

Statement of Scott Simms

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“Examining Systemic Government Overreach by CEQ”

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Good morning, Chairman Gosar, Ranking Member Stansbury, and members of the Subcommittee. My name is Scott Simms, and I serve as the CEO and Executive Director of the Public Power Council (PPC).

PPC represents the majority of the non-profit, consumer-owned electric utilities in the Pacific Northwest, serving people and businesses in Washington, Oregon, Idaho, western Montana, and parts of Nevada and Wyoming. These large and small utilities in rural and urban areas of the Great Pacific Northwest purchase electricity and transmission services from the Bonneville Power Administration, or BPA – the largest Power Marketing Agency of the four under the U.S. Department of Energy. These consumer-owned utilities collectively pay 70 percent of BPA’s \$3.9 billion-dollar annual revenue requirement, with the remainder of BPA’s budget covered from sales to others. All of BPA’s consumer-owned utility customers are committed to ensuring BPA complies with its statutory obligation to provide the lowest possible rates to consumers consistent with sound business principles.

BPA markets power from 31 federal hydroelectric dams on the Columbia River and its tributaries and from the Columbia Generating Station -- a nuclear power plant located on the Hanford Site in Eastern Washington. BPA has more than 15,000 miles of high voltage transmission lines and 261 substations, operating about 75% of the total transmission system in the Northwest.

As stewards focused on affordability and reliability of BPA’s power and transmission services, PPC utilities also have a strong environmental interest and are committed to mitigating the impacts of Federal Columbia River Power System (FCRPS) operations. As the largest single contributor to the nation’s largest ESA effort, we have a keen interest in ensuring that fish mitigation measures are science based, cost effective, and have a clear nexus with the operations of the FCRPS. Such measures serve dual purposes – they promote the restoration of the region’s valued endangered and threatened species, and ultimately, reduce the fish and wildlife impacts and costs associated with FCRPS operations. We are committed to paying our full mitigation share – no more and no less. This balance is what enables PPC members to offer affordable,

reliable, clean, and environmentally-responsible power to the communities they serve. Unfortunately, the FCRPS operations have been mired by long-running litigation. Roughly 13 months ago, the federal district court judge overseeing litigation on the Columbia Basin System Operations approved a stay, while the Council on Environmental Quality (CEQ) engaged the Federal Mediation and Conciliation Service (FMCS) to resolve the issues being litigated. While the stay was set to expire on August 31, 2023, the U.S. government and the plaintiffs requested, and the court subsequently granted, a 60-day extension of the stay, until October 31, 2023.

PPC entered these negotiations with guarded optimism that the mediation process would be finally pursued in a fair, confidential and collaborative manner, led by skilled third-party mediators. Regretfully, our experience has been to the contrary. It has been a frustrating bureaucratic process with little discussion of new ideas and much less progress toward a regional compromise. Confidentiality has been conveniently used to protect “private caucuses” between CEQ and select parties, consistently described by several credible sources as the states of Oregon, Washington, various Northwest tribes, and environmental NGO plaintiffs.

Non-sovereign stakeholders have been left in the dark and have not been equal parties, despite our best efforts to advance new ideas and share new information, and despite the dire financial and operational consequences – and even health and human safety risks – we could face from ill-conceived “agreements.” Again, it’s worth noting here that public power utilities pay the lion’s share of FCRPS costs and are the real parties in interest. And yet, we’ve been walled off from the conversations between the CEQ and plaintiffs that inevitably involve future cost obligations of Northwest ratepayers either from further operational constraints, direct cash outlays – or both. Worse still, it appears that the U.S. Government is making private piecemeal deals with one or two parties rather than pursuing the promised balanced, sustainable solutions designed to bring our region – and the federal resources we use to keep the lights on – the much needed operational certainty.

It is critical that you as members of Congress learn about this dynamic, because, after all, this is an oversight hearing, so here is my opinion and observation on the process, especially since I have been through a number of federal and state processes in my 25+ year career in the Northwest energy industry. Our plea is for you to get involved.

First, branding any of this as “mediation” was a sham from the beginning, with CEQ putting its thumb squarely on the scale for certain parties. That was evidenced by the “sideboards” set for the stay and subsequent “mediation.” I can also tell you that PPC has repeatedly raised new ideas and proposed solutions. While those have been aired in two “private caucuses” with the federal government, at no time have they been scheduled for discussion among the broader group, nor has an anonymous survey been held to assess broader interest. At most, we feel like we have received a pat on the head and are then expected to sit quietly and watch.

While we are not among the “inner circle” despite being the obvious funders of any commitments placed on BPA, we have learned from public sources that some of the favored parties were engaging in private sessions with the U.S. Government (USG) and even “exchanging papers” in recent months on some of the issues within the broader agenda. We have serious concerns that these topics are likely outside the plaintiffs’ areas of expertise or, at a

minimum, are topics where we have immense expertise that we could share and, therefore, should be involved in the discussions early on, not as a last step to “sign on.” We’re dismayed at what was sold to us as a solutions-based mediation process.

A second, especially problematic issue in this process is that we are uncertain whether the inputs PPC has worked tirelessly to provide in good faith throughout the many months of work are being reviewed or considered by the USG. For instance, in our collective utility industry and river navigation interest efforts to engage in the process, two detailed reports and a technical letter raising extensive issues and considerations were among the materials PPC submitted to the USG: one recent report was a scientific literature review addressing the “delayed mortality” hypothesis, and the other report was a comprehensive study on the potential impacts of breaching, titled: “Regional & National Impacts Triggered by Breaching Lower Snake River Dams: Summary of Transportation, Climate and Social Justice Concerns.” Additionally, a little more than one year ago, PPC submitted (and has received no response to) a detailed letter citing official technical and scientific documents that pointed out the many inaccuracies and shortcomings of NOAA’s “Rebuilding Interior Columbia Basin Salmon and Steelhead” draft report, which has been used extensively as a basis for CEQ’s breaching advocacy efforts during the stay in litigation.

My job is to represent the utilities of the Northwest and let me be clear that the impact of BPA power rates is not a matter of dry economics for us. It is about the people in our communities and the ability to supply this human need. The Northwest public power utilities I represent are not-for-profit organizations dedicated to providing their communities with affordable, reliable, and environmentally responsible electricity at cost. Unlike investor-owned utilities, there are no profit margins or shareholders to absorb increased costs.

Any costs passed to the utility are passed on to the customers, in many cases, the most economically vulnerable communities in the Northwest. Given our diverse membership, this hits differently throughout the region. But whether urban or rural, and no matter which Northwest state, our communities and their utilities are feeling the pressure. PPC member utilities aren’t monolith, faceless corporations. They are non-profit entities run by the communities they serve and today are managing far more than the bystander might see. For instance, our utilities are handling such critical issues as balancing tens of millions of dollars unpaid bills from tens of thousands of customers. They also are trying to keep the power flowing while addressing needs of vulnerable communities, including Tribal communities throughout the Columbia River Basin and in places physically distant from the Columbia River, but still highly dependent on its reliable, low-cost power. Every utility we work with has a list of gut-wrenching stories in which families and businesses are making incredibly difficult decisions – such as choosing to pay a past-due bill or choosing to serve their kids a meal.

Meanwhile, the challenges of supplying affordable, reliable electricity services – which is now widely considered a basic need for human survival – is only becoming more difficult for today’s utilities. Supply chain and labor challenges are just the tip of the iceberg, as our industry is also battling a dwindling supply of dependable 24/7 electricity sources at a time when fleet electrification and other new consumer demands are growing and while new clean energy

regulations are being phased in. And if that weren't enough, extreme heat and wildfires and dangerous cold weather events are now more regularly gripping our country's communities, and we've only begun to see the devastating impacts of this dangerous combination of factors as our utilities struggle to deliver this basic human need.

To fully understand the gravity of what we face if our electricity services become less reliable and/or more expensive, I would encourage you to turn to CEQ's own interactive "Climate and Economic Justice Screen Tool," which identifies census tracts that are "overburdened and underserved." While we understand this Administration's commitment to environmental stewardship, I would be remiss if I did not emphasize that the direction we are headed in the FMCS/CEQ mediation contradicts these goals. I must stress any increased funding from BPA comes on the backs of those who can least afford to pay. I should also note that the vast majority of fish mitigation efforts in the Columbia-Snake River Systems is paid for by electric ratepayers – despite the considerable economic benefits to the broader taxpayers, like flood control and commercial salmon harvest.

I mentioned briefly that reliability is paramount in these communities. Let's connect some dots here. While this Administration contemplates operational changes to the dams, I must emphasize that this also has a devastatingly detrimental impact on system reliability. Ironically, it would also have a huge negative impact on meeting the Administration's climate goals by reducing the amount of clean, renewable hydropower produced. Any operational changes this Administration might suggest that would breach dams, increase spill, or draw down water would have grave implications for communities in the Northwest.

A crucial component of BPA's predominant hydropower fleet is the role of the Lower Snake River Dams (LSRDs). Completed in the 1970s, these dams are some of the biggest producers and lowest-cost hydro units in BPA's federal system. At 1,000 average megawatts and an ability to generate for peak periods at about double that, they are an invaluable resource for not just consumer-owned utilities but for integrating wind and solar and, importantly, for coming to the rescue when power crises hit the West.

Despite the invaluable role played by these dams, various special interests continue to fuel a campaign that seeks to convince the Administration to remove or devalue these vital resources. Rash decisions to remove these hydro projects pose devastating consequences. The LSRDs regularly are the defining line between keeping the power flowing and parts of the West being plunged into rolling blackouts. Case in point: last Labor Day – just over a year ago – the West was locked in a heatwave, and the Northwest was exporting electricity to the full extent it could to California and the Southwest. If the LSRDs were taken out of the mix, that part of the West would have gone into rolling blackouts, and things would have been more critical for us in the Northwest. We estimate that if the Northwest had been just ten degrees warmer that weekend – we were hot but not scorching – we wouldn't have been able to help the Southwest, surely sealing their fate for no air conditioning and total darkness. This is how close we are getting to the system we have – it's an annual gamble in the winter and summer extremes. We need more stable, available generation capacity, not less of it. Remember this point, too, as our nation

explores relying on electricity to play an even more prominent role in our lives, such as through vehicle electrification.

The Biden Administration has recently released two documents regarding the Lower Snake River Dams. In July 2022, an analysis was prepared by outside consultants on behalf of the Bonneville Power Administration, exploring the costs and environmental impacts of grid reliability through several scenarios, including the removal of the LSRDs. The result would require tens of billions of dollars in funding and an expected 65% rate increase to power customers in the Northwest. The report concluded that there was no possible way to remove the LSRDs without jeopardizing grid reliability. The National Oceanic and Atmospheric Administration (NOAA) released the second report and called for at least partial removal of the LSRDs. The NOAA report was prepared in conjunction with plaintiffs who sought removal of the LSRDs, was anonymously produced, was not peer-reviewed, and had glaring biological errors. Yet that report is increasingly cited as the “best and latest science.” I mentioned that report earlier – we have consistently raised questions about the integrity and purpose of that report, yet have only been met with silence from CEQ.

Thank you for your leadership and for hosting this hearing today. We greatly appreciate the Committee’s focus on this critical set of issues and seeking transparency for CEQ for all Americans. I would gladly answer any questions.