

April 27, 2023

President Joe Biden  
The White House  
1600 Pennsylvania Avenue, NW  
Washington, D.C. 20500

Dear President Biden:

As representatives of Pacific Northwest electric customers, we thank you for your recent Joint Statement with Prime Minister Trudeau committing to intensifying your work toward an agreement on a modernized treaty regime with a focus on flood risk management, power generation, and environmental benefits that are shared equitably by both countries and the Indigenous peoples and Tribal nations, communities, and stakeholders in this watershed.

We understand that the U.S. State Department intends to reach an agreement in principle this summer with Canada for the framework of a modernized Treaty, which is of great significance in the Pacific Northwest. As we have indicated many times to the State Department and other entities within the Administration, we believe our members are uniquely positioned to provide valuable technical and operational information that the State Department should consider before advancing such an agreement, even in preliminary form.

Therefore, with this letter, we request an opportunity to provide input before a draft agreement in principle is reached and notify you of our concerns and the sideboards we recommend to help address them:

- 1) *End Unfair Entitlement Return – Compensate Canada for actual power benefits provided to the U.S.;*
- 2) *Ensure Flood Protection – Use federal funds to pay for flood protection, consistent with other river systems; and*
- 3) *Protect the Ecosystem- Consider effects on downriver operators and communicate proposed actions for downriver operational analysis on non-federal Dams.*

The Columbia River Treaty Power Group (Power Group) represents more than 6 million electricity consumers and businesses across Pacific Northwest states who are served by hydroelectricity and the high voltage transmission grid operated by Bonneville Power Administration (BPA). A high percentage of our populations are in rural and underserved areas, as well as communities with large numbers of populations at or below the poverty level.

Our membership includes BPA's three largest public power customers, Snohomish PUD, Seattle City Light and Tacoma Public Utilities and the three Mid-Columbia public utility districts (Mid-C PUDs). The Mid-C PUDs each own and operate hydroelectric projects on the mainstem Columbia River that will be directly affected by changes in flow for flood control and ecosystem-based function. It also includes two large investor-owned utilities, Puget Sound Energy and Portland General Electric, further confirming the importance of the right outcome from Treaty negotiations for the electric sector in the Northwest.

### **Major concerns over Lack of Transparency**

To date, Power Group members have been unable to review or react to any substance related to pending Treaty modernization proposals solely because the State Department has chosen to close off that information. This lack of transparency renders our membership unable to establish reliable and dependable electric resource plans for their customers and industry, while we continue to send very substantial amounts of U.S. carbon-free energy to Canada rather than keep that energy here to meet U.S. carbon goals. This is at odds with many of our utilities working to meet state law-required renewable energy mandates. Further, it makes it impossible to accurately establish realistic electric rates, ensure resource adequacy, determine if we need to buy or build new generating resources, establish power sales contracts and plan for long-term state carbon mandates after 2024.

### **History of Engagement**

Many Power Group members were actively involved in the power and flood aspects of the original Treaty. In 1964, Northwest public power utilities participated in the Columbia Storage Power Exchange to buy back the first 30-years of entitlement power from Canada. For nearly 60 years, our electric customers have paid the Canadian Entitlement return. Over a decade ago, recognizing that the value of coordinated operations to the U.S. was worth as little as 10% of the current Canadian Entitlement (CE) payment, the Power Group commented on the September 20, 2013 *Draft Recommendation for the Future of the Columbia River Treaty*. Specifically, we sought a rebalancing to reflect the benefits of ongoing coordinated operations under current, real-world conditions.

The Northwest congressional delegation heard our concerns. In 2015, 26 members of Congress wrote President Obama urging action on the Treaty and drawing attention to “the outdated formula by which the United States compensates Canada for power coordinating benefits...”. In 2016, 22 Northwest delegation members sent a letter to State Department Secretary John Kerry, urging the United States to enter Treaty negotiations with Canada. Senator Maria Cantwell wrote to President Biden in 2021, urging the issue to be prioritized with Canada. As recently as March 22, 2023, 28 members of the Northwest delegation penned a letter to President Biden asking that the Columbia River Treaty be a “top agenda item in any bilateral discussions with Canadian leadership.”

