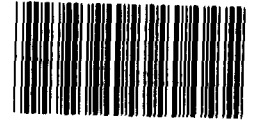


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UNITED STATES GENERAL ACCOUNTING OFFICE
WASHINGTON, D.C.

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STATEMENT OF J. DEXTER PEACH
DIRECTOR, ENERGY AND MINERALS DIVISION
BEFORE THE
SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS
AND THE
SUBCOMMITTEE ON ENERGY CONSERVATION AND POWER
COMMITTEE ON ENERGY AND COMMERCE
U.S. HOUSE OF REPRESENTATIVES



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Messrs. Chairmen:

We appreciate this opportunity to discuss with you the manner in which DOE's Bonneville Power Administration (BPA) is implementing Public Law 96-501, the Pacific Northwest Electric Power Planning and Conservation Act of December 5, 1980. As you know, the act made BPA responsible for meeting the power needs of its customer in a least cost manner, and for establishing programs to conserve electricity, develop renewable energies, protect fish and wildlife, and encourage public participation in the formulation of regional power policies. Bonneville's programs under the act are to further the multiple purposes of the act in ways which are consistent with each other and with applicable environmental laws.

The act established a regional planning council to prepare and adopt a conservation and electric power plan, including a program to protect and enhance fish and wildlife. The Council's plan is to be completed by early 1983. The act mandates that that the Council's plan give priority to cost-effective resources

via Act name

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with first priority to conservation; second, to renewable resources; third, to generating resources utilizing waste heat or generating resources of high fuel conversion efficiency; and fourth, to all other resources. The act provides that when the Council's plan is adopted, Bonneville's acquisition of conservation and generating resources must be consistent with that plan. In the absence of a regional plan--which condition will exist until early 1983--Bonneville's actions to acquire resources must be consistent with the criteria for resource planning specified in the act.

At your request, we briefly reviewed Bonneville's efforts to implement the multiple purposes of the act, and the relative emphasis which BPA has placed on those purposes. We also inquired into how BPA recently negotiated new long-term power sales contracts with its industrial and utility customers. Time constraints did not permit us to examine Bonneville's performance in detail. Our testimony today is based largely on interviews with BPA officials, and on a brief review of BPA documents and other materials.

We found that Bonneville has been inconsistent in implementing the act and its organization does not yet reflect the purposes and priorities of the act. Bonneville's contracting to sell Federal power was hurried and poorly planned, but BPA's approach to conserving electricity and developing renewable energies has been cautious. Because of these inconsistencies and BPA's ineffective public involvement program, uncertainty exists as to whether BPA will be responsive to its new charter under the act.

BPA'S ORGANIZATION DOES NOT
REFLECT THE PRIORITIES
OF THE ACT

BPA has not organized to assure effective implementation of new programs--such as, electricity conservation, renewable resource development, fish and wildlife enhancement, and public participation in regional planning--mandated by the act. Although the act clearly spells out important new missions for Bonneville, neither DOE nor BPA has reviewed and adjusted Bonneville's organization to make it consistent with the agency's new priorities. Instead, Bonneville has tried a "band-aid" approach by expanding old structures to handle new functions. Consequently, there is limited assurance that BPA is adequately prepared to meet its important new responsibilities.

A review of BPA's latest organizational chart (dated August 9, 1981) and discussions with knowledgeable Bonneville officials revealed that most of Bonneville's important new responsibilities have been assigned to subunits within the Office of Power Management, one of BPA's five principal offices. Assurance is lacking that important policy issues requiring public meetings and study by the regional planning council and BPA's Administrator will receive the attention they deserve.

Bonneville's organizational chart shows that

--The conservation function, consistently assigned the highest resource priority throughout the act, is one of six divisions under the Office of Power Management. Load forecasting, another very important new function which can strongly affect power system planning and

policymaking is similarly positioned under the Office of Power Management.

- The senior executive (SES) position established by the act with responsibility for conservation and direct-application renewable resource programs, including administration of financial assistance, is charted as a staff position reporting to BPA's Administrator, but without direct control of conservation resources and programs.
- A responsibility center for development of renewable energy resources, assigned second resource priority in the act does not appear on the organizational chart, although a Thermal Power Branch does. Thermal power--conventional coal and nuclear generation--is accorded lowest resource priority in the act.
- The organizational chart shows no responsibility centers for enhancement of fish and wildlife and public participation in power planning, two other basic purposes of the act. These functions are assigned to small subunits within the Office of Power Management.
- A responsibility center for environmental concerns is assigned to the Office of Management Services which includes a variety of auxiliary functions such as administration, personnel management, and information services.

