



P.O. Box 216  
Clatskanie, OR 97016  
(503) 728-2163  
(503) 728-2812 FAX

Press Release  
April 21, 2008

## **Court Accepts Clatskanie PUD's Petition for Review**

Clatskanie People's Utility District has filed two Petitions for Review with the United States Court of Appeals for the Ninth Circuit concerning Bonneville Power Administration's (BPA) decision to offer the Residential Exchange Interim Relief and Standstill Agreements. Due to the urgency of this matter, the District has also filed a Motion for Expedited Review. The Court accepted our second petition for expedited review on April 11, just one day after filing.

The Court has issued a "time schedule order," which sets due dates for filing briefs and otherwise perfecting the petition. The PUD must file opening briefs and excerpts of record to the Court by May 21. BPA must respond by June 20. An optional reply brief may be submitted by the PUD within 14 days of BPA's filed brief.

The first Petition was filed on March 4, stating the District believes the agreements and resumption of exchange payments are just as unlawful as the exchange settlement payments which the Court found unlawful months earlier. Meanwhile, BPA continued with their plan to resume the Residential Exchange payments to Puget Sound Energy, Inc., Avista, Portland General Electric, and Northwestern Energy by sending \$110 million to these Investor Owned Utilities on April 2. The District filed the second Petition for Review on April 10. The Petitions, opposed by BPA and other parties, are supported by Grays Harbor PUD.

The 9th Circuit Court of Appeals has previously held that BPA's payments made under settlement agreements signed in 2001 were unlawful. Subsequently, BPA suspended payments of \$28 million a month to the IOU's. Since BPA cannot change rates outside of a formal rate process, BPA is still collecting some \$28 million a month through rates from public utilities. The PUD's share of this amounts to about \$5 million annually, about 10 percent of the PUD's annual budget. This has left BPA with a larger financial reserve than needed; therefore, BPA decided to offer the "interim" payments.

The PUD's position is that under the Northwest Power Act, the residential exchange payments are a final BPA action, which is subject to 9th Circuit judicial review. The Court has agreed to consider PUD arguments that the BPA payments do not comply with statutory procedures of the Northwest Power Act; violate the due process clause of the United States Constitution; and exceed the BPA Administrator's statutory authority.

For more information, please contact Greg Booth, General Manager or Joe Taffe, Power Manager.