



## The Steve Wright Era



Photo courtesy of BPA

**Steve Wright's tenure at the Bonneville Power Administration is coming to an end.**

Wright will step down at the end of January after serving as BPA Administrator for a dozen years. Only Paul Raver, who headed BPA from the late 1930s through World War II and into the early 1950s, held the position longer.

BPA press releases characterize Wright's departure as voluntary -- it coincides with his 55<sup>th</sup> birthday, when he becomes eligible for full federal retirement after working at BPA for his entire career.<sup>1</sup>

Wright is the only administrator who started at the agency and rose to the top.

BPA, a federal power marketing agency in Portland, Oregon, sells electricity from 31 federal dams and other sources. It has a venerable history dating back to the New Deal, when it helped bring electricity to small towns and rural areas in Washington, Oregon, Idaho and western Montana.<sup>2</sup>

Over the years, BPA's mission has grown. It now supplies 35% of all the electricity used in the Pacific Northwest. It owns 15,000 miles

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of high-voltage transmission lines and pays for a fish and wildlife program in the Columbia River basin that has cost \$11 billion since its inception 34 years ago. Since 1980, BPA has also funded an ambitious energy efficiency program.

### **Bill Drummond succeeds Wright as administrator.**

“It has been a great honor to serve in an agency that has such tremendous impact on the quality of life in the Pacific Northwest,” Wright said. “It has been my goal since graduating from college to make a more positive and meaningful difference in the world. In no place could I have had more of an opportunity to do so than at BPA.”<sup>3</sup>

Bill Drummond, the deputy Administrator, will succeed Wright in the \$179,000-a-year position. Secretary of Energy Steven Chu announced the selection of Drummond on January 16.

Before joining BPA in 2011, Drummond worked for 17 years as manager of the Western Montana Electric Generating and Transmission Cooperative in Missoula, Montana. From 1988 to 1994, he led the Public Power Council, an association of BPA’s publicly-owned utility customers in the Pacific Northwest.

In this newsletter, we examine Steve Wright’s management style as well as his accomplishments and missed opportunities. We describe Wright’s background and how he became administrator. We summarize the federal court decisions that curbed BPA’s legal authority for the first time in 25 years. We discuss BPA’s efforts to curtail the production of wind power at certain times of the year -- a controversy that has pitted BPA against renewable energy developers. And we summarize the issues that are likely to face Bill Drummond.

### **The Best Job Ever**

In contrast with some prior administrators, who stayed at BPA for only a few years, Wright sought the position and then hung on to it with determination.

### **Wright understood politics well.**

“I expect this to be the best job I will ever have,” he wrote in a widely-distributed June 19 letter announcing his retirement to employees, utilities and stakeholders. Click [here](#) to read Wright’s letter.

As of January, Wright has not said what he will do. He has told colleagues he wants to follow in the path of Judi Johansen, his predecessor who left BPA to become a utility executive. The *Arizona Republic* newspaper in

Phoenix reported in 2011 that he was an unsuccessful finalist to become the \$700,000-a-year manager of the Salt River Project, which supplies electricity to two million people and delivers water for irrigation and other uses in the state.<sup>4</sup>

During his tenure, Wright took a special interest in making sure that members of Congress from the Pacific Northwest were satisfied.<sup>5</sup> Before becoming administrator, Wright worked for BPA in Washington, D.C., and he understood politics well. Even after he was named administrator, Wright never let go of the political aspects of the job.<sup>6</sup> Over the years, BPA has paid \$900,000 to a government relations consultant firm, Washington2 Advocates, to monitor Congress and federal agencies, and to provide political intelligence directly to Wright. With the firm’s help, Wright responded promptly to Congressional inquiries, informed members of Congress and their staff about pending BPA decisions, and deflected criticism. Wright found it irritating when utilities and others took their complaints directly to Congress. He wanted to control the agenda. During Wright’s tenure, BPA did not ask for new legislation nor did it need to defeat bills that could have changed its core mandates. This was a period of relative quiet in Washington, D.C.<sup>7</sup> Nonetheless, Wright’s attentive and mild-mannered style played well in Congress with its over-sized egos and ambition. In addition, Wright



was skilled at reassuring officials at the U.S. Department of Energy -- his bosses -- that BPA was well-managed and did not need more aggressive oversight.<sup>8</sup>

### Accomplishments

Wright is often credited with providing a steady hand during the West Coast energy crisis of 2000 and 2001, when power prices skyrocketed and BPA was on the brink of having to raise power rates by a huge margin. He

became Acting Administrator in the middle of the crisis that was caused in part by California's dysfunctional experiment in electric utility deregulation and a severe drought in the Pacific Northwest that left BPA short of power. It was one of the most difficult times for BPA and other utilities in the last 20 years. Wright took the lead in asking utilities and industrial customers to conserve energy so BPA did not have to acquire electricity on the high-priced market.