For more than 10 years, the Power Group has been a strong advocate for modernizing the Treaty, including focusing on reducing the entitlement to a level that better reflects an equitable sharing of the actual downstream power benefits generated at U.S. dams. This would keep carbon-free

energy in the U.S. rather than send our U.S. carbon-free energy it to Canada for them to use or mark-up and resell back to U.S. utilities at times when transmission capacity is limited. Despite our clear interests, the State Department has only provided very limited opportunities for the Power Group to provide input, and we have never had the opportunity to offer technical expertise in response to pending proposals, or at a minimum, be notified of the rough framework of the proposals being negotiated.

Representatives from the Power Group participated in a “listening session” convened by the State Department negotiators with the Columbia River Treaty Power Group on October 14, 2022, and a February 16, 2023 negotiations “debrief” session with State Department negotiators and U.S. Entity representatives. Most recently, we participated in another “listening session” convened by the State Department on April 19, 2023. During these meetings, utilities emphasized the importance of rebalancing the entitlement on behalf of NW electric customers. We also reminded the negotiators about how their negotiated outcome will impact BPA utility customers and non-federal hydropower operators. On September 23, 2022, the Power Group wrote to Brian Nichols, Assistant Secretary of State for Western Hemisphere Affairs at the U.S. State Department. The letter explained our need to know the Treaty’s future before we are “forced to make billion-dollar decisions without critical information related to their rates, power supply and capacity obligations that take effect in less than two years.”

## **Power Group Concerns**

We have been told that the State Department wants to reach an Agreement in Principle with Canada on the Columbia River Treaty by this summer. While we are pleased to see movement, we are concerned that such an agreement could signal commitments that should not be made until the State Department has considered the impacts of power supply and operational scenarios on BPA customers and non-federal operators. We need the details around the U.S. proposal to reduce the entitlement, in coordination with addressing the need for flood control protection in the U.S.

We are also interested to understand how any new ecosystem commitments might impact existing fish protection measures for the Mid-Columbia Dams, as well as potential impacts to power generation and resource adequacy during peak critical events.

This information is central to the long-term planning necessary to meet the power needs of the region, and our collective ability to meet the carbon reduction targets set by western states. In other words, it is critical that we have an opportunity to review and provide input into the Agreement in Principle “before the ink dries.”

- *Entitlement Return*

As identified by BPA in the December 13, 2013 U.S. *Entity Regional Recommendation for the Future of the Columbia River Treaty after 2024*<sup>1</sup> (Regional Recommendation), “[b]ased on the present formula developed in the 1960s, the estimated value of the Canadian share of the

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<sup>1</sup> [U.S. Entity Regional Recommendation for the Future of the Columbia River Treaty after 2024.](#)

downstream benefits in 2024 is significantly greater than anticipated, and far exceeds the value of coordinated power operations under the Treaty.” Pursuant to the current aspects of delivery surrounding the Canadian Entitlement, BPA is obligated to provide Canada with one-half of the theoretical downstream power benefit that amounts to 3.9 million MWh of clean, carbon-free, hydroelectric power each year. This is a commitment that both BPA and the Power Group agree is vastly in excess of what should be provided to Canada after September 2024, when portions of the Treaty and associated domestic agreements expire.

BPA’s own modeling has clearly demonstrated that a real-world estimate of the downstream power benefit would be a fraction (as little as 10 percent) of the existing CE. The difference between the current and actual calculation of the downstream power benefits, translates into an estimated \$300 million a year loss for the United States. Western electric markets have evolved away from bulk energy production into a capacity critical system that is dominated by a highly dynamic, liquid, sub-hourly market that also values carbon-free attributes. As the Northwest Power and Conservation Council found in its 2021 Northwest Power Plan, the region needs at least 3,500 MW of new renewable capacity by 2027<sup>2</sup>. Under the Treaty, the U.S. returns over 1,000 MW of hydropower capacity to Canada – or almost 1/3 of the projected shortfall. That missing hydropower, if kept in the U.S., would help protect grid reliability as states transition to meet 100 percent under clean electricity mandates.

- Aspects of Power Delivery

The final Regional Recommendation identifies the need to renegotiated the existing “Aspects of Delivery Agreement” governing the return of the Canadian Entitlement to Canada. Specifically, it states:

“The United States should renegotiate for the replacement of the present “Aspects of Delivery Agreement” to create the least-cost transmission strategy for both countries to return the Canadian Entitlement to Canada. This includes reconsidering the flexibility of the return.”

