville did not perform the CHWM calculation based on Grant’s TRL. If Bonneville had determined a CHWM for Grant, the intended treatment of the PRP, to increase the resource amounts to net out any net requirements load, was clearly established in the RD CHWM Resource Clarifications.

Further, in the August 2008 Culbertson letter to Bonneville, Grant affirmed that it would declare 100% of the output of the PRP to serve its retail load. Grant’s representation that it would not request a firm power sales contract during RD (except for its City of Coulee load) because it would, and it did, use PRP amounts is evidence of Grant’s use of such power to serve its general requirements load. The Long-Term Regional Dialogue Record of Decision, dated July 19, 2007, (RD ROD), RD CHWM Resource Clarifications, and Grant’s 2008 Culbertson letter confirms this treatment.

Therefore, for purposes of determining Grant’s CHWM, Bonneville will consider 111.511494 aMW as serving general requirements load, which nets to 104.033027 aMW after CEAEA is applied. This, combined with the recalled amounts, would be equal to Grant’s last Subscription purchase of 187 aMW, which would be what Grant applied to load to net out any PF-eligible load, therefore making it ineligible for an RD CHWM. The remaining 14.58813.187 aMW, 13.61012.304 aMW net of CEAEA, will be counted as serving NLSL loads in Attachment A.

*VI. Conclusion*

Bonneville changed Section 2.2.3 of the CHWM Policy as follows: “For a returning utility that did not have a Regional Dialogue CHWM Contract, Bonneville will use the non-federal resource amounts in Attachment A to determine the customer’s POC CHWM.” CHWM Policy § 2.2.3 at 6. Bonneville also changed Attachment A of the CHWM Policy to reflect Grant’s non-federal resource amounts as:

BES	Customer Name	Resource Name	FY 2023 Exhibit A Amount (aMW)	CHWM Calculation Amount (aMW)	Resource Notes
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10190	Grant County PUD #2	Priest Rapids Project	N/A	400.836	F, L
10190	Grant County PUD #2	Priest Rapids Project (NLSL)	N/A	0.000	F, H, L
10190	Grant County PUD #2	PEC Headworks	N/A	2.290	
10190	Grant County PUD #2	Quincy Chute	N/A	0.000	C
10190	Grant County PUD #2	Yakama Nation	N/A	0.000	P

CHWM Policy, Attachment A at 20. Bonneville deleted resource notes S and T and changed resource note F to read:

F. The Priest Rapids Project is made up of the Priest Rapids and Wanapum dams. Bonneville determined the Grant's Priest Rapids Project Attachment A amounts consistent with Section 2.2.3 of the CHWM Implementation Policy. Information on the determination is available in Issue 13 of the CHWM Implementation Policy ROD.

*Id.* at 26.