Wright is also given kudos for signing Regional Dialogue power sales contracts in 2008 with utilities. The contracts provide revenue stability to BPA as well as incentives for utilities to make new investments in energy efficiency and renewable energy. The negotiation process was slow and cumbersome: it took six years for BPA and the utilities to draft the 20-year agreements. In the end, BPA and the utilities signed the contracts and they are in effect today.<sup>9</sup>

**Dams in the Columbia River Basin**

Courtesy of the Northwest Power and Conservation Council

### BPA at a Glance

**Location:**  
Portland, Oregon

**Year Established:**  
1937

**Employees:**  
3,100

**Annual revenue:**  
\$3.3 billion

**Miles of transmission lines:**  
15,276

**Substations:**  
262

**No. of customers:**  
146 (power)  
455 (transmission)

**BPA markets the power from federal dams owned by the U.S. Army Corps of Engineers and the Bureau of Reclamation.**



And Wright is praised for signing contracts in 2008 with several Indian Tribes in which they agreed to drop Endangered Species Act litigation against BPA in exchange for \$900 million to help restore depleted salmon runs in the next ten years. The costs of those contracts, like BPA's costs for virtually every other expense, are recovered from BPA's utility and other customers. Despite the hefty price tag, the agreements have the potential of creating an effective alliance between the Tribes and BPA to improve fish and wildlife habitat in the Columbia River basin.

### Deal-making



Although Wright talked frequently about transparency and the importance of collaborative relationships, he had a penchant for playing favorites. There was a gulf between his speeches and the reality. He saw himself as a deal-maker, negotiating transactions worth tens of millions of dollars.

Prior **BPA Watch** newsletters have examined a number of BPA's agreements during Wright's time as administrator. In 2007, for example, we wrote about BPA's contract to pay \$226 million to an Illinois company with no assets so it could buy and refurbish an aging

aluminum smelter in Longview, Washington. Click [here](#) to read more. In 2011, we investigated BPA's cozy relationship with the Bonneville Environmental Foundation, a nonprofit group that includes former BPA executives. Click [here](#) to read more.

Wright was certainly not the first administrator to grant favors. Other administrators pushed their own deals. BPA's arrangements under Wright's tenure in management, however, tested the legal limits of BPA's discretion. In so doing, BPA triggered the most searching legal review of its legal authority.

### The Ninth Circuit

Utilities and other stakeholders who want to challenge BPA transactions -- contracts, rates and other decisions -- have to file petitions in the U.S. Court of Appeals for the Ninth Circuit.<sup>10</sup> In dozens of prior cases starting in the early 1980s, BPA won. The Ninth Circuit simply deferred to its expertise.<sup>11</sup>

That impressive record came to an end in 2007 when the court invalidated BPA decisions related to the Residential Exchange Program ("REP"), which Congress created in 1980 to reduce electric rate disparities in the region.<sup>12</sup> Under the program, BPA paid cash to the region's investor-owned utilities for their residential and small-farm consumers.<sup>13</sup>

From its inception, the REP had been hugely controversial.<sup>14</sup>

### BPA Administrators 1937 to present

J.D. Ross (1937-1939) \*

Charles Carey (Acting) (1939)

Frank Banks (Acting) (1939)

Paul Raver (1939-1953)

William Pearl (1953-1960)

Charles Luce (1961-1966)

David Black (1966-1967)

H.R. Richmond (1967-1972)

Donald Hodel (1972-1977)

Sterling Munro (1978-1981)

Peter Johnson (1981-1986)

James Jura (1986-1991)

Randall Hardy (1991-1996)

Jack Robertson (Acting) (1996-1997)

Judi Johansen (1997-2000)

Stephen Wright (Acting) (2000-2002)

Stephen Wright (2002 to 2013)

Bill Drummond (2013 - Present)

*\* J.D. Ross was the long-time superintendent of Seattle City Light and was named BPA Administrator in 1937. He held both jobs until his death in 1939.*

BPA, unlike other federal agencies, does not depend on appropriations from Congress. Instead, BPA recovers its annual revenue from electric utilities and other customers. It's a zero-sum game. If someone receives a benefit, someone else picks up the tab. Under the law, BPA paid for the REP payments to investor-owned utilities by shifting the costs to the publicly-owned ("public power") utilities that have among the lowest power rates in the region.