DOE SHOULD STUDY AND
UPDATE BPA'S ORGANIZATION

The inconsistencies we observed in BPA's organizational chart do not necessarily mean that Bonneville has underesti-

mated the importance of its new responsibilities. But they do evidence inadequate preparations to mobilize the agency's resources for change. These and other incongruities tend to undermine Bonneville's credibility in the eyes of regional ratepayers, many of whom believe that passage of the act signified a new era in energy management and resource conservation. Uncertainty exists as to whether BPA will be responsive to the decisions of the regional planning council and to the purposes of the act.

On April 4, 1981, we wrote the Secretary of Energy a letter 1/ concerning BPA's implementation of the act. In that letter we made a number of suggestions including one which related to BPA's organization and staffing. We pointed out that:

"With a new legislative mandate, increased staffing and a new Administrator, this seems like an opportune time for the Department, in conjunction with Bonneville, to comprehensively examine Bonneville's organizational structure. This study should thoroughly examine organizational alternatives, program options, priorities, and funding levels."

On August 4, the Assistant Secretary of Energy for Management and Administration replied to our letter and declined to adopt our suggestion. His letter stated in part that:

"With respect to the suggestion that there be a comprehensive examination of BPA's organizational structure,

1/"Bonneville Power Administration's Efforts In Implementing the Pacific Northwest Electric Power Planning and Conservation Act," EMD-81-67, April 8, 1981.

BPA does not believe that such a study is needed at the present time, since the new functions stemming from the regional act largely represent additions to existing programs rather than alternatives thereto. Therefore, BPA plans to continue carrying out its functions, and its operating and maintenance and capital acquisitions programs in much the same manner that it followed prior to the enactment of the Regional Act.

* * * * *

"* * * BPA believes it would be prudent not to divert BPA or DOE staff time from the implementation of the Regional Act, particularly in light of the tight statutory and administrative deadlines BPA faces."

We believe that the Assistant Secretary's reply missed two important points. First, it is difficult to imagine, as his reply asserts, that Bonneville's important new functions under the act are "largely additions to existing programs * * *." Bonneville's principal functions before passage of the act were to transmit and market Federal hydropower. BPA now has regional power supply responsibilities and broad power purchase authority. Furthermore, BPA had no previous legislative mandate for leadership in energy conservation, renewable energy resources, fish and wildlife protection, and public participation in the formulation of regional power policies. And BPA had mounted no significant programs to achieve such purposes. The Assistant Secretary's letter implies that Bonneville can fully and capably implement the act by taking a "business as usual" approach. We disagree because it seems obvious to us that the act significantly changed BPA's lines of business.

The Assistant Secretary's reply also failed to recognize our point that Bonneville can best assure effective and efficient implementation of the act by timely organizational planning. DOE and BPA need to reassess Bonneville's organizational

structure and programs in light of the act and to reorganize and reallocate resources where necessary to meet the new purposes mandated by Congress. The Assistant Secretary's suggestion that DOE and BPA were too busy implementing the act to develop an organization plan is contrary to good management practice. Action without planning--especially hurried action on important issues--usually courts trouble.

We continue to believe that DOE--with advice from Bonneville, the regional planning council, and the region's rate-payers--should examine and adjust BPA's organization, programs, and staffing to assure effective and efficient implementation of the act.

POWER SALES WERE HURRIED
AND POORLY PLANNED

BPA had considerable latitude in how it could contract for power sales. The statute says that within 9 months of the act's effective date, Bonneville had to (1) begin negotiations which would lead to initial long term contracts, and (2) make valid offers to its customers. No priority for, nor sequence of negotiations or offers is set out. Bonneville management decided to complete as much of the negotiation phase as possible in the 9 month period before offering the contracts. Our limited examinations indicated that BPA needlessly hurried its negotiations and poorly planned the negotiating process.

