



September 15, 2021

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Re: PNGC's Comments on NWPP Resource Adequacy Design Document and BPA Resource Adequacy Position

Gentlemen:

I am writing to BPA and the NWPP together to express my significant concerns regarding the current Resource Adequacy (RA) effort including proposed design and positions taken by the NWPP and BPA. These comments are in response to the NWPP's July 2021 RA Detailed Design document, and the contractual interpretation and positions BPA is taking via-a-vis its customer contracts. I want to make clear that the current direction and positions being advanced are not acceptable to PNGC and we have concern this is not the best solution for the best interest of the region. I will temper my concerns upfront that our desire is to have a well-structured and fair RA program that could serve as a foundational element toward a full RTO/ISO, which I think is necessary in order for us to deal with the transmission and reliability challenges we will face together. I do not intend to serve as a barrier to an RTO/ISO – the opposite is my intent – but I am concerned that the RA Detailed Design is going to run into serious challenges. I want to make clear my most significant concern, which is that the NWPP's RA design, combined with BPA's contract position, forces PNGC (and others similarly situated) into RA when we have had no input on the design, no choice and, worst of all, no voice as RA is implemented. We, other public power entities, and others are significant market participants as load serving entities and not passive stakeholders with interests that should be relegated to the sidelines. I call this issue the **"No Choice and No Voice"** problem. We offer several specific comments to solve this problem that I think will be necessary for a successful RA filing at FERC and to further RA's goals.

Before expressing our specific concerns and offering suggestions to remedy the "No Choice and No Voice" problem, let me be very clear in stating that PNGC and I unequivocally support reliability and the concept of a robust, transparent and fair RA program that is part of a planned transition to an RTO/ISO. I would point to a two-part series of articles I wrote for Clearing Up in 2019, prior to the kick-off of the

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NWPP RA effort. I have been and remain deeply concerned about reliability in the Northwest, and the West as well, and that we should be moving toward a comprehensive solution like a NW RTO/ISO.

You can review my article here

[https://www.newsdata.com/clearing\\_up/opinion\\_and\\_perspectives/northwest-we-have-a-grid-reliability-problem-to-address/article\\_c9af418c-cb4d-11e9-b7b8-3bfa542e47b9.html](https://www.newsdata.com/clearing_up/opinion_and_perspectives/northwest-we-have-a-grid-reliability-problem-to-address/article_c9af418c-cb4d-11e9-b7b8-3bfa542e47b9.html)

I would also point to the directives given to me by the PNGC Board, comprised of 15 cooperatives that span 7 states, making the NW RTO/ISO a pivotal step toward the region's future, and thus one of our "Big 3" policy initiatives.

I am very concerned that any serious questions or challenges to the NWPP or BPA that I have made are regularly met with responses that imply that I do not support reliability or platitudes that it will be taken care of in the final design. We absolutely support reliability and we are prepared to support a well-structured RA program that can be part of an RTO/ISO. However, the current design does not address the issues I have raised.

At the very first Stakeholder Advisory Committee (SAC) meeting and for many meetings thereafter, the NWPP stated two central principles or goals associated with the RA effort. One principle was that the RA program would be voluntary, and another principle was that the RA program would try to avoid a so-called "free-rider" problem. These are laudable principles. Another principle that was never explicit but I think permeates the current Design Document is trying to build some special Northwest solution that somehow minimizes regulatory jurisdiction and oversight. I wonder whether this concept has any potential to pass FERC scrutiny and I think we need to be careful of being "too special" out here.

At the very first SAC meeting, I asked about the point of compliance (POC). For about a year, the POC issue remained undefined, and I started to wonder if it was intentionally dodged. At one of the early SAC meetings, I said that it would be difficult to meet the two stated principles (voluntary and no free rider) and, what I was convinced was an unstated principle (FERC), while trying to launch a Northwest RA program especially without a full-functioning FERC-jurisdictional RTO/ISO. I remain convinced of this and the NWPP RA effort I think acknowledges the difficulty of launching an RA effort in the absence of an RTO/ISO and that various FERC regulations (e.g., Order 1000 and 2000 and Section 215) will be found to govern and apply.

PNGC staff and I continued to inquire about the POC over and over because of the concerns we had over an RA Program being developed solely and privately by the NWPP members under a pay-to-play model. Certainly, if RA was truly voluntary anyone could opt-in or out whether they were part of the design or not, which is what we were counting on given that we have had no real opportunity for input or design.