**BPA acted  
"contrary to law."**

The Ninth Circuit found BPA's arrangement to be illegal. It held that BPA had acted "contrary to law" by disregarding the Congressional formula for the REP and sending extra money to investor-owned utilities.<sup>15</sup> Furthermore, BPA's decision to shift the cost of its expenditures to public power utilities was also unlawful, the court concluded.<sup>16</sup> The decisions marked the first time in 25 years that BPA had lost a major court case.

Two years later, in 2009, BPA lost again. This time, the issue was BPA's efforts to help Alcoa keep open its aluminum smelter near Bellingham, Washington. Three years earlier, BPA had decided to pay cash to Alcoa to defray its costs of buying power on the open market. But the Ninth Circuit held that BPA's actions violated the

Northwest Power Act and did not reflect sound business principles.<sup>17</sup> Weeks later, BPA signed another contract with Alcoa. In 2010, the court said BPA's second contract was no better than the first and constituted a \$32-million gift to Alcoa.<sup>18</sup> In 2012, BPA signed a new contract with Alcoa, this time to supply power to the smelter for 10 years.<sup>19</sup> The court has not ruled on that contract.

### Testing His Patience

Although Wright repeatedly said he wanted to settle BPA's legal disputes, his statements and actions sometimes caused confusion and tension. He inadvertently extended the disputes that he sought to resolve. Too often, Wright was thin-skinned and took criticism of BPA personally.<sup>20</sup> A utility or interest group that said something he considered unfair or intemperate in the news media or even in legal filings might find itself on the "outs." Wright would attempt to reach a solution without them. In the aftermath of the REP litigation, for example, he sought to exclude certain utilities he did not like from the settlement negotiations.

In its 2007 opinions, the Ninth Circuit did not say how BPA should calculate refunds (if any) to correct the problem. Wright soon embarked on a process to do that. His initial reaction, however, was to call together some but not all of the public power petitioners. Predictably, those meetings did not produce a tangible result.

A few months later, Wright tried to scare public power utilities by suggesting that the investor-owned utilities would ask Congress to mandate higher REP payments by amending the Northwest Power Act. To avoid that scenario, Wright suggested that public power utilities should voluntarily agree to pay higher REP payments than the law required in order to maintain regional peace.<sup>21</sup> But many public power utilities had spent millions of dollars in legal fees and waited years for their day in court. The Ninth Circuit had ruled in their favor. And Wright wanted them to forego their victory? Once again, Wright's strategy did not work.

In 2009, there was still no settlement. "My patience is beginning to wear thin with respect to finding a solution," Wright said in a public forum. He suggested that BPA would try to limit the negotiations (once again) to a smaller group of utilities who were more willing to settle, if for no other reason, than "to put me out of my misery."<sup>22</sup>

But the utilities that Wright wanted to exclude were among the ones that had initiated the Ninth Circuit litigation in the first place. They were not going to give up their multi-million dollar claims because the administrator felt impatient. Wright had no choice but to engage those utilities if he wanted an enforceable agreement. Not inviting them to the negotiating table prolonged some of the REP settlement talks and strengthened their determination.

Finally, with help from an experienced mediator paid for by BPA, the utilities succeeded in 2011 in reaching a compromise settlement that was endorsed by all of the investor-owned utilities and by almost all of BPA's publicly-owned utility customers. BPA eventually adopted the settlement, which refunds approximately \$1.2 billion to public power utilities for past overpayments and also fixes the level of REP payments going forward until 2028.<sup>23</sup>

### Internal Costs



While Wright was attempting to broker these settlements and monitor D.C. politics, internal management at the agency was delegated to others. With few exceptions, Wright appeared to have little interest in addressing management problems at BPA until he was prodded to do so.

In 2004, for example, BPA began a multi-year cost control project called Enterprise Process Improvement Project ("EPIP") at the request of the Industrial Customers of Northwest Utilities, a trade association of large manufacturing and forest products companies. The EPIP

analyses covered virtually every aspect of BPA internal operations, from transmission planning to public relations and information technology.

### BPA has seen an influx of new talent.

Although many EPIP reforms were implemented promptly, some problems linger to this day. Five months ago, for example, BPA released the results of an internal "root cause" investigation board that examined a \$6.4 million transmission planning project that had gone awry. BPA apparently received little of value for the money it spent.

This time, however, there was a welcome change in transparency. Rather than cover-up the mistakes, BPA's investigation board report bluntly analyzed why the four-year-old transmission planning project had failed to deliver a product that met BPA's needs. The report also identified solutions to help ensure the same mistakes do not occur again.<sup>24</sup>

BPA employees have accepted a great responsibility "to earn and sustain your confidence," BPA chief operating officer Anita Decker explained in a candid cover letter to BPA customers. "That means not only sharing with you our successes, but also informing you of our missteps and demonstrating our commitment to continuous improvement."