Contract negotiations were
needlessly hurried

Bonneville rushed to complete negotiations for selling Federal power in 9 months, although 21 months were available. Section 5(g) of the act provides that within 9 months after

enactment, Bonneville will commence negotiations for and offer initial long-term contracts to various classes of industrial and utility customers. The Act provided another 12 months for BPA's customers to accept Bonneville's offer. This would allow BPA's customers to make counter offers during this period. The Act's provisions gave Bonneville's Administrator considerable latitude in deciding (1) when to begin negotiations or make offers, and (2) whether to make offers before negotiations or vice versa.

BPA started negotiating with its customers in February 1981, shortly after the statute was enacted. Negotiations continued for 6 months while Bonneville drafted and redrafted contracts based on the results of negotiating sessions. Although the act allows for 1 year's time for negotiations after the offering of contracts, and BPA negotiators told us that contracting for power sales normally takes up to 2 years' time, Bonneville attempted to complete the entire contracting process within 9 months. The negotiations culminated in early August during a week of very intense negotiating between BPA's top management and customer executives on important unresolved issues. Contracts were mailed to BPA customers on August 28, 1981. All but 1 of Bonneville's 16 industrial customers have accepted their contracts, but only 2 of 144 utilities have signed their power sales contracts. The utilities are likely awaiting the outcome of a lawsuit which 12 utilities have filed to assure that Bonneville's contracts with its industrial customers do not improperly reduce their preference rights to Federal power.

Bonneville's hurried negotiation process limited the time available for BPA officials to study the act, establish nego-

tiating rules, and determine their negotiating positions. Bonneville's hurry also reduced opportunities for the public to participate and consult in the contracting processes. Although most negotiation sessions were open to the public, Bonneville's self-imposed deadline precluded the kind of public education efforts required for productive public participation in technical negotiations. As a consequence, some serious shortcomings in BPA's draft contracts were not corrected during negotiations but were brought to BPA's attention later during public meetings..

Bonneville offered its customers 20-year contracts, although a multitude of uncertainties made shorter initial contracts (e.g., 5-year) or 20-year contracts with periodic reopening provisions much more appropriate. Also, BPA could have, but did not condition its power sales contracts on customer compliance with Bonneville programs and policies to implement the act. Although these weaknesses were made known to Bonneville by public interest groups and by the regional planning council, BPA either declined to correct them or took actions which were not fully responsive.

20-year contracts
were traditional
but inappropriate

Bonneville offered its customers traditional 20-year contracts at a time of great uncertainty when no one--neither BPA nor its customers--could clearly see more than a year or two ahead. Bonneville offered the contracts in August 1981, although the Council's first conservation and electric power plan will not be adopted until early 1983, and great uncertainty

exists within the region about (1) consumer reactions to sharply higher power rates, (2) the magnitude of future power needs, (3) cost escalations and delays on BPA's nuclear power program, and (4) Bonneville's future role, if any, in providing financial assistance to two nuclear powerplants being constructed in Washington State.

BPA acknowledges that the 20-year term of its new power sales contracts has been the subject of considerable public comment. Public comments included assertions that a shorter contract term would provide more flexibility and permit BPA to be more responsive to the regional planning council. BPA declined to offer long-term contracts for a shorter period on the grounds that planning tradition, references to 20-year contracts in the act's legislative history, and the need to reduce customers' uncertainty about future power supplies justified a 20-year contract term.

Our review indicated that BPA's Administrator has considerable latitude in setting the contract term, but cannot execute power sales contracts for more than 20 years, including extensions and renewals. We believe that the public comments received by BPA on this issue were insightful and Bonneville should have accepted them. In the absence of a regional conservation and power plan, and with so many important planning questions unanswered, Bonneville should have offered its customers initial contracts of shorter duration with options for renewals or extensions to 20 years. In 5 years, when many important questions have been answered, BPA and its customers would be well positioned to revise and extend the initial contracts consistent

with the conservation and power plan adopted by the regional planning council. By offering 20-year contracts, Bonneville did not reduce customer uncertainties about future power supplies because it is the customers themselves who must implement conservation programs and build generating capacity.

BPA sold Federal power without
assuring customer compliance
with the act

Before agreeing to sell Federal power, Bonneville could have, but did not, secure commitments from its customers to help BPA implement the act and the regional conservation and power plan. As a result, the long-term contracts are not a strong vehicle for accomplishing the purposes of the act.

