AN INDEPENDENT NEWS SERVICE FROM ENERGY NEWSDATA

■ Monday, May 5, 2003 ■ No. 1081 ■

CLEARING UP

NORTHWEST ENERGY MARKETS

Energy and Utility News for the US Pacific Northwest and Western Canada

Inside. . .

The Week in Summary

[1] Under FERC White Paper, Standard Market Design Not So Standard

The Federal Energy Regulatory Commission's promised white paper on Standard Market Design de-emphasizes the standardization aspect of the agency's efforts to get the nation's diverse electrical industry marching to the same drummer. In fact, the term Standard Market Design is missing from the document issued April 28, entitled "White Paper [on] Wholesale Power Market Platform." While reiterating FERC's commitment to regional transmission organizations, the report stresses the need for flexibility, allowing regional needs to dictate elements of individual RTOs and their implementation. ***Cost-benefit analyses also have more influence at [12].***

[2] POTOMAC: Senate Bill Sends SMD Back to FERC; DOE Investigates Phone Call

The full Senate could get its first look at a comprehensive energy bill this week. The Energy and Natural Resources Committee last week approved a measure crafted by Chairman Pete Domenici (R-NM), sending the bill to the Senate floor.

Domenici responded to concerns over FERC's Standard Market Design proposal by adding provisions that remand the SMD NOPR to FERC and delay any rulings on it until 2005. Also last week, DOE's inspector general agreed to investigate a closed conference call during which FERC Commissioners Pat Wood and Nora Brownell revealed their positions on long-term power contracts to Wall Street analysts. ***FERC sustains double blow at [15]***.

[3] BPA Settlement with Enron Will Cut Safety Net CRAC Rate Increase

BPA says the settlement it announced last week with Enron over power contracts signed during the Western power crisis will take 2 percentage points off its proposed net 15 percent rate increase. The settlement came after months of negotiations. Northwest senators kept a fire under BPA's feet to do the deal, which locks in $40 million in savings and could save as much as $190 million between now and 2006. ***Enron claims it is working to settle many other lingering claims at [16].***

[4] Seattle, BPA Agree on Kangley-Echo Lake Transmission Line

BPA will be able to build its 500-KV Kangley-Echo Lake transmission line and the city of Seattle will improve its Cedar River watershed under an agreement announced last week. Seattle will allow BPA to build the new line

Hydro Holds Out for Dramatic Spot Market Entrance

Though strong production at Northwestern dams took the edge off spot electric prices last week, indications suggest that more high-powered flows--and lower prices--are yet in store. Load throughout the region is still limping, and many power plants remain in maintenance hibernation. Fuel prices for generators held steady, helping ease electric premiums.

Grand Coulee Dam generated an average of 2486 MW on May 1, bettering its April average of 2414 MW. Chief Joseph put out 1372 MW, also topping its April average of 1298 MW.

Lower Columbia dams were slightly less active. The Dalles averaged 798 MW on Thursday, a 70-MW decline from its average production for April. John Day output was clocked at 1358 MW, eclipsing its April average of 1239 MW.

Even with the solid dam output, traders said hydro production and regional spot prices are still being held in check. "Prices in the Northwest are where they should be, considering," said one market player. "They'd come off with increased water flows."

The California Independent System Operator is also looking forward to a rise in hydro supplies. According to Cal-ISO spokesman Gregg Fishman, the grid operator is hoping for a boost in hydro from the Northwest in the next few weeks.

In the meantime, generators continued their spring cleaning. Cal-ISO reported a swollen 4838 MW of offline capacity midweek resulting from unplanned power plant outages.

Peak prices around the West through Wednesday ducked down to the upper 30 mills to low 40 mills/KWh range. Heavy-load prices at Mid-Columbia stooped to the upper 20 mills on Thursday, with off-peak premiums sticking at about 28 mills/KWh. NP15 and SP15 peak prices were in the upper 30 mills range late in the week, and light-load prices at both hubs slumped to about 28 mills/KWh.

In the Southwest, Palo Verde prices mostly hung in the mid 30-mills range, with light-load transactions pegged at about 26 mills to 27 mills/KWh.

Real-time prices at the Alberta hub rode between 22.65 mills and 196.18 mills/KWh for heavy-load hours. Those peaks tended to arrive at midday as loads reached above 7300 MW ***[Jason Mihos].***

Western Electricity Prices
Week of April 28-May 2, 2003

	Peak	Off-peak
Alberta	10.13-196.18	10.13-62.21
APX	39.25-47	28-47
Mid-C	26.75-35.5	26-33
COB	31.5-41.5	28.5-31.5
NP15	35.75-46	28-33.5
SP15	34.5-46.5	28-34
Palo Verde	31-43.75	25.25-31

Week in Summary

through the watershed, which is the city's main drinking water source, while BPA will use innovative construction techniques to minimize disruption and reduce the project's footprint within the watershed. In addition, the federal power marketer has agreed to obtain insurance polices to protect the city against any degradation in water quality, turn over key land for watershed enhancement and protect additional land from development. ***Both sides say it's a win-win settlement at [11].***

[5] OR PUC Staff Recommends Probe of PGE Trading, Management

The staff of the Oregon Public Utility Commission has called for a state investigation of Portland General Electric's past trading practices with Enron Power Marketing Inc., and an examination of past trading activities of PacifiCorp and Idaho Power in advance of possible investigations. The staff says it has enough evidence to pursue a mismanagement case against PGE, with rate cuts as a potential remedy. ***PGE says the PUC does not have a case at [13].***