### New Talent

Another encouraging development at BPA is the gradual influx of new talent. For the first time in memory, a number of executives and rising stars at BPA have come from outside the agency -- they have worked at electric utilities or in the private sector. They bring diverse work experiences to BPA.

Decker, for example, came to BPA from PacifiCorp. Larry Bekkedahl, BPA's new senior vice president of transmission services, previously worked at Clark Public Utilities in Vancouver, Washington, and PacifiCorp. BPA's new vice president of energy efficiency, Richard Genece, comes from Southern California Edison. Larry Buttress, BPA's acting executive vice president for internal business services, worked at a silicon wafer manufacturing company.

Those changes are only a beginning at taming BPA's internal costs and spawning genuine innovation, such as the integration of new "smart grid" technologies that will make BPA's system more resilient and efficient. Much is left to do. In 2012, for instance, BPA paid \$130 million to supplemental labor firms for placing 1,200 individual employees at BPA where they worked on tasks primarily related to information technology and transmission.<sup>25</sup> The supplemental labor employees often work side-by-side with government workers in the same office. Records show the amount of money BPA

spent on supplemental labor has increased 35 percent in the last two years.<sup>26</sup> Why? Are there cheaper alternatives?

### The Road to the Top

Wright was 42 when he became Acting Administrator in 2000. He holds a bachelor's degree in journalism from Central Michigan University (1979) and a master's degree in public policy from the University of Oregon (1981).

Soon after graduation, Wright began working in BPA's conservation office at Portland headquarters. He stayed only three years before moving to BPA's small government relations office in D.C., and then to California, where he managed BPA's office there.

**"You've got to groom for this."**

In 1990, Wright returned to D.C. as the government relations office manager. Colleagues remember him as hard-working and reserved: he cultivated contacts, demanded accurate analyses about who was doing what in Congress, and shared little information with his fellow workers.

Eight years later, Wright was offered a promotion. BPA Administrator Judi Johansen named him a corporate senior vice president, a job that required him to move back to Portland. He had spent 14 of the last 17 years

working for BPA elsewhere, and he had much to learn about his own agency.

Nonetheless, Johansen would later say she had pegged him immediately as her successor. "From Day One, I said, 'You're the next administrator, and you've got to groom for this.'"<sup>27</sup>

In October 2000, Johansen promoted Wright again, this time to Deputy Administrator. A month later, when Johansen left BPA to become a PacifiCorp executive, Wright became Acting Administrator. It was the waning days of the Clinton presidency, and Wright was a transitional appointment. With support from the region's Congressional delegation, he stayed on after George Bush was inaugurated. In February 2002, President Bush's Secretary of Energy, Spencer Abraham, named him Administrator.<sup>28</sup> The Obama Administration retained him.

Wright is clearly passionate about the agency where he has worked for three decades. In 2002, before a group of BPA executives, he took the oath of office and gave a speech full of historical references, including to Franklin Roosevelt's 1932 campaign promise in Portland that he would develop the Columbia River basin for hydropower, irrigation and navigation. "We have been willed a tremendous legacy," Wright said at his swearing-in ceremony. "We have an electric power system in the Pacific Northwest that is the envy of the rest of the world."

### Too Much Wind, Too Much Hydro



BPA's electric power system now faces a new set of challenges. In the last five years, BPA has seen huge amounts of wind energy added to its transmission network. BPA does not own these wind plants. Instead, its network of high-voltage lines serves as the "railroad" for moving the power within the Pacific Northwest and to California.

BPA has a legitimate problem: there's too much wind and too much federal hydroelectric power on the system at the same time at certain times of the year. There's an oversupply.

It's an interesting dilemma, an example of how different issues and trends collide, forcing the BPA administrator to make tough decisions.<sup>29</sup> It's also another example of how Wright's brittle management style has sown tension and extended resolution of the issue.

The basic problem is that the peak season for generating power from dams and wind plants occur at the same time, usually in late spring or early summer. There is little demand for excess power in the Pacific

Northwest, and BPA's transmission lines to California are full.

