



Affiliated Tribes of Northwest Indians **Economic Development Corporation**

TRIBAL ISSUES ON RTO FORMATION

The Affiliated Tribes of Northwest Indians have identified the following additional issues that should be addressed in creating RTO West:

1. Sovereign Status of Tribes: The sovereign status of Indian Tribes may not be compromised by the RTO.

Explanation: All RTO documents should be drafted in such a manner that acknowledges this sovereignty. Where and when Indian Tribes have jurisdiction to tax or regulate electric power issues on reservation lands, a tribal utility law or regulation will be treated the same as a state law or regulation.

2. Land Based Right of Ways: The RTO will comply with all tribal and/or federal regulations for all activities on rights of ways on reservation lands. Leases of rights across Indian lands will only be transferred pursuant to existing applicable Federal and/or Tribal regulations.

Explanation: Certain federal regulations apply to tribal rights of ways. In addition, certain tribal laws and regulations exist which govern the acquisition of rights of ways and the operation of land rights on tribal lands. Many rights of ways currently may not comply with federal law. At times when incongruities are found to exist, these incongruities will be resolved. Agreements outside the scope of right of way documents have been entered into between entities entering reservations and tribal leadership. These agreements will continue to be enforced. Maintenance of transmission lines and other land based rights must be accomplished with due consideration of tribal cultural places and resources such as archaeological sites, cultural plants, and traditional hunting, gathering and fishing areas where such areas are known to exist. Any assignment of Rights of Ways across reservation lands requires approval of all affected Tribes. It would be a concern if Bonneville Power Administration transferred any easements or other made other agreements related to Tribal Lands.

3. Tribal Consumers: The RTO should eliminate pancaking transmission costs for these tribal utilities. The RTO should also ensure that costs are not shifted to tribal utilities. The RTO should ensure that rural communities, especially those with a substantial percentage of low-income households, are not adversely affected by any changes in transmission. Reliability in remote areas will be a high priority.

Explanation: Several Northwest tribes are in the process of establishing electric utilities, and all others are already transmission customers. Tribes are also located in remote, less populated areas.

4. Fish and Wildlife Restoration: There are several issues associated with the role of the transmission system in the restoration of fish and wildlife.

PO Box 807, Neah Bay, WA 98357
(360) 645-4074 • Fax (360) 645-4071
Toll Free (888) 873-8221
Email: dmlucas@olyopen.com Email: djd@premier1.net

4.1 *Spill to improve fish migration:* Fishery managers are seeking 24 hour spill at a number of hydroelectric projects as part of the regional effort to restore salmon and steelhead. Some parties have raised concerns that such spill operations would affect the reliability of the power and transmission system. The RTO should have the necessary planning and funding mechanisms to identify any issues associated with fish and wildlife operations and implement a plan to adequately address power and/or transmission reliability issues. This function should be addressed immediately so fish and wildlife measures can be implemented as quickly as possible.

4.2 *Avoiding excessive spill:* There are times when fishery managers want to limit spill levels to control gas-supersaturation at dams. BPA currently has a right to transmit power generated to avoid excessive spill. The RTO needs to have a mechanism that would continue to allow BPA access to transmission so it can avoid excessive gas-supersaturation levels. Any added costs associated with this access would be part of the FCRPS operations and not counted as fish and wildlife costs for purposes of accounting.

4.3 *Emergency operations:* Power system operators currently draw down storage reservoirs to meet emergency electricity needs during extreme cold snaps. These operations can reduce the amount of water available later in the water year to improve salmon and steelhead migration. These so called emergency operations have an adverse affect on fish and wildlife, yet there appears to be little incentive in the current generation and transmission system to develop alternatives to deal with these emergencies that do not have an adverse affect on fish and wildlife. The RTO should have the planning and implementation resources necessary to avoid such operations in the future.

4.4 *Fish and wildlife funding:* BPA provides a significant amount of the funding for fish and wildlife restoration in the Columbia River Basin. Under current law, the BPA fund is composed of revenues from its power business and transmission business. In addition, BPA has assured Northwest tribes that it has the authority and intends to implement a transmission fee if necessary to fund fish and wildlife and assure repayment to the U.S. Treasury. The RTO and any associated legislation should not diminish in any way the ability of BPA to collect revenue to meet its fish and wildlife and other legal obligations from both the sale of power and related services and the sale of transmission services. The RTO must also avoid shifting costs to BPA. Cost shifting would reduce the margin between BPA's costs and market costs. This would reduce BPA's ability to fully fund fish and wildlife restoration.

5. Renewable and Other Energy Development: The RTO will devote transmission resources to renewable resources. Transmission rates will encourage and not discourage renewable resource development.

Explanation: Tribal lands have the highest levels of poverty and unemployment in the country. Tribes are being encouraged, through grants and other federal programs, and governmental policies, to develop renewable energy and other energy projects. Tribes are also being encouraged, and have internal policies supporting economic development on reservation lands. Because reservations are usually located in remote and unpopulated areas, transmission is often limited and is the determining factor to the success of a renewable energy project. The RTO's policies and procedures should encourage the use of transmission to further these policies.

6. Procedures: The Tribes will have adequate opportunity to review and comment on any proposal before any final decision is made.

Explanation: ATNI-EDC is a coalition of tribal governments in Washington, Oregon, Idaho, and Montana. The right to negotiate tribal matters lies only with the tribal governments, not with ATNI-EDC. ATNI-EDC has taken on the role of gathering information about the RTO, participating in RTO meetings, and providing information between tribal leadership and the RRG and workgroups. ATNI-EDC will attempt to identify issues on both sides and provide information in a manner that will be helpful in resolving the issues.

7. RTO Tribal Policy: The RTO, in cooperation with tribes, will formulate a policy to address the communication and resolution of issues between the RTO and the Tribes for ongoing RTO activities.

Explanation: The ongoing activities of the RTO may impact tribal matters as described above. The RTO should have a method for communicating with affected tribes if, for example, a cultural resource is discovered on a traditional tribal area, or to determine the tribal issues when transmission line maintenance will be done on reservation lands. Likewise, Tribes should understand how best to communicate with the RTO if issues arise.

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