Now, very late in the process, my prediction of how difficult it would be to balance the two stated principles and the one unstated principle appear to have come true. Specifically, the NWPP and BPA are taking positions (RA design and BPA contractual) that would make RA involuntary for many entities, including PNGC. Not only is it involuntary according to the current design and contractual view, PNGC has had no meaningful input into the RA program and, as proposed, zero on-going input in governance or a proposed seat at any of the governance levels. To be 100% clear and repeating myself intentionally, PNGC is not a "passive stakeholder"; we are a full-fledged market participant and will be directly impacted by nearly all aspects of the proposed RA program with no choice and no voice. This is

unacceptable, and once again demonstrates why some level of regulatory oversight is needed and modifications to the approach are necessary. We are also concerned this is flatly contrary to how FERC-approved RTO/ISO governance models function.

As we all know, reliability and RA are complex issues, but let me boil down to the basics of what the NWPP, BPA, and the NWPP members are doing from a procedural standpoint. From the beginning the NWPP, BPA, and the NWPP members have conducted what is essentially a closed process. The so-called stakeholder process has been far from a stakeholder process. Rather, it has been a lecture-and-inform process. The NWPP has received ongoing feedback about this, including from me. We have never once been asked for input or our opinion prior to the release of the 254-page Detailed Design document.

To be fair, we were allowed to ask questions, which we did in good faith from the beginning of this process. Still many of our questions and concerns remain unanswered. The NWPP, BPA, and NWPP members are designing the RA program on their own with no meaningful stakeholder input, all the while fully preserving the voluntary aspect of participating in the RA program for themselves. Now we are informed that entities like PNGC that have had no input into the process and design, and zero input in the proposed governance process at the same time, are being forced involuntarily into the RA program, including all the costs associated with participation and with very little understanding of any value in return.

On its face, this is just unacceptable. It is voluntary for the organizations designing the program and making the decisions, controlling the governance and program, and involuntary for organizations not in the room, not designing it, and with no future input. Again, I call this situation: **"No Choice and No Voice."** If left unaddressed, I think this will be a major problem for FERC approval and it is not a design upon which we can build an RTO/ISO.

I want to share my perspective about the Northwest reliability situation and PNGC's situation and why I see the current direction as unacceptable, not just from a procedural standpoint, but also a substantive standpoint. This part of my comments is directed mainly at BPA and my request to BPA that it run a public process with customer input prior to making any decision to join the NWPP RA program.

First and foremost, the reliability situation is driven mainly, if not exclusively, by the major closure of coal plants in the Northwest and the need to shift future power supply of those carbon-based utilities to renewable resources. These decisions are a function mainly of IOU decisions and State policies. PNGC relies mainly on BPA for power today and BPA and public power entities, including PNGC, have not created this reliability challenge. Of course, I am deeply concerned about it, and it needs to be solved because we are all impacted by this situation. A broad solution benefits all. However, it is an unacceptable proposition for the NWPP and BPA to solve a problem largely created by the IOUs and State policies potentially on the backs of PNGC and its members by forcing PNGC into an RA program involuntarily, to which we have had no input, no knowledge of direct or indirect impacts on PNGC, and no future governance input. The approach is also intentionally devoid of necessary regulatory review by the agency (FERC) statutorily entrusted to ensure reliability to public, non-public, and federal entities alike. It would seem counterintuitive for BPA to agree to this approach too, except the part about them being at the table to control the outcome. BPA must care about cost causation and subsidization on the backs of the customers it is statutorily entrusted to serve with federal resources. I think BPA needs to be

able to explain and fully justify the impacts of the RA program, including costs, benefits, and risks to its customers.

The NWPPC has recently released its draft 8<sup>th</sup> Power Plan. The draft plan seems to indicate that the entire issue of reliability problems is not the burning platform that many people believe it is and that was the basis for launching the RA effort. A 2018 E3 study had similar findings. This begs a question for BPA and the region if this style of RA program is justified, and particularly, imposing it involuntarily on entities with no choice and no voice. My position remains that RA is a central feature of a comprehensive RTO/ISO, where RA along with other important aspects such as governance, markets, market access, transmission access, and other critical features are brought together holistically and comprehensively.