[6] Fish Managers Cry Foul over April River Fluctuations at Hanford

Columbia River fish managers have estimated that 200,000 to 300,000 fall chinook fry may have died in the Hanford Reach last month from abrupt changes in water elevations due to power operations at Grant County PUD's Priest Rapids Dam. They have called for stricter operations to reduce young fish mortality. But the utility says it is doing all it can to coordinate with other dams in the neighborhood to minimize fluctuations from springtime power peaking. Grant says the potential mortality is less than 1 percent of this year's population--maybe a lot less. ***More on fuzzy fish math at [14].***

[7] SSG-WI Study Indicates No Congestion on Two BPA Transmission Paths

A new study indicates that not all of BPA's transmission system is severely congested. Although not aimed at surveying BPA's system, the new work done for the Seams Steering Group of the Western Interconnection found that two paths west of the Cascades are not "heavily utilized." The study examined transmission paths, not transmission lines, and was focused mostly on paths between, not within, control areas. SSG-WI was careful not to misuse the term "congestion," instead developing its own benchmark to designate usage. ***Another data point in the BPA congestion debate at [17].***

[8] Montana Governor Signs Some Energy Bills, Reviews Others

NorthWestern Energy will be immune from a $3 million Montana Power Co. shareholders' lawsuit and will be able to seek pre-approval of power supply contracts under two bills Montana Gov. Judy Martz signed last week, following the state Legislature's April 26 adjournment. Meanwhile, the state's major energy bill still awaits the governor's action. ***Also at [18], a proposal to boost PPL Montana's property taxes is dead.***

Briefs

[9] Grant PUD Releases Draft Priest Rapids Hydro Relicense Application

The Grant County Public Utility District released its draft hydro relicensing application for the Priest Rapids Project last week. The 12,000-page document was distributed to federal agencies, tribes and various stakeholders for comment.

By releasing the draft and soliciting comments, the PUD hopes to continue its dialogue with stakeholders on the types of environmental protection, mitigation and enhancement measures Grant should include in its final application, PUD Licensing Manager Laurel Heacock said in a statement.

Stakeholders have 90 days to review the document and file written comments. The draft application is available on the PUD's Web site.

Grant's current 50-year license for the 923-MW, two-dam project expires in October 2005. The PUD plans to submit its application for another 50-year license in October ***[C. S.].***

[9.1] NorthWestern Faces Multiple Shareholder Lawsuits

NorthWestern Corp. shareholders have filed five lawsuits in US District Court in Sioux Falls, SD, accusing the South Dakota-based utility holding company of misleading stockholders about its financial and operational condition and withholding information.

Through "questionable accounting" and other "schemes," NorthWestern kept huge losses by its non-utility subsidiaries Expanets and Blue Dot off its balance sheet, according to a class-action lawsuit filed on behalf of shareholders by the California law firm Milberg Weiss. The alleged omission allowed the company to "artificially inflate earnings and income and mask the poor performance of NorthWestern," the firm said.

Another class-action lawsuit, filed by the Arkansas-based law firm Cauley Geller, accuses NorthWestern and its executive officers and directors of overstating the company's value and financial results; not maintaining adequate reserves for accounts receivable at Expanets; and not having adequate internal controls to determine the company's "true financial condition."

Shareholders are also being represented by the Connecticut-based firm Scott & Scott and the Pennsylvania-based firm Schiffrin & Barroway.

NorthWestern spokesman Roger Schrum declined to comment on the lawsuits, saying it would be inappropriate for the company to comment at this time.

NorthWestern reported losses of $878.5 million in its annual report filed April 16 with the Securities and Exchange Commission. In the report, the company restated its earnings for the first three quarters of 2002 and said it would have to raise money from asset sales, raise additional capital or restructure its existing debt in order to meet its debt obligations ***[C. S.].***

[9.2] Energy Low Priority as Washington State Legislature Adjourns

The Washington Legislature went home April 27, leaving unfinished work on nearly all the energy-related bills introduced this session. Other than memorials to Congress opposing FERC's Standard Market Design proposal and urging Bonneville to keep rates low, state lawmakers largely ignored energy this session.

A controversial bill to tax generating utilities died, although its sponsor, Rep. Jeff Morris (D-Anacortes), promised to revive it next session. Another Morris bill, requiring performance audits for the Utilities and Transportation Commission, also failed to gain sufficient support. The state Senate failed to confirm Marilyn Showalter's reappointment as UTC chairwoman, although she can continue to serve until confirmed.

A highly touted measure to set a renewables portfolio standard and another calling for voluntary reporting of greenhouse gas emissions also died. Distributed generation fared better this session, as lawmakers sent to Gov. Gary Locke a measure directing state agencies to consider using fuel cells in state facilities that require uninterruptible power.

Energy Northwest successfully shepherded through a bill that allows participants in renewable energy projects to guarantee that construction bills will be paid, even if the project is never completed (CU No. 1080 [11.1]). The bill plugs a gap in state law that dates from the Washington Public Power Supply System era, when a court ruled that participant utilities could not be held responsible for the WPPSS debt.

Lawmakers return for a special session on May 12, but activities will be limited to budget issues ***[L. F.].***

[9.3] Columbia River Salmon Keep Coming; Run Size Upgraded Twice

Even with its extra early start this spring, the early chinook run over Bonneville Dam still has plenty of steam. About 137,000 fish were counted by May 1, with fish still pouring over the dam at more than 4,000 per day. The overall count is currently about 1.7 times the 10-year average.