The contracts which BPA offered its customers in August 1981 represent a fundamental 20-year linkage between Bonneville and the electric utilities and direct service industries it supplies with Federal power. In offering the new contracts, BPA had an invaluable opportunity to assure customer leadership in achieving the purposes of the act, including electricity conservation, development of renewable energies, and protection of fish and wildlife. BPA's Administrator could have used his contracting authority to assure customer compliance with the purposes of the act and with the plans adopted by the regional planning council.

During the contract negotiation process and in correspondence with your subcommittees, Bonneville rejected the notion of using its position as a provider of inexpensive Federal power and federally backed financing to assure customer leadership in implementing the provisions of the act. In fact, BPA's draft

contracts made little or no reference to Bonneville's new responsibilities under the act until objections by the regional planning council and by fishery interests prompted last minute insertion of provisions for future negotiations on implementation of the Council's electric power and conservation plan. These recently inserted clauses, although acceptable to the Council, do not obligate the power customers to take any steps to implement the Council's plan. Consequently, Bonneville may have by-passed the unique opportunity provided by the act to encourage conservation, develop renewable resources and protect fish and wildlife.

PUBLIC INVOLVEMENT PROGRAM
NEEDS IMPROVEMENT

The act makes Bonneville responsible for providing regional interests and the public at large with opportunities to participate and consult in the planning of regional power policies and programs. Bonneville has attempted to meet this responsibility in regional planning by expanding a small public involvement subunit established in the Office of Power Management before the act was passed. BPA has not (1) established an independent office of public participation; (2) developed a comprehensive public education/planning program to assure knowledgeable and timely public participation; or (3) used communications specialists to help design and lead public planning forums. Bonneville's limited organizational response and its rush to sell Federal power make it appear that Bonneville is not committed to public participation in regional policymaking.

The manner in which BPA recently negotiated and offered its customers new 20-year power sales contracts was especially frustrating to some regional interests. Although the new contracts are extremely important and highly technical, BPA mounted no public education program to help interested citizens prepare themselves for participation. Bonneville's hurry to sell Federal power, with round-the-clock negotiations sometimes taking place simultaneously in different locations, further limited public participation, and made it unclear how Bonneville decided important issues. When special public meetings were held, and BPA officials made presentations to regional ratepayers, public comments were limited because most people lacked an adequate understanding of the technical aspects and the implications of the contracts.

Frustrations resulted when Bonneville appeared to make important decisions without seeking or accepting advice from the public and the regional planning council. BPA's plan to complete its power sales contracts in 9 months was not discussed in advance within the region. BPA offered 20-year contracts although some public comments recommended shorter initial contracts as an attractive option. Also, BPA offered to supply 320 MW of power--enough to serve a city of 140,000 people--to a planned but unbuilt aluminum smelter without fully discussing the timing or terms of service in advance with the regional planning council or the region's rate payers.

BPA agreed to supply this large new industrial load starting in 1987, although two regional powerplants are in

financial difficulty and the region's electric utilities are forecasting average energy deficits for 1987 and several years following. Bonneville's decision to make this large industrial commitment prompted many protests, and greatly alarmed the regional planning council which is working to develop a long-range power plan for the region's future. The Council wrote to BPA's Administrator and demanded that BPA supply the Council with analyses and forecasts supporting BPA's commitment of 320 MW in 1987. Bonneville replied to the Council that it did not prepare an analysis showing that sufficient power would be available to meet the new load, and that under the act BPA did not have authority to condition the new contract on the actual availability of power. As one of the region's major newspapers observed, BPA's justification of this new contract "is a tidy legal argument, which nonetheless, pushes public trust close to a credibility chasm."

Recent events indicate that Bonneville's public involvement program has not corrected the poor planning conditions we reported to the Congress in August 1978. In our 1978 report,1/ we observed that

"* * * Many factions, including State and city governments, environmentalists, and conservationists, feel that energy planning is dominated by the utilities and BPA's large industrial customers and offers little opportunity for public participation. * * * Lack of public participation appears to be a major cause of the many lawsuits which have been filed to prevent or modify implementation of regional power programs.
* * *"

On August 31, 1981, 12 of Bonneville's preference customers, including the City of Seattle, filed suit in U.S. Appeals Court

alleging that BPA has offered its industrial customers more power supplies than they are entitled to under the act. On September 10, 1981 after Bonneville's decision to supply the unbuilt aluminum plant in 1987, the regional planning council put BPA on notice that the Council reserves its options to pursue whatever course of action is appropriate under the act. On September 30, 1981 a Northwest environmental group filed suit in U.S. District Court to prohibit execution of the new contracts until environmental impact statements are filed.