### **BPA's solution was to curtail wind energy.**

In those situations, BPA would normally "spill" water over the lip of the dams. It would forego generating power for a few days or weeks. But spilling too much water creates "gas bubble" disease in young salmon at the base of the dams, much like "the bends" in scuba divers. The fish become vulnerable to predators. As a result, BPA has asserted it cannot spill water without violating the Endangered Species Act and the Clean Water Act.<sup>30</sup>

BPA's solution, which it adopted in 2011, was to curtail wind energy developers when they exercised their contract rights to move power over BPA's transmission network. BPA said it would step in between the wind developers and their utility purchasers, and substitute hydropower from federal dams instead. And for a brief period, BPA did so, much to the chagrin of the wind developers, who lost millions of dollars in federal income tax credits because they did not generate electricity.<sup>31</sup>

In response, the wind developers filed petitions at the Federal Energy Regulatory Commission ("FERC") and in the Ninth Circuit, seeking

to invalidate BPA's actions. In December 2011, FERC agreed with their core arguments.<sup>32</sup> BPA, however, asked FERC to reconsider its decision. In December 2012, FERC denied BPA's request and upheld the 2011 order.<sup>33</sup>

Meanwhile, BPA has developed a temporary protocol that calls for it and the wind developers to share the costs of any oversupply curtailment. BPA had suggested a 50-50 percent split but FERC said "no" to that formula, which put too high a burden on wind developers and other independent power producers. The issue is now in BPA's lap. It needs to submit a new proposal in March to FERC describing how much money it will pay to wind developers and other independent power producers to offset the costs of curtailing energy from their facilities.

### **BPA left some stakeholders out of the process.**

In typical Wright fashion, however, he attempted to reach a privately-negotiated compromise agreement before the initial FERC order. Once again, he left important stakeholders out of the process. In this instance, he did not reach out to certain public power utilities in the Pacific Northwest, independent power producers, and utilities in California with a sizeable stake in the dispute. And once again, he unnecessarily irked parties who

believed they had a right to be at the negotiating table.

At the same time, Wright was apparently attempting to gather information or influence FERC through private channels. Wright's trusted political advisor and consultant, Tony Williams of the firm Washington2 Advocates, met privately with FERC commissioner Philip Moeller in May 2012 to discuss items, including BPA's oversupply problem -- a meeting that occurred after BPA had asked FERC for reconsideration and before FERC had rendered its decision.<sup>34</sup> We do not know whether the meeting produced positive results for BPA.

### **The New Administrator**

Bill Drummond will face multiple challenges as BPA's new administrator. Here is a partial list:

- **Meeting ambitious regional energy efficiency targets** set by the Northwest Power and Conservation Council. According to the Council, the region can rely on energy efficiency to meet 85% of the expected growth in demand over the next 20 years, even though the population will increase by 4 million people. That's an aggressive target and will require careful implementation.
- **Integrating wind and other variable sources of energy.** In the last five years, BPA

has seen 3,500 megawatts (“MW”) of wind energy added to its transmission system. And BPA expects to connect another 2,500 MW of wind energy to its system by 2015. There is a genuine engineering challenge in integrating those new resources. Last fall, the trade publication *Clearing Up* reported that wind generation exceeded hydro generation on BPA’s system for the first time. The record amount of wind generation lasted only 10 hours but it was a symbolic event, BPA said.<sup>35</sup>

### The Secretary of Energy may have his own agenda.

- **Managing the multi-billion dollar fish and wildlife program** and complying with the federal court’s orders on the Endangered Species Act. Litigation with fish protection advocates is still pending in federal district court in Portland, and will likely affect the operations of the Columbia River for years to come.
- **Negotiating additions or amendments to the Columbia River Treaty with Canada.** The treaty, which came into force in 1964, required Canada to build dams in British Columbia for flood control and power. In exchange, the U.S. paid cash to Canada to defray the costs of

building the dams. Under the terms of the treaty, either the United States or Canada can give each other 10 years’ notice of termination starting in 2014. Neither country appears eager to end the treaty but may seek to add protocols that address environmental and operational issues.

- **Addressing the recent initiatives of Energy Secretary Steven Chu**, who has told BPA and other federal power marketing agencies to take more steps to integrate new sources of renewable energy and upgrade the nation’s electric grid. Whether the “Chu memo,” as it is called, will survive in the second term of President Obama is not known. Secretary Chu himself is expected to leave his position. But Obama is generally supportive of new clean energy initiatives to curb carbon emissions and pollution, and Chu’s successor will likely continue those efforts.
- **The building and reinforcing of transmission lines in BPA’s system.** One of those projects, the I-5 Corridor Reinforcement Project, is controversial because BPA proposed building a high-voltage line through suburban Vancouver, Washington. In the face of citizen opposition, BPA has proposed moving the route further to the east.
- **Implementing “smart grid” improvements to the BPA transmission system.** BPA and

other utilities are seeking to identify and implement the next generation of improvements to the electric grid. The “smart grid” technology allows BPA and its utilities to communicate instantly over web-based systems, and opens up a frontier of new energy efficiency measures that may revolutionize the way we supply and transmit electricity. The U.S. Department of Energy estimates that if the nation’s electricity grid were just 5 percent more efficient, the energy savings would equate to eliminating the emissions from 53 million cars.<sup>36</sup>

