

Response to Comments – Site Control

BPA Transmission Business Practice

Version 1

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This document contains comments and BPA responses regarding the post-comment period modification of Version 1 of the Site Control Business Practice posted for comment from June 10, 2024, to June 13, 2024.

This is Bonneville’s final agency action in regard to this version of the business practice.

For more information on business practices out for comment, visit the BPA [Proposed Business Practices webpage](#).

Table of Contents

A. Navajo Power, PBC..... 1

A. Navajo Power, PBC

Please accept these comments on behalf of Navajo Power, PBC, a public benefits corporation focused on developing utility-scale renewable energy projects on tribal lands. We appreciate the steps Bonneville Power Administration (BPA) is taking to address the interconnection backlog through the implementation of new site control requirements under the Large Generator Interconnection Procedures (LGIP) tariff. However, we believe that a more nuanced approach is necessary when considering projects on tribal lands due to the unique legal, permitting, political, and bureaucratic circumstances involved.

1. The Importance of Site Control Requirements

We recognize that stringent site control requirements are essential to ensuring that interconnection requests are serious and that the projects they represent are likely to proceed. This is particularly crucial in the context of the current interconnection backlog, which hampers the development of new energy projects and the transition to cleaner energy sources. By implementing these requirements, BPA can prioritize projects that have a higher likelihood of reaching completion, thus making more efficient use of limited interconnection capacity.

2. Unique Challenges of Site Control on Tribal Lands

However, the process of securing site control on tribal lands is inherently more complex than on non-tribal lands. Tribal lands are governed by distinct legal frameworks that often require federal approval or adherence to tribal-specific permitting regimes before an option to lease, a lease, a right of way or other legally binding forms of site control can be obtained. These processes can be lengthy and involve multiple layers of approval. For example, land leases on tribal lands often require:

- Approval from the Bureau of Indian Affairs (BIA) and, in some cases, the Secretary of the Interior.
- Compliance with tribal regulations, which may include extensive environmental surveys and tribal environmental agency reviews, cultural resource assessments, and community consent.
- Negotiations and agreements with multiple stakeholders, including tribal councils, community members, and permit holders or individual allottees.

These unique requirements can result in extended timelines for securing site control, which are not reflective of a lack of project viability but rather the necessary due diligence and respect for tribal sovereignty and federal requirements.

3. Recommendations for BPA's Site Control Requirements

Given these complexities, we recommend that BPA adopt a flexible and subjective approach to evaluating site control for projects on tribal lands. Specifically, we propose the following measures:

- **Demonstration of Active Negotiations:** Projects should be able to demonstrate that they are actively engaged in negotiations with the relevant tribal authorities. This can be shown through documentation of meetings, correspondence, and agreements in principle.
- **Letters of Intent and Affidavits:** A letter of intent from the tribe or tribal entity, along with an affidavit attesting to the ongoing negotiations and progress toward securing site control, should suffice as evidence of serious commitment.
- **Consideration of Unique Circumstances:** BPA should consider the specific legal and regulatory context of each tribe, acknowledging that the requirements and processes can vary significantly.

4. Navajo Power's Public and Tribal Benefits Interest

Navajo Power's interest in this matter is derived from our commitment to delivering public benefits and ensuring that tribes receive significant economic and community benefits from renewable energy projects. Our projects aim to provide:

- **Economic Benefits:** Generating facilities on tribal lands offer opportunities for land lease payments, tax revenues, investment returns, and job creation.
- **Community Infrastructure:** Revenue from these projects is critical for investing in essential community infrastructure such as electrification, education, water, and healthcare.
- **Sustainable Development:** Our projects contribute to sustainable development goals by promoting clean energy and reducing reliance on fossil fuels.

Navajo Power's participation in this matter is also in the public interest of tribes whose lands coincide with BPA's service and/or interconnection territory. Tribes who may be receiving land, tax, investment returns, jobs, or other economic benefit from generating facilities sited on their lands may lose the opportunities afforded by these projects, or the opportunities may be significantly delayed. These economic benefits are needed for significant community

infrastructure and investments in their people, including electrification, education, water, and health.

4. Conclusion

In conclusion, while we support the need for robust site control requirements to address the interconnection backlog, it is essential that BPA's approach is inclusive of the unique circumstances surrounding projects on tribal lands. By adopting a more flexible and context-sensitive evaluation process, BPA can ensure that these projects are not unduly disadvantaged and can continue to contribute to the broader goals of energy development and sustainability.

We appreciate your consideration of these comments and look forward to working with BPA to develop fair and effective interconnection policies.

BPA Response

Bonneville thanks Navajo Power, PBC, for its comment and explanation of the unique barriers around leasing on tribal lands.

In response to Navajo Power's suggestion that Bonneville adopt a flexible approach to verifying that an Interconnection Customer has demonstrated Site Control, Bonneville believes that the TC-25 Settlement Agreement and the resulting tariff reforms struck the correct balance when establishing Site Control requirements for all lands, including tribal lands, and provides for a flexible approach.

In Bonneville's Response 1 to comments submitted between 3/25/2024 and 4/30/2024 on the Site Control Business Practice, Bonneville clarified that Section A.1.a of the Site Control Business Practice provides a non-exhaustive list of documents that may evidence Site Control. As outlined in Section A.1 of the Site Control Business Practice, an Interconnection Customer must submit documentation evidencing Site Control consistent with the definition of Site Control set forth in Section 1 of the LGIP. To help clarify that documents other than those explicitly listed in the Site Control Business Practice may meet this standard, Bonneville added the following subsection to Section A.1.a of the Site Control Business Practice: "vii. Other documentation consistent with the definition of Site Control set forth in Section 1 of the LGIP." Bonneville believes this standard allows Bonneville to consider various legal and regulatory contexts when confirming that Interconnection Requests have met Site Control requirements without requiring Bonneville to list documents specific to various governmental processes that are subject to change. Bonneville encourages Interconnection Customers to submit documentation that the Interconnection Customer believes shows a land right consistent with the definition of Site Control set forth in Section 1 of the LGIP.

Bonneville declines to adopt language into the Site Control Business Practice that would allow a Letter of Intent from a Tribal entity or proof of active negotiations with a Tribal Authority to establish Site Control.