In closing, let me make my position on the NWPP and BPA RA direction:

1. I object to the current direction for the reasons stated in this letter. We are not opposed to RA and enhanced reliability solutions, but cannot support it without the NWPP making it fair to all and for BPA to answer important questions to its customers and justifying participation.
2. I remain committed to dealing with reliability in the Northwest and the West.
3. We think the best way to comprehensively address reliability is to have RA as part of a FERC-jurisdictional RTO/ISO that covers everything from technical RA standards to governance to fair and open access to transmission and markets and comprehensive transmission planning, development, and operations. If the NWPP and members want to advance RA ahead of a comprehensive RTO/ISO solution, let's design RA so it serves as a foundation for progress toward this end, as opposed to something that excludes market participants, as the current design does.
4. While not limiting our right or ability to later contest the RA program or BPA's action at FERC or applicable regulatory bodies or courts of appropriate jurisdiction, I offer the limited comments in Attachment A to this letter.

If the NWPP and BPA plan to stay the course on an exclusory RA effort, I must insist that PNGC not be involuntarily pushed into the RA program and the NWPP and BPA honor its stated original principle of RA being voluntary. Better yet, we think the RA effort should be part of a comprehensive RTO/ISO and RA be designed to be compatible with that direction. I also ask that BPA run a public process as part of its RA decision to answer many unanswered questions and justify the decision to participate in RA since BPA customers like PNGC have 20 year take-or-pay contracts that expose us to all the costs and risks that BPA takes on.

Sincerely



Roger Gray

Cc: inquiries@nwpp.org

## **Attachment A**

### **PNGC's Limited Comments on NWPP July 2021 RA Detailed Design Document**

Section 1.1 All BOD members should be financially independent using standards like existing RTO/ISOs.

Section 1.1 The BOD should be 7 to 11 members to accommodate the diversity of interests that are involved. 5 is too narrow, and 3 is not a good design and could be dysfunctional in the worst case.

Section 1.1 The NWPP CEO should not be a BOD member

Section 1.1.1 The RA program, including BOD and governance, should be completely independent of the NWPP. The existing NWPP BOD, functions, duties, and objectives should remain with NWPP, and RA should be separate if it is truly independent. As such, the existing NWPP BOD should not have to approve the RA BOD. This makes the transitional requirements and supplemental seats unnecessary if the RA BOD is truly independent.

Section 1.1.2 The RA BOD should operate and vote independent of the NWPP. The requirement for the BOD over RA to also act in the best interest of the NWPP creates a significant conflict of interest. The NWPP has a different membership than the entities that will be impacted by the RA BOD.

Section 1.2.1 The nominating committee (NC) seems to include both voluntary participants and various stakeholders. However, entities like PNGC are involuntary participants (no choice) but still market participants with no voice (again, the No Choice-No Voice problem). This is a glaring omission in governance. PNGC suggests that the minimum remedy for this is to add at least 1 slot to the NC for entities are involuntarily forced into RA by the current design and BPA's contractual interpretation. Although the NWPP states that its objective is to have an independent BOD, the NC is not structured to create this result. There are 11-12 members of the NC, with 9 being controlled by NWPP members. This gives undue control to the NWPP members and RAPC. PNGC suggests the last 3 positions be eliminated and replaced with:

Indirect/Involuntary Market Participants: 1 Vote

Independent Qualified Person (retired with electric utility work background): 1 Vote

Independent Qualified Person (retired with electric utility regulatory background): 1 Vote

Section 1.3.1 As expressed in PNGC's letter and this attachment, the RA program will have material and potentially adverse impacts on indirect market participants like PNGC. It is not acceptable for indirect market participants to have no voice. PNGC suggests the remedy to this is to provide a direct voice on the RAPC.

#### General Comments:

PNGC, and similarly situated market participants, are potentially and seriously disadvantaged by the positional control, access to information, transactions, and general control of the RA program, the RAPC, and members of the NWPP. PNGC is concerned about the potential anticompetitive effects of this situation, where market participants who are closed out of the RAPC, RA Program, and governance do not have full access to all market information, and equal control and access to such information and transactions. As such, all information, data, and reports generated that is available to any RAPC member should be fully available to all general market participants.

If the NWPP and BPA insist on moving forward on the current involuntary structure, PGNC thinks that if entities like PNGC later successfully challenge BPA contractually, or change their contracts with BPA, then those entities should be allowed to exit RA without adverse impacts or exit fees and be placed in the same position that NWPP entities first had with their full voluntary choice to enter the RA program or not.