### Unfinished business: reducing BPA’s costs.

- **Cutting BPA’s internal costs.** We have pointed out one area of concern -- supplemental labor. There are others. BPA says it has no record of knowing how many consulting contracts over \$100,000 it has signed that are sole-source awards (i.e., given to a single company without competition). In response to a Freedom of Information Act request, BPA provided a list of 45 consulting contracts over that dollar amount.<sup>37</sup> According to BPA, its computer system does not identify which companies received sole-source contracts. “We are unable to get to the information you’ve requested with our current system,” BPA said.<sup>38</sup> But identifying those

agreements is the first step in addressing potential favoritism in BPA contracting. Shouldn't BPA executives have ready access to that information?

Meanwhile, BPA bids adieu to Steve Wright. His last day at BPA is January 31. He was intensely loyal to BPA and proud of its historic role in the Pacific Northwest.

Unfortunately, Wright's management style -- his belief that he could fashion regional consensus by excluding people he did not like -- had unintended consequences. He prolonged some of the conflicts that he sought to resolve. Months, perhaps even years, were wasted. And his expansive view of BPA's legal powers led to Ninth Circuit decisions that curbed BPA's authority.

Bill Drummond has an opportunity to set a new direction and tone. The list of issues facing BPA would no doubt challenge the most seasoned manager. Nonetheless, Drummond might accomplish a good deal more than his predecessor by reaching out to all customers, including BPA critics, and attempting to resolve problems in a methodical fashion free of favoritism.

**END**

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## ENDNOTES

1. BPA press release, June 19, 2012, PR 22-12.
2. [www.bpa.gov](http://www.bpa.gov). BPA has three classes of customers in the Pacific Northwest that buy federal power. First, there are public bodies and cooperatives (“publicly-owned utilities” or “public power” utilities). Under the Bonneville Project Act of 1937, BPA must give “preference and priority” in the sale of federal power to those utilities. Many of them are located in the I-5 corridor: Seattle City Light; Tacoma Power; Snohomish County Public Utility District in Everett; Clark Public Utilities in Vancouver; and Eugene Water & Electric Board. In addition, six investor-owned utilities, including Puget Sound Energy, Avista, PacifiCorp and Portland General Electric, have a stake in BPA decisions. They receive cash from BPA to help lower the bills of their residential and small-farm consumers as part of the Residential Exchange Program. BPA also sells power to Alcoa, which owns an aluminum smelter near Bellingham in Washington, and to a small pulp and paper company in Port Townsend, also in Washington. The companies are part of a group of energy-intensive firms called the Direct Service Industries (“DSIs”). Thirty years ago, the DSIs consumed one-third of BPA’s energy but most plants have shut their doors for economic reasons. Only two DSIs remain.
3. BPA press release, June 19, 2012, PR 22-12.
4. *Arizona Republic*, April 26, 2011.
5. Under federal law, the Pacific Northwest receives the benefits of cheap power from the federal dams in the region and from the federal transmission system. In return, it pays for the costs. BPA power is inexpensive, which is why the Pacific Northwest’s politicians of both parties work diligently to protect its access to the federal dams. “Keep your hands of our cheap power,” is the mantra. BPA’s average wholesale power rate to public power utilities is about \$30 per megawatt hour (MWH) (equivalent to 3 cents per kilowatt hour). Until the late 1970s, BPA power was a fraction of what it is today, about \$3.7 per MWH (equivalent to .37 cents per kilowatt hour). But then BPA faced the consequences of having agreed to buy electricity from three nuclear power plants no matter what they cost and even if they never worked. The builder of the nuclear plants, the Washington Public Power Supply System (“WPPSS”), now called Energy Northwest, ran into serious construction problems. Only one plant, WNP-2, now known as Columbia Generating Station, was ever finished. By the time BPA terminated the two other plants in the 1980s, it was saddled with several billion dollars in debt. The average BPA wholesale power rate quintupled in only six years to \$19 per MWH.
6. In response to FOIA requests #2012-1927-F and #2013-00150-F, BPA released Wright’s calendar. In a period of one year, he made six trips to Washington, D.C., for back-to-back meetings with members of Congress and their staffs.
7. There was pressure in the Reagan Administration in the 1980s to sell the federal dams in the Pacific Northwest and privatize BPA. It never happened in large part because of pressure from members of Congress from the Pacific Northwest, including Senator Mark Hatfield (R-OR). In the 1990s, there was a resurgence of interest in changing the way BPA operates by requiring it to charge market-based (as opposed to cost-based) rates. Once again, the proposals were withdrawn after members of Congress from the region objected. A few proposals in the mid-1990s also called for the sale of federal assets. For example, 14 members of the U.S. House of Representatives supported legislation that would have privatized the federal power marketing agencies. See H.R. 3878 in the 104<sup>th</sup> (2d session) Congress. The bill was not approved.
8. On paper, BPA is part of the U.S. Department of Energy, and the BPA administrator reports to the Secretary of Energy (or the deputy secretary). In practice, BPA is autonomous. There are several reasons for this independence. First, BPA is based in Portland, not Washington, D.C. It has a regional mission and operates primarily under its own statutes, a complex legal regime designed for the Pacific Northwest. Second, BPA is a “self-financing” agency. BPA obtains its revenue by selling power and transmission services. Third, the Federal Energy Regulatory Commission, which normally regulates interstate electric utilities, has limited authority to tell BPA what to do. Fourth, BPA does not have to comply with the federal acquisition (purchasing) regulations. It has its own procurement rules and more discretion to sign sole-source contracts (awarded without competition) with consultants and other entities.