Over the past month, harvest managers have twice upgraded the size of the run. Their original estimate of 145,000 is now up to 194,000 upriver chinook entering the mouth of the river. The early show of many fish that spent three years in the ocean caught managers by surprise. Most were headed to the Snake River, where about 30,000 chinook have already been counted passing Lower Granite Dam, about three times the 10-year average.

But managers predict the run will taper off soon. Sports fishing for hatchery chinook between Bonneville and McNary dams will be reduced to four days a week, beginning May 4. Below Bonneville, the sport chinook season remains open four days a week, but fishing has cooled lately. Anglers there have landed nearly 23,000 fish, keeping 14,600 hatchery-origin chinook marked with clipped fins ***[B. R.].***

Notes & Comments

Bearing Down

[10] Northwest Energy Policy: Death by a Thousand Meetings

In the early days of the World Wide Web, when all kinds of things seemed useful in the context of this new and marvelous medium, we put a feature called "Kiosk Week" on our EnerNet Web site, along with things like links to *Con.WEB* and *Northwest Fishletter*. It was mentioned on various industry Web sites, including the Public Power Council's: "Kiosk Week, offering a weekly look at events impacting public power and the industry at large." We ran out of gas on that feature more than a year ago.

This column, among other things, discusses ways we are proposing to transform Kiosk and make it useful to y'all out there. But the focus here is observing how regional energy policy development tries to create policy. I was talking recently with BPA Administrator Steve Wright in a policy context, and he said he had "run out of brain power" when it came to covering power policy development initiatives. By that he meant meetings, of course.

While reflecting in the way that columnists do when they're trying to gin up a column, I realized that the frequency of regional power community meetings is, well, very, very frequent. *Clearing Up* earns its keep by tracking regional power community policy development, but there is no way we can keep tabs on, or even list, the spate of Northwest energy meetings. How many such meetings are there in a month, say? I have no idea how many, nor do I know any efficient way to find out.

> **Open discussions from whomever shows up for a meeting are more likely to be noise than signal.**

We at *Clearing Up* are, in the aggregate, pretty well informed, but my colleagues and I are always swapping choice new pieces of information. There are many well-informed utility people on the meeting circuits, but there are lots of other people who have a special and narrow focus. I have concluded that so far as I can tell, the mass meetings environment does not seem to enhance policy development all that much.

I think the ordeal of meetings in excess resembles the fabled Chinese death by a thousand cuts, described online as "A slow death by the torture of many small wounds, none lethal in itself, but fatal in their cumulative effect. This torture was a form of execution in ancient China, reserved for the most heinous crime." The regional energy death of a thousand meetings stops short of fatality or heinous crime status, but I think the cumulative over-meeting effect is negative.

In addition, the signal-to-noise ratio of many meetings does not make for clarity. Having public meetings on energy issues is a matter in many cases of administrative law, but it is also a good and moral principle. But energy issues are not merely matters of citizen (and activist) opinion. For example, operating the Federal Columbia River Power System will not likely meet the requirements of public safety and useful economics on a popularity vote basis.

Open discussions from whomever shows up for a meeting are more likely to be noise than signal. There are more than a few noisy issues that have been elevated to the level of serious signal consideration to no good purpose. Lower Snake dam breaching is one of them. It is such a negative no-brainer that it boggles the mind to imagine that such a loony-tunes idea was ever taken seriously.

For all the noise-over-signal problems, participation processes are with us to stay. But how the open processes and those for policy professionals actually forward the purposes of policy development remains puzzling and doubtful. In a recent column, I questioned whether the content of BPA's "protracted processes to collect 'input' from all quarters" was material to decisions actually made.

I have twitted BPA for maintaining the Northwest's mother lode of meetings in volumetric and numeric terms. But BPA wisely decided in February to "slow down" the Regional Dialogue process on its post-2006 status. The purpose here is to focus on the rate case (more meetings of course) to implement the Safety Net CRAC. Regional Dialogue discussion during this time "will be limited to issues regarding the benefits provided to the residential and small farm consumers of the region's IOUs."

Now maybe--just maybe--BPA could decide, after the rate case is over and done with, that the "slow down" version of the Regional Dialogue process might be just as good as the former speedier version. And less time-consuming on account of meetings.

I don't have a reasoned proposal about what ought to be done about these matters, apart from the obvious course of trying to get the number and duration of meetings usefully scaled back. But there is one thing that might help, and that concerns our outdated Kiosk feature. We don't have staff to get Kiosk set up and maintained as the one-stop source of meeting information. But it's possible to engineer Kiosk to be a single-source portal index for policy documents.

Online access to regional documents might or might not help reduce meeting overkill, but my conversations so far on that subject with document writers and readers have received favorable responses. We don't have to be the folks who make something like this happen, but our business makes us keenly interested in the flow of policy documents. So I thought we'd give it a shot.

There is more to investigate, so stay tuned to this channel, even if you have to cancel or be late to a meeting to do so ***[Cyrus Noë].***

Supply & Demand

[11] Seattle, BPA Agree on Kangley-Echo Lake Transmission Line ■ *from [4]*

The city of Seattle and the Bonneville Power Administration have reached an agreement that will improve both the city's Cedar River watershed and the reliability of BPA's transmission system. The agreement announced last week allows BPA to build its proposed 500-KV Kangley-Echo Lake transmission line across Seattle's Cedar River watershed.

BPA already has one 500-KV line in the watershed. The Kangley-Echo Lake line would be built on the same right of way, from a tap point on its Schultz-Raver line near Kangley, WA, to BPA's existing Echo Lake Substation in the Maple Valley area.

That configuration has always been BPA's preferred route for the new line. The agency has long argued it is needed to improve system reliability in the King County area and to enhance BPA's return of power to Canada as required by the Columbia River Treaty. But the city of Seattle and environmental groups opposed the plan to build a new line through the watershed that serves as Seattle's primary source of drinking water.

