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Tuesday, January 24, 2012
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Bipartisan Group of Northwest Congressional Members Send Letter to Energy Secretary Chu Raising Concern Over FERC's Bonneville Environmental Redispatch Order

WASHINGTON, D.C. – House Natural Resources Committee Chairman Doc Hastings (WA-04) and a group of 18 bipartisan Members of Congress and Senators from Washington, Idaho, and Oregon sent the following [letter](#) to Department of Energy (DOE) Secretary Steven Chu raising concerns with the Federal Energy Regulatory Commission's (FERC) December 7th order which held that the Bonneville Power Administration's (BPA) "environmental redispatch policy" issued last year is discriminatory and preferential against wind entities.

In the letter, Members note that the Northwest region has a long history of resolving difficult challenges without FERC exercising such authority. FERC's recent, unprecedented involvement could damage BPA's discretion to manage complex and diverse river operations on the Columbia and Snake Rivers for hydropower, flood control, transportation and other important Northwest needs. BPA has been working with stakeholders in the region on settlement discussions, and therefore Members encourage FERC to promptly schedule a rehearing.

Congressman Doc Hastings is Chairman of the House Natural Resources Committee, which has jurisdiction over the Bonneville Power Administration, Endangered Species Act and other matters concerning America's water resources, federal irrigation projects, and hydropower generation.

The full text of the letter is below. [Click here](#) to view a copy of the letter.

January 24, 2012

The Honorable Steven Chu
Secretary
Department of Energy
1000 Independence Ave, SW
Washington, DC 20585

Dear Secretary Chu,

We write today regarding the December 7, 2011 order issued by the Federal Energy

Regulatory Commission (FERC) in the matter of the Bonneville Power Administration's environmental redispatch policy.

As you know, the Bonneville Power Administration (BPA) is a Power Marketing Administration (PMA), one of four PMAs that market and deliver power in 32 states nationwide. BPA's enabling statutes make clear its obligations to provide cost-based power to its customers, operate within flood control restraints, and maintain and operate a reliable transmission system. Further, BPA must adhere to subsequent laws and mandates, including mitigating the impact of the federal hydropower system on fish and wildlife. As the Secretary of Energy, you are ultimately responsible for helping ensure that BPA fulfills these multiple obligations.

We understand that the circumstances relating to high water events last spring led to complex and difficult policy tradeoffs, including impacts on flood control, threatened and endangered species, reliably ensuring transmission services to all transmission customers, and the cost burdens borne by various customers. We are also acutely aware that as we move into spring 2012, the region may face these issues yet again.

It is our understanding that a small group, representative of the stakeholders on this issue, has been meeting in good faith to seek resolution of this issue consistent with the request of several members of the Northwest delegation in August 2011. Our region has a long tradition of working together to resolve difficult challenges, and we believe this situation is no different.

While we recognize certain authority granted to FERC in the Energy Policy Act of 2005 in adding Section 211A to the Federal Power Act, FERC has never previously exercised this authority, nor has such authority ever been subject to judicial review. Throughout its December 7, 2011 order, FERC states that BPA is to find a way to satisfy all of its statutory obligations, including compliance with Section 211A. However, later in the order, FERC asserts that its proposed remedy is appropriate and not limited by BPA's enabling and applicable environmental statutes. A literal reading of this assertion indicates that FERC may believe Section 211A of the Federal Power Act trumps BPA's organic statute and all related enabling statutes, as well as the Endangered Species Act and the Clean Water Act. Absent further clarification on this issue, we are concerned that FERC may have overstepped its authority in its order.

Some could interpret FERC's intent to enforce Section 211A without regard for BPA's statutory requirements, a view we feel strongly would set an unfortunate precedent that could damage BPA's ability to effectively manage these important and diverse responsibilities as well as those of other PMAs and other historically non-FERC jurisdictional entities. BPA and other parties have asked for rehearing in the matter, including clarification on the meaning and breadth of the order, and a full and timely airing of issues raised in this order needs to occur.

As BPA has publicly noted, the region is just weeks away from the spring snowmelt season and adoption of a new redispatch policy is urgently needed. BPA Administrator Steve Wright has been working for several months with diverse stakeholders in the region on settlement discussions. These settlement efforts should be given every chance to succeed before any further regulatory or judicial decisions are made. Once settlement talks are

concluded, we urge FERC to act promptly on the rehearing requests so that long term certainty can be obtained.

As BPA works to integrate renewables into the grid and remain a leader in this effort, it must also appropriately meet its multiple obligations - remaining a low-cost provider of federal power, protecting endangered species and wildlife, and ensuring that BPA maintains its excellent record on its repayment obligations, and operating the transmission system in a reliable, cost effective, and non-discriminatory manner.

While we may have different views about the specific path forward, we fundamentally agree that the resolution of this dispute can and should come from the Northwest. We ask that you make every effort to support the ongoing discussions, and we expect regional stakeholders to remain at the table and bring forward a settlement that can avoid protracted litigation.

We continue to believe that the future development of renewable energy in the region needs to be preserved, for intermittent and base-load sources alike, and as more and more diverse resources come online, mitigation may be difficult. We believe that working toward alternative solutions to BPA's environmental dispatch policy can help avoid or significantly mitigate the costs associated with an oversupply situation, reduce economic uncertainty, and make the prospects and cost of litigating this issue far less likely to occur.

Please keep us informed on the progress toward resolving this important issue.

Sincerely,

Senator Patty Murray
Washington

Chairman Doc Hastings
Washington - 04

Senator Ron Wyden
Oregon

Representative Greg Walden
Oregon - 02

Representative Peter DeFazio
Oregon - 04

Representative Norm Dicks
Washington - 06

Senator Mike Crapo
Idaho

Senator James E. Risch
Idaho

Senator Maria Cantwell
Washington

Representative Cathy McMorris Rodgers
Washington - 05

Representative Adam Smith
Washington - 09

Representative Jay Inslee
Washington - 01

Representative Mike Simpson
Idaho - 02

Representative Raul Labrador
Idaho - 01

Representative Jamie Herrera-Beutler
Washington - 03

Representative Jim McDermott
Washington - 07

Representative Kurt Schrader
Oregon - 05

Representative Rick Larsen
Washington - 02

cc: Steve Wright, BPA Administrator
Jon Wellinghoff, FERC Chairman
Philip Moeller, FERC Commissioner
John Norris, FERC Commissioner
Cheryl LaFleur, FERC Commissioner

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