9. The Regional Dialogue process began in 2002, when BPA and the Northwest Power and Conservation Council jointly sponsored a public process on how BPA should market in the future. BPA issued a number of Records of Decision throughout the process, including a 2005 document, the Short-Term Regional Dialogue Policy, followed by a 2007 document, the Long-Term Regional Dialogue Policy. See **BPA Watch newsletter #3** for the pressure put on utilities by BPA in the waning days of contract negotiation.
10. 16 U.S.C. § 839f(e)(5).
11. The deferential standard was first articulated in a U.S. Supreme Court decision, *Aluminum Co. v. Cent. Lincoln Peoples' Util. Dist.*, 467 U.S. 380 (1984), and was followed by numerous Ninth Circuit decisions. See, for example, *Ass'n. of Pub. Agency Customers v. Bonneville Power*, 126 F.3d 1158 (9<sup>th</sup> Cir. 1997).
12. *Portland General Electric v. BPA*, 501 F.3d 1009 (9<sup>th</sup> Cir. 2007) (“PGE”) and *Golden Northwest v. BPA*, 501 F.3d 1037 (9<sup>th</sup> Cir. 2007) (“GNA”).
13. In the early years of the program, publicly-owned utilities with higher wholesale costs than BPA also participated. With a few exceptions, they had settled their claims to REP payments. By the time the litigation reached the Ninth Circuit, the main legal issue was the payments to the investor-owned utilities.
14. See **BPA Watch newsletter #1** for background information.
15. *PGE*, 501 F.3d 1009 (9<sup>th</sup> Cir. 2007). The Residential Exchange Program agreements were signed in October 2000, when Judi Johansen was BPA Administrator. She left BPA in mid-November, and Steve Wright took over as acting BPA Administrator. In Wright’s prior positions at BPA (as deputy administrator and as senior vice president), he was a key part of the management team that drafted the REP agreements, which were regarded as one of the agency’s signature accomplishments in that period.
16. *GNA*, 501 F.3d 1037 (9<sup>th</sup> Cir. 2007).
17. *Pacific Nw. Generating Coop. v. Dept of Energy*, 580 F.3d 792 (9<sup>th</sup> Cir. 2009) (“PNGC I”).
18. *Pacific Nw. Generating Coop. v. BPA*, 596 F.3d 1065, 1085 (9<sup>th</sup> Cir. 2010) (“PNGC II”). Since then, the Ninth Circuit has upheld a series of short-term power sales contracts with Alcoa. *Alcoa v. BPA*, case no. #10-70211 (October 16, 2012).
19. See BPA’s Record of Decision for a Power Sales Agreement with Alcoa, December 6, 2012, available at [www.bpa.gov/news/pubs/Pages/RODs.aspx](http://www.bpa.gov/news/pubs/Pages/RODs.aspx).
20. There are many examples (in addition to the REP negotiations cited in the text). In the 2009 rate case, for example, Wright admonished several lawyers for the positions they had taken in briefs and for the comments they made at oral argument. (Oral argument is the time where the administrator listens to statements from utilities and stakeholders.) In response to comments from a lawyer for the Industrial Customers of Northwest Utilities (“ICNU”), who expressed concern about the level of BPA rates, Wright asked him why BPA should work with ICNU members in the first place “when, candidly, as a business partner, you don’t come across as someone who worries about the things that we have to worry about....” See Wright’s comments in the transcript of oral argument in the WP-10/TR-10 rate case, June 10, 2009, at page 211.
21. *Clearing Up*, December 17, 2007.
22. See Wright’s comments to Puget Sound Energy’s legal counsel in the transcript of oral argument in the WP-10/TR-10 rate case, June 10, 2009, at page 201. It is not clear from the transcript whether Wright was referring to investor-owned or publicly-owned utilities (or both).
23. BPA issued a Record of Decision on the Settlement in the REP-12 rate case in July 2011. See [www.bpa.gov/news/pubs/Pages/RODs.aspx](http://www.bpa.gov/news/pubs/Pages/RODs.aspx). Although 90% of BPA’s public power load signed the REP settlement, the remaining 10% did not challenge it in the Ninth Circuit. Petitions were filed by the Association of Public Agency Customers and Alcoa, case #11-73178. Alcoa subsequently withdrew its petition. Oral argument is scheduled for February 2013.
24. See BPA’s Root Cause Analysis Investigation Board, *Work Planning and Scheduling System*, Final Report, August 2, 2012.
25. BPA response to FOIA request #2013-00152-F.