'This is the extent of BPA's future footprint in the watershed. That's very big.'

BPA considered a number of alternative routes that would avoid the Cedar River watershed, but those met with opposition from residents of the neighborhoods through which those routes would pass. In addition, the alternative routes were considerably longer and more expensive than the Cedar River route. In a supplemental draft EIS issued in January, BPA said the Cedar River route was still the best choice for the new line (CU No. 1066 [2/18]).

Representatives of the city and the federal power marketer have been negotiating ever since to see if they could work out their differences. The agreement announced last week does that, both sides said.

"We feel the package we've negotiated with BPA meets our needs," said Ray Hoffman, director of strategic policy for Seattle Public Utilities. In addition, it enables the city to accelerate restoration activities in the watershed. "Also, this is the extent of their future footprint in the watershed," Hoffman told *Clearing Up*. "That's very big."

BPA made a number of changes last January to reduce the environmental impact of the preferred route. The agency modified the configuration for crossing the Cedar River; used a new micropile footing design that minimizes the disruption caused by setting the transmission poles; proposed employing helicopters to set the poles and cut timber along the right of way; and agreed to use temporary mats to cross any wetlands, rather than permanent fill.

Under the agreement announced last week, BPA will turn over some property adjacent to the watershed to the city of Seattle and ensure that other areas are protected from development. The agency also will purchase a $105 million insurance policy to protect the city from potential damage to the watershed or its drinking water supply during construction of the line and for three years thereafter. And BPA will set up a seven-year insurance plan for the city's habitat conservation plan.

The insurance plan will cover litigation costs in the event that one or more lawsuits were filed against construction of the line for alleged violation of the city's Cedar River Habitat Conservation Plan, said BPA Project Manager Lou Driessen. He said BPA has also secured letters from the National Marine Fisheries Service and the US Department of Fish and Wildlife, certifying that the project does not jeopardize the city's HCP. The two federal agencies had to approve the HCP.

In addition, BPA will pay the city $6 million for watershed restoration security projects and pass on to Seattle any money the agency makes by selling timber removed during the line's construction.

"The watershed will be enhanced, the city's drinking water will be protected, and Seattle and King County will get a project to stabilize the power grid and electric reliability," Driessen said.

The agreement includes three separate land deals. One involves the so-called former Trillium parcel, southwest of North Bend along the border of the watershed. BPA will give 110 acres of it to Seattle and sell the remaining 240 acres, Driessen said. "This improves the security of the watershed," he said. In addition, any proceeds from the sale of the Trillium property would go towards putting in up to 400 acres of conservation easements along the Raging River, which runs through the Trillium property and into the Cedar River watershed, to protect it from being logged.

BPA will also cede to Seattle some 363 acres of section 25 of the Plum Creek parcel east of Kangley. Those acres are north of the Kangley-Echo Lake right of way. BPA is working on selling the other 277 acres south of the line to the state Department of Natural Resources or a similar entity, Driessen said. Logging would be permitted on that land, he said, but development would be prohibited.

BPA is also working with the US Forest Service to acquire for Seattle about 100 acres in the Yakima Pass area, along the drainage boundary of the Cedar River.

While the agreement adds considerable costs to the Cedar River route, Driessen said it's still the best plan. "It's still the least cost route, it still serves our electrical needs the best and we think it has the least impact," he said.

The settlement still needs approval from the Seattle City Council and the state Department of Health. BPA hopes to start construction in August ***[Jude Noland].***

Courts & Commissions

[12] FERC White Paper: Standard Market Design Not So Standard ■ *from [1]*

With a white paper issued last week, the Federal Energy Regulatory Commission appears to have backed off on its insistence that all the utilities in the nation adhere to a single Standard Market Design vision. Instead, the April 28 document calls for development of a Wholesale Power Market Platform that allows additional flexibility for designing competitive wholesale electric markets that account for regional differences in system operations and industry structure.

The commission will continue to focus on formation of regional transmission organizations and independent system operators. Public utilities will have to join an RTO or an ISO, but FERC will no longer require them to create or join an independent transmission provider. The commission also said it will adopt a final rule that allows different regions to phase in implementation of the wholesale market platform and to make modifications to benefit a specific region's customers.

"Overall, what this does is give RTOs running room to continue to develop a model that will work for particular regions," said Bud Krogh, spokesman for RTO West, which is putting together the RTO proposal for the Pacific Northwest. "It's encouraging."

"My general reaction is fairly positive," said Allen Burns, BPA executive VP for industry restructuring. The agency has not had time yet to review the paper in any detail, he added. But Burns said a preliminary reading indicates FERC went out of its way to say it won't change decisions it has already issued regarding RTO proposals, including RTO West's Stage Two filing. He also noted the paper directly addressed some BPA issues.

BPA is not under FERC jurisdiction, but it controls 80 percent of the region's transmission, FERC acknowledged. Its participation in RTO West is essential, the white paper said. But FERC is also "aware that Bonneville will continue to participate only if RTO West has the flexibility to meet the unique needs of the Pacific Northwest," the white paper stated. "Any decision of Bonneville to meet its obligations and operational responsibilities...is solely Bonneville's to make and is not jurisdictional to the commission."

"We understand the limitations on BPA and we'll work with them," Kevin Kelly, FERC director of policy analysis and rulemaking in the office of markets, tariffs and rates, told *Clearing Up*.

'We understand the limitations on BPA and we'll work with them.'

The white paper also seems to make concessions to critics who have questioned the cost of developing RTOs. If a region can demonstrate to FERC that the costs of implementing any feature of the market platform outweigh its benefits, the commission "will not require implementation of that feature for that particular RTO or ISO," the report said.

"This has to be taken with a grain of salt from our perspective," Public Power Council Assistant Economist Margo Lutzenhiser told *Clearing Up*. She pointed out that the white paper requires regions to demonstrate to FERC that the costs outweigh the benefits and that FERC will make the final decision. "They're not going to be very easily demonstrated to," Lutzenhiser said, as the PPC has long maintained to FERC that RTO West's own cost-benefit analysis "shows that the costs far outweigh the benefits," with no definitive reaction from the commission.

In an attempt to respond to criticism that FERC's Standard Market Design proposal encroached on state regulators' authority over utilities that serve native load, the white paper said FERC will not assert jurisdiction over the transmission rate component of bundled retail service. In addition, FERC will rely on the rates set by state regulators for bundled retail service in setting

CLEARING UP is a weekly report to clients of the NewsData Service of NewsData Corporation covering public utility and energy policy development, markets, litigation and resource development in the Northwestern United States and Canada. ISSN 0738-2332. For NewsData subscription information, call [206] 285-4848. Telefax: [206] 281-8035. **INTERNET:** www.newsdata.com. **EDITORIAL OFFICES:** Mail: Box 900928 Queen Anne Station, Seattle, WA. 98109-9228; Express delivery: 117 West Mercer Ave., Seattle, WA 98119. E-Mail: newsdata@newsdata.com. **MANAGEMENT AND STAFF:** President & Publisher -- Cyrus Noë :: Vice President & General Manager -- Brooke Dickinson :: Editor -- Jude Noland :: Managing Editor -- Cassandra Sweet :: Associate Editor -- Bill Rudolph :: Senior Contributing Editor -- Ben Tansey :: Contributing Editors -- Mark Ohrenschall, Lynn Francisco, Alan Mountjoy-Venning :: California Contributing Editors -- Shauna O'Donnell, J.A. Savage, Jason Mihos, Elizabeth McCarthy :: Vancouver BC Correspondent -- Brian Lewis :: Marketing & Technology Manager -- Daniel Sackett :: Office Manager/Art -- Jennifer West :: Production Coordinator, Writer and Proofreader -- Amber Schwanke.

wholesale transmission rates. The final rule will also allow state regulators to request waivers of any non-price terms and conditions of an RTO tariff that are not compatible with the needs of bundled retail service, the white paper said.

While FERC continues to prefer the use of locational marginal pricing for managing congestion on the transmission system, RTOs can propose other methods, the white paper said.

FERC has also decided not to set an across-the-board minimum level of resource adequacy. The RTO or ISO will be able to implement a resource adequacy program only if asked to do so by a state or states, the white paper said. However, the final rule will require the RTO to have a regional transmission planning process in place, and to produce technical assessments of the regional transmission grid and support state siting authorities or multi-state entities by performing necessary studies.

'All the flexibility is subject to FERC's approval and interpretation because FERC maintains its assertion of jurisdiction.'

The white paper also promised to eliminate any requirement that RTOs auction off firm transmission rights to the grid. Instead, FERC will "look to regional state committees to determine how such rights would be allocated to current customers based on current uses of the grid." Existing rights to service will be preserved.

The white paper places more emphasis on the role of individual states in RTO development, through regional state committees. Each RTO or ISO would be required to provide such a forum for state participation in the decision-making process, the white paper said. The regional state committees will have a role in deciding how the costs of new transmission facilities will be allocated among customers, the white paper said.

The structure and functions of the regional committees will be up to the states within the region. A new entity could be formed, or an existing group--the Committee on Regional Power Cooperation, or CREPC, for example, in the Northwest--could take on the role.

The white paper's promises of flexibility, more state involvement and other softening of FERC's Standard Market Design approach aren't enough for WUTC Chair Marilyn Showalter. Showalter noted that under FERC's Order 2000, participation in an RTO or ISO was voluntary. The white paper would make it mandatory. In addition, "all the flexibility is subject to FERC's approval and interpretation because FERC maintains its assertion of jurisdiction," she said. Since FERC still has the ultimate authority, all of the organizational structures outlined in the white paper are advisory, she added.

The white paper's improvements over FERC's SMD NOPR "are dwarfed by the larger points of jurisdiction and mandatory involvement," Showalter said. "If RTOs are voluntary, then I think those expressions of flexibility are quite helpful."

Just as important as FERC's white paper, Showalter said, is the draft energy bill released by the Senate Energy Committee last week (see [2/15]). The bill remands the Standard Market Design proposal to FERC for reconsideration and postpones any final rule until at least July 1, 2005. The bill also makes participation in RTOs voluntary and requires FERC to convene regional discussions with state regulatory commissions "to address whether wholesale electric markets in each region are working effectively to provide reliable electric service to consumers in the region at the lowest reasonable cost."

Like the SMD proposal, the white paper released last week is a proposal, not final policy, FERC's Kevin Kelly told *Clearing Up*. FERC will hold technical conferences throughout the country--probably one in each RTO-forming region--to take additional comments, and the commission is encouraging written comments as well. FERC has not set a deadline for comment, as the conferences will provide a better sense of a reasonable time frame for acting on the rule.

The commission--like the UTC's Showalter--is also waiting to see what Congress does ***[Jude Noland].***

[13] Oregon PUC Staff Calls for Probe of PGE Trading, Management ■ *from [5]*

The staff of the Oregon Public Utility Commission has called for a state investigation of Portland General Electric's past trading practices with an Enron subsidiary, and an examination of past trading activities of PacifiCorp and Idaho Power in advance of possible investigations.