A CONTINUOUS APPROACH TO CONSERVATION
AND RENEWABLE ENERGIES

Under the Act, Bonneville's resource acquisition programs must give top priority to cost-effective conservation and renewable energies. Bonneville is proceeding cautiously to acquire these priority resources. Several BPA-sponsored conservation programs are under way, but most of them are in the residential sector which accounts for only one-third of the region's power consumption. Bonneville has been slow in developing ways to credit its customers for conservation programs they have initiated. BPA has not yet developed a cost-effectiveness methodology for evaluating customer proposals, or a system of billing credits for customer-initiated projects. Delays in completing these mechanisms tend to limit regional conservation efforts to those which BPA itself is pursuing.

¹/Region at the Crossroads--the Pacific Northwest Searches for New Sources of Electric Energy," EMD-78-76, August 10, 1978.

In April 1981, Bonneville completed a preliminary resource assessment which showed that it was technically feasible for the region to conserve over 4,700 MW by 1990. BPA staff estimated that only about 2,800 MW of that total was potentially achievable. The remaining 1,900 MW was considered unachievable because of social and institutional constraints such as resistance to change, lack of reliable information, and financial restraints. Bonneville's assessment shows that about 1,000 MW of the achievable potential can be realized through Bonneville's program efforts, and another 1,800 MW could be secured by regional industries, States and municipalities, and utilities on their own initiative. Bonneville's preliminary assessment of the region's conservation potential appears to be within the range of other regional assessments made earlier by Skidmore Owings and Merrill (SOM), the Northwest Energy Policy Project (NEPP), and the Natural Resources Defense Council (NRDC). In certain areas, however, such as residential appliances and industrial metals, Bonneville may be underestimating its own ability to encourage cost-effective conservation.

In January 1981, Bonneville submitted revised budget data describing a conservation program estimated to cost over \$400 million during the next 5 years for conservation savings estimated at 300 MW, or about 30 percent of Bonneville's self-assessed potential of 1,000 MW. Bonneville officials are well aware that this initial program will not capitalize on all cost-effective conservation opportunities contemplated by the act. The 1981 program, they said, was designed to concentrate on proven, high pay-off efforts--primarily in the residential sector, and to

a small extent in the commercial sector. Bonneville officials told us in May 1981 that their fiscal year 1982 conservation programs would expand on opportunities in the residential sector and would initiate new efforts in the industrial and commercial sectors. Our recent discussions with BPA officials suggest that BPA's fiscal year 1982 program may be a modest expansion of previous efforts.

On August 21, 1981, BPA issued a public notice offering to buy generating resources on the open market, but did not say how much it would pay for power. BPA's offer closed on October 20, 1981 after about 70 proposals totaling over 1,500 MW had been received, including over 500 MW of renewable resources and cogeneration. Bonneville plans to evaluate these proposals and, where cost effective, to execute power purchase contracts in early to mid-1982. In the future, Bonneville may make such offers annually.

SALMON AND STEELHEAD FISHERIES

Restoration of anadromous fisheries on the Columbia River and its tributaries awaits development of a plan. Although Bonneville is funding more research and development projects, only limited actions are expected until the regional planning council develops the comprehensive fish and wildlife program mandated by the act. The Council has requested fish and wildlife agencies and interested parties to submit their planning recommendations by November 15, 1981 and may authorize some fish and wildlife study contracts after the planning recommendations are received.

Several concerns were expressed to us by fish and wildlife interests within the region. One concern is that cutbacks in

Federal and State agency budgets might reduce hatchery operations and other programs to restore anadromous fish runs in the Columbia River and its tributaries. Fishery interests also fear that Bonneville might not use its financing authorities under the act to restore fisheries funds lost through such budget cut-backs. Other concerns are that (1) the Council will not establish a strong central staff of fish and wildlife biologists and (2) Bonneville has not adequately studied the fish and wildlife implications of contract offers it made to manage the Federal hydropower system so as to advance or store energy for the benefit of its customers.