26. See BPA response to FOIA request #2011-00753-F for supplemental labor costs in FY 2010. The total in that year was \$96.2 million. The largest single BPA contract for supplemental labor is with CIBER, a Colorado firm. The initial contract had a ceiling of \$26 million in 2003 and grew to \$118 million by the end of 2011. The firm provides information technology staff to BPA. See BPA response to FOIA request #2012-00718-F. It is not clear why BPA increased the ceiling of the contract without seeking competitive solicitations from other firms. To supervise the supplemental labor firms, BPA created a Supplemental Labor Management Office (“SLMO”). But the SLMO is apparently so short of staff that it relies on supplemental labor employees for help. Five of the 11 employees in the SLMO are paid by firms with multi-million BPA contracts. See BPA response to FOIA request #2013-00197-F. It is not clear why BPA does not staff the SLMO with federal employees to ensure independence from the contractors.
27. *Tacoma News Tribune*, May 30, 2001.
28. Wright signs his letters and official documents, “Stephen J. Wright, Administrator and Chief Executive Officer.” The CEO part of his title dates back to mid-1990s, when BPA sought to become more competitive as part of Vice President Al Gore’s “reinventing government” project. BPA was selected as a “reinvention laboratory.” Adding the words “chief executive officer” to the BPA administrator’s title was thought to be symbolic -- it would help infuse private-sector thinking into BPA. Wright’s predecessors adopted the new title and it has stuck.
29. Wind farm developers note that BPA initially embraced the development of wind energy, particularly in the Columbia River Gorge area, without fully analyzing the potential impacts of wind on its transmission system. Once BPA realized it had a problem, BPA developed a policy to unilaterally curtail wind energy and replace it with federal hydropower whenever BPA found itself in an oversupply situation.
30. For more information, see BPA documents at [www.bpa.gov/Projects/Initiatives/Wind/Pages/default.aspx](http://www.bpa.gov/Projects/Initiatives/Wind/Pages/default.aspx)
31. The wind developers also lost the value of their Renewable Energy Certificates (“RECs”) (also known as “green tags”). An REC represents the value of clean energy and can be sold separately on the market (e.g., one REC represents one megawatt hour of clean renewable energy). Under BPA’s oversupply protocol, the utilities that purchased wind power continued to receive their scheduled energy but it came from the Federal Columbia River Power System, which BPA markets.
32. *Iberdrola Renewables, Inc. v. Bonneville Power Administration*, 137 FERC 61,185 (Dec. 7, 2011), Docket No. EL11-44.
33. *Iberdrola Renewables, Inc. v. Bonneville Power Administration*, 141 FERC 61,233 (Dec. 20, 2012), Docket No. EL11-44.
34. See invoice submitted by Tony Williams, the principal in Washington2 Advocates, to BPA dated June 1, 2012, for work performed in May 2012. Among the tasks that Williams performed was to meet with “FERC Commissioner Moeller where he discussed several NW energy issues, including the environmental re-dispatch [now called oversupply] issue.” The invoices were released by BPA in response to FOIA request #2012-01617-F. During this period, Wright also had several phone calls and private dinner meetings in Portland with FERC chairman Jon Wellinghoff. It is not known what was discussed at most of the Wright-Wellinghoff sessions, which were listed on Wright’s calendar for 2012. BPA released the calendar in response to FOIA response #2012- 01927-F. Both BPA and FERC say they have no record of written *ex parte* communications between them. See BPA response to FOIA request #2012-01885-F and FERC response to FOIA request #FY 12-71.
35. *Clearing Up*, October 22, 2012.
36. <http://energy.gov/oe/technology-development/smart-grid>. See *The Smart Grid: An Introduction*.
37. See BPA response to FOIA request #2012-1683-F.
38. E-mail from BPA to the author dated July 27, 2012.