In a report released last week, the staff said it had evidence of PGE mismanagement. The report cited Federal Energy Regulatory Commission findings that PGE engaged in abusive energy trading practices with Enron Power Marketing Inc. and also improperly posted electricity trades with Enron, as required by the IOU's standard of conduct. The OPUC staff's allegations rely heavily on a FERC investigation into PGE's trading activities in 2000 and 2001 *[EL02-114]*.

The OPUC staff also recommended that the state agency investigate PGE for possible misconduct over the trading. But the PUC should hold off on any decisions regarding potential PGE trading misconduct until FERC's investigations into Western energy market manipulation *[PA02-2]* are complete, the staff said. Still, the staff urged the commission to start investigating PGE's management practices immediately.

The PUC staff has focused on 17 days between May and June 2000, during which PGE admitted to FERC that its traders had engaged in so-called Death Star trades with EPMI. In such transactions, Enron would receive congestion relief payments from California for scheduling power to move in the opposite direction of congested southbound transmission, without actually moving any energy. PGE has argued that, contrary to popular belief, the Death Star strategy actually helped relieve congestion along California transmission lines by providing access to additional transmission capacity that would not otherwise have been available.

If the OPUC were to find PGE guilty of misconduct or mismanaging its trading activities, the commission could reduce the utility's rates to compensate customers for the effects of the improper actions, the agency staff said. This is because customers "did not get the good management they paid for in rates," said Lee Sparling, administrator of the commission's electric and natural gas division.

"Even if the FERC concludes that PGE didn't violate any tariffs for trading activities and that the posting errors were inconsequential, we would still proceed with our mismanagement case," Sparling told *Clearing Up*. "The essence of the case isn't that they got caught violating FERC rules, but that they didn't handle trading activities well and put the company in jeopardy of running afoul of the FERC requirements."

'The essence of the case isn't that they got caught violating FERC rules, but that they put [PGE] in jeopardy of running afoul of FERC requirements.'

PGE has argued that it was an unwitting participant in the so-called 17 days of Death Star trades, that Enron used PacifiCorp and other companies to complete such transactions and that the posting errors were simply minor administrative oversights--not mismanagement.

"We disagree with the novel theory of mismanagement," said Pamela Lesh, PGE vice president of regulatory affairs. "We feel we have managed PGE through an incredibly difficult time in a very sound manner, given what we had to work with."

The PUC staff is soliciting comments on the draft report, due May 21. The staff plans to write a final report and set of recommendations--based on the comments received and any new revelations from FERC--and submit them to PUC commissioners at a special public meeting June 12.

PUC staff said it might recommend similar investigations of PacifiCorp and Idaho Power, to determine whether they engaged in trading-related misconduct or mismanagement. However, the staff said it needs more time to collect and analyze information from the IOUs before deciding to proceed with a probe.

In December, FERC staff alleged that PGE's questionable trades with EPMI violated the utility's market-based rate authority and other tariff and company codes of conduct. In particular, the staff said they had evidence that PGE and EPMI developed an arrangement that allowed EPMI to implement Death Star schemes. PGE's participation in the arrangement violated its codes of conduct for its market-based rate tariff, which requires PGE operating personnel to function independently from EPMI and prohibits the utility from giving EPMI undue preference to transmission or other regulated services, FERC staff said. The failure of PGE traders to properly post updated trade offers before the offers were accepted by EPMI violated the undue preference provision, FERC staff asserted.

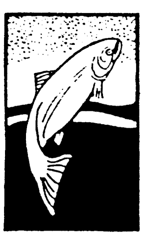
FERC staff also accused PGE of participating in buy-sell transactions with EPMI and Avista Corp., in which no physical power actually flowed. Such trades were part of Enron's market manipulation strategies, which were unjust and unreasonable, and may have hurt markets in California, FERC staff said.

PGE has denied the accusations and argued that PacifiCorp and other companies participated in similar trades. For example, PacifiCorp reported to FERC that it participated in about 767 third-party buy-sell transactions from July through November 2000, in which it acted as an intermediary. The trades represented more than 40,000 MWh of power.

PGE reported to FERC only 2500 MWh of such trades during the same period.

PGE submitted its final testimony in late February in the FERC investigation and is awaiting a response from FERC staff. A hearing in the case is scheduled for June ***[Cassandra Sweet].***

Environment



Fish

[14] Hanford Fish Stranding: Much Ado About Very Few?

■ *from [6]*

Columbia River salmon managers have tried to get dam operators to reduce fluctuations in the Hanford Reach area, to reduce the number of young salmon stranded this month by abrupt changes in dam discharges from power peaking operations. But representatives of Grant County PUD and other dam managers say mortality among stranded fry is minimal compared to the size of the run, and no such changes are necessary.

The fish managers estimated that 200,000 to 300,000 fall chinook "fry" may have died earlier this month when the river elevation lowered and trapped the fish in pools that no longer connected with the main channel. Most fish mortality occurs in these pools when they drain or if water temperatures rise to lethal levels before power operations again generate rising water levels that reconnect the pools with the main channel.

In 1999, Grant began reshaping spring flows to reduce these effects. The utility voluntarily signed an agreement with agency and tribal fish managers that spelled out a sliding scale for reducing fluctuations, depending on the level of river flow.

"I don't like to point fingers, but it does take a coordinated effort to get those flows right," said Grant PUD spokesman Gary Garnant. Upstream, daily fluctuations from operations at Grand Coulee Dam greatly overshadow PUD operations, he said.