The Power Group agrees that updating the delivery aspects of the CE is critical to better reflect modern industry standards. Currently, Canada can schedule the day ahead capacity from BPA after the typical day ahead trading window, making it difficult for BPA to balance their loads and resources when the day ahead market is closed. The United States should modernize aspects of power delivery to meet standard industry practices in 2023 and beyond – not methods more suited to the 1960s. These delivery standards should impose the fewest possible operational constraints on the U.S. power system. The Power Group can provide technical details on this issue, which is an important factor in achieving a cleaner electric grid while maintaining reliability.

- *Flood Risk Management: Taxpayers, not ratepayers, should pay for flood control.*

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<sup>2</sup> The 2021 Northwest Power and Conservation Plan. [2021 Northwest Power Plan \(nwccouncil.org\)](https://www.nwccouncil.org/2021-nw-power-plan)

Without a change, Pacific Northwest ratepayers will end up paying for flood control through the CE when protocols change to “called upon” operations post-2024. There is no visibility into how U.S. Entity intends to manage the relationship between flood control management and optimized power operations. The Power Group opposes using the CE to subsidize flood risk management after 2024. Protecting flood control by failing to renegotiate power provisions is economically inefficient. Escalated for inflation, the U.S. payment of \$64.4 million for 60 years of flood control is worth about \$625 million today, much less than the billions the U.S. will have paid to Canada through the power provisions of the CE over the same period. The worst possible situation for the U.S. would be to pay the CE at its current, unjustified levels plus an unspecified amount for Called Upon flood control.

We are pleased that last year’s Water Resources Development Act authorizes the Corps to conduct a study to determine the feasibility of a domestic alternative to reliance on Canada for flood risk management. It also requires the Army Corps to tell Congress what funding it needs, and why, to pay for Canadian flood control after the U.S. begins bearing more risk in 2024. This is a more appropriate approach than asking ratepayers to subsidize flood control after 2024 for an indefinite period of time.

- *Ecosystem/Operations: Treaty-related changes could affect operations.*

Finally, the Power Group has an interest in the future of ecosystem function in the Columbia River Basin. Currently, it is unclear how the U.S. and Canada will address the ecosystem issues raised by constituencies in both countries. BPA customer utilities pay significant fish management obligations on the Columbia River. The Mid-C PUDs collaborate with federal and state resource agencies and tribes to implement long-term settlement agreements and adaptive management plans for anadromous fish. Our electric customers have invested significant resources into these highly successful resource protection programs.

Ecosystem flows under a modernized Treaty and fish-related management commitments may have unintended consequences for species benefiting from existing operations. For example, more spill from BPA in the spring could negatively affect total dissolved gas standards and result in less water availability for resident fish and generation in the hot, dry summer months and following winter. It is important for the Power Group to understand, review, and provide feedback on ecosystem proposals to align compatibility with our ongoing efforts.

## **Conclusion**

With this letter, the Power Group is notifying the Department of State of our timely and substantial interests in the near-final Columbia River Treaty negotiations. We request that the Treaty be modernized to better align the costs of the Treaty power operation with the benefits received at U.S. dams. This translates into a 90% reduction in the entitlement paid to Canada or an immediate termination of the coordinated power flows and entitlement obligation. This would keep U.S. carbon-free energy where it belongs – in the U.S.

We also support using U.S. taxpayer funding to compensate Canada for power losses associated with providing flood risk management operations that directly benefit U.S. citizens. We have


also consistently supported adding ecosystem-based functions that are aligned with the objectives of the Regional Recommendation particularly as they interact with power planning, operations, and existing non-federal fish settlement agreements.

We strongly believe that input from Power Group members will help the U.S. Entity and the State Department evaluate the costs and benefits of Treaty modernization with additional information that may not otherwise be accessible to them. Just as Northwest Tribal expertise has been included more directly in Treaty negotiations, we request that you encourage the U.S Entity and the State Department to access our technical expertise and deep experience in managing Columbia River operations on behalf of thousands or electric utility customers in the Northwest.

Sincerely,



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