But BPA said power peaking at Coulee and Chief Joseph dams actually helps Grant's efforts. BPA's Scott Bettin said Grant swaps power with the federal system, which slightly increases fluctuations at the upper federal projects, but reduces them significantly at Priest Rapids. Power peaking occurs twice a day, following the normal flow of human activities that call for more electricity in mornings and early evenings.

The PUD operated within the voluntary criteria for only two days between April 14 and April 20, according to a stranding report from the Washington Department of Fish and Wildlife. The department found only 95 fish entrapped--40 dead--in sampling that week. But during the second week in April, observers found over 9,200 fry entrapped, with 8,880 mortalities, which led them to call for reducing fluctuations.

'The recent studies of stranding demonstrate the potential magnitude of the problem.'

Even if fish managers are correct in their estimate that several hundred thousand fall chinook fry may have died last month from the effects of stranding, that is only a minuscule percentage of the fish that are rearing in the reach this spring--less than 0.9 percent of the fish managers' population estimate, which could be low in itself.

WDFW's Paul Hoffarth has estimated that about 35 million Hanford fry have emerged from eggs this spring.

However, last fall, after more than 70,000 adult fall chinook returned to the reach, redd counts were phenomenal; one estimate put the number at over 32,000. It's hard to see why managers haven't estimated this year's fry population between two and three times what they have said in public forums. Grant PUD biologist Joe Lukas said the estimated fry population could range from 67 million to 139 million. Mortality of fall chinook salmon fry is naturally very high, he said; only about 10 percent of those fry survive to become smolts and migrate downstream.

During the drought year of 2001, fish managers went on the record estimating that 23 million fry were inhabiting the reach. Grant PUD biologists estimated that fish dug 13,600 to 23,000 redds in the Reach that previous fall, favoring the more conservative end of the range, at 13,600. If about 13,000 redds produced 23 million fry, then a simple correlation would put this year's fry population at close to 70 million fish. If this figure is correct, the stranded mortality for early April would be down to about 0.5 percent.

But the fish managers' mortality estimate is based on a new method of analyzing stranding effects, an effort funded by the Alaska Department of Fish and Game. On April 18 ADFG Commissioner Kevin Duffy sent a letter to BPA, the US Bureau of Reclamation, the US Army Corps of Engineers, and Grant PUD, supporting the fish managers' attempts to reduce stranding this year. Duffy cited the importance of this healthy run to ocean fisheries included in the Pacific Salmon Treaty. "The recent studies of stranding in the Hanford Reach demonstrate the potential magnitude of the problem," he wrote in the letter.

However, Grant biologist Lukas said this year's random sampling, an older method used to estimate stranding mortality, tracks with previous years. He said data shows only a slight increase in stranding this year, compared to 1999, 2000 and 2002. Stranding rose to 1.5 fish per sample, up from 0.95 fish per sample during the previous years. In 2001, when fish managers estimated that 1.7 million chinook fry died from stranding, the fish-per-sample rate was 23.5, Lukas said.

On April 17, salmon managers called for bumping up flows out of Coulee to maintain at least 135 kcfs at Priest Rapids Dam until the end of June. They said such a strategy would help both spring chinook and steelhead migrating in the mid-Columbia, and fall chinook in the Hanford Reach. The technical management team approved the request a week later, but only until May 7, when the situation will be revisited.

Another request, made by the managers through the Technical Management Team forum, called for limiting fluctuations at Priest Rapids Dam below the levels agreed to by Grant PUD. But some forum participants pointed out that the group has no authority to tell Grant how to operate its dams.

Since February, the public utility has convened a series of meetings to discuss operations during the chinook rearing period, and has consulted with NOAA Fisheries, BPA and others on this year's operations. Grant has planned another meeting May 1 to address chinook rearing and other Hanford flow issues ***[Bill Rudolph].***

Clearing It Up

[15] POTOMAC: Senate Bill Sends SMD Back to FERC; DOE Investigates Call ■ *from [2]*

The Senate could start debate on a comprehensive energy bill as early as this week, following the Energy and Natural Resources Committee's approval of the measure last week. At more than 270 pages, the bill addresses nuclear energy, coal, oil and gas, and a few renewables. It also includes an electricity title that went through several changes before winning the support of a majority of committee members.

The Federal Energy Regulatory Commission and its Standard Market Design proposal caused the most difficulty for the bill, which was crafted by committee Chair Pete Domenici (R-NM). Facing opposition to SMD from Western and Southeastern states, Domenici floated an SMD clone called Regional Energy Service Commissions. When that was met with nearly equal opposition, the chairman agreed to an amendment that remands the proposed SMD rule back to FERC for reconsideration and prohibits a final rule on the proposal until at least July 1, 2005.

In spite of the division caused by FERC and SMD, Domenici said he was determined to address electricity.

"The experience in California and the current financial condition of the [electricity] sector make it clear something needs to be done, but I, and most of my colleagues, are uncomfortable leaving the matter entirely to the FERC," he said.

The white paper FERC released last week (see [1/12]) did not help its cause, said Domenici, who told reporters after the committee action that the paper "was not clear enough to be helpful" and raised more questions than it answered. He added that FERC Chairman Pat Wood "made it such that something had to be done."

The bill 'doesn't go far enough to prevent another Western energy crisis.'

Domenici said he was convinced that power market participants "generally support open and competitive markets, but they are distrustful of FERC and want some level of certainty regarding FERC's authority."

Those sentiments led to the temporary ban on market design proposals, as well as an amendment that makes participation in regional transmission organizations voluntary. In addition, the bill protects access to transmission lines by utilities that have service obligations to their customers. It would hold the Bonneville Power Administration and other transmission utilities outside FERC's jurisdiction to the so-called comparability standard, which ensures that the utilities charge themselves rates that are comparable to what they charge other entities.

But those concessions were not enough to convince several senators to vote for the bill. Senators Maria Cantwell (D-WA), Jeff Bingaman (D-NM) and Dianne Feinstein (D-CA) all voted against moving the measure out of committee.

Feinstein said the bill "doesn't go far enough to prevent another Western energy crisis." She criticized the bill's limited attempts to prevent market manipulation, saying that its restrictions on wash trades don't go far enough. "The bill only bans one type of manipulation, but it does not address the natural gas market, nor does it prevent other forms of fraud and manipulation."

Bingaman, on the other hand, was unhappy over the restrictions placed on FERC and its market proposals. "In the name of dealing with concerns over the Standard Market Design proposal, the bill cripples the FERC's ability to respond to electricity crises that may arise over the next two years," he said.

Bingaman also criticized the hydro licensing section, saying the requirement that natural resource agencies consider economic factors in their analysis of a hydro project "creates a new special interest provision for one group of parties in the relicensing proceedings."

But the hydro provisions delighted Sen. Larry Craig (R-ID), who said the measure will bring balance to the relicensing process and "strengthen the nation's economy."

Other elements of the electricity title include reliability language that creates a FERC-approved Electric Reliability Organization to set rules for the interstate transmission grid. The bill also repeals the Public Utility Holding Company Act and the mandatory purchase requirement in the Public Utility Regulatory Policy Act.

The bill has several omissions, including the failure to mandate a renewables portfolio standard or a vehicle fuels standard. It also omits a key element of the House energy bill--drilling for oil in the Arctic National Wildlife Refuge. That omission is certain to cause controversy if the bill reaches a conference committee with the House.

Meanwhile, FERC received another blow last week when the Department of Energy's inspector general agreed to conduct an inquiry into the March telephone conference call involving FERC Chairman Pat Wood, Commissioner Nora Brownell and several Wall Street analysts. The commissioners reportedly revealed their positions on long-term power contracts during the closed call, which was held while the commission was deciding refund cases filed by California and Northwest parties (CU No. 1080 [1/14]).

Senators Cantwell and Joseph Lieberman (D-CT) asked Inspector General Gregory H. Friedman to investigate the conference call. In a letter sent to Friedman last week, the senators said the commission may have "compromised its regulatory responsibilities." In a short faxed message from the IG's office, Cantwell and Lieberman were notified that the inquiry would begin immediately.

FERC may have thought the matter was closed, following the commissioners' denial of a request from the Snohomish County Public Utility District to remove Wood and Brownell from the utility's refund complaint. The April 23 FERC order, which was signed by the three sitting commissioners, maintained that the password-protected phone call was no different than giving a speech or other briefing and was not an off-the-record communication.

The inspector general did not indicate how long the inquiry would take ***[Lynn Francisco].***

[16] BPA Settlement with Enron Will Cut SN CRAC Rate Increase ■ *from [3]*

BPA last week said a settlement it reached with representatives of Enron's creditors will reduce the agency's proposed 15 percent net rate increase to 13 percent. The settlement, approved by the bankruptcy court in March, calls for BPA to pay a $99 million termination fee. That will absolve the agency of its obligation to pay some $500 million over the next two and a half years under 22 remaining power purchase contracts with Enron. BPA has already paid Enron about $200 million at an average rate of $52/MWh under the five-year contracts, signed as part of the agency's augmentation program. BPA was buying 300 aMW from the bankrupt energy concern.

US Sen. Maria Cantwell (D-WA) said the agreement will save ratepayers $190 million through 2006.

BPA Administrator Steve Wright credited dogged persistence from Cantwell and Sen. Ron Wyden (D-OR) as helping to "better position" BPA for a deal with Enron.

'Enron robbed the Northwest during the energy crisis and we are finally beginning to get out of these over-inflated deals.'

Wyden said he pushed BPA to seek a settlement. Both senators claimed credit for pushing FERC Chairman Pat Wood to open the investigation that led to the agency's release of the Enron memos describing market manipulation trading tactics and other disclosures.

"Enron robbed the Northwest during the energy crisis and we are finally beginning to get out of these over-inflated deals," Cantwell said in a press release.

Although some reports said the US Department of Justice "allowed" the settlement, BPA said the role of the Justice and Energy departments was more akin to a "review."

BPA spokesman Ed Mosey said negotiators determined that Enron's margin on the remaining term of the contracts was $140 million. As part of the settlement, both parties agreed to discount that by 30 percent, or about $41 million, hence the $99 million termination payment. As a result, the $41 million in savings is essentially "locked in," while additional savings will depend on market prices.

"If market prices go up, it will look like BPA overpaid," Mosey said. "But if they go down, it will look better." He said if BPA had decided to hold out for a legal outcome, it would have had to continue paying the $52/MWh rate in the meantime, slowly "losing any benefit we could get from a settlement as each day passed."

He said BPA did not settle with Enron sooner in part because "internally we were trying to decide if this was the best thing." He said BPA unilaterally abrogated some power sales agreements with Enron believing the contracts allowed it, but that there had still been a risk Enron would make it an issue in litigation.

Under those contracts, BPA would have sold $42 million of cheap power to Enron; instead, the agency said it used the power for its own needs, saving $150 million in power costs.

Enron spokesman Eric Thode said the company decided to settle because now that it is in bankruptcy, Enron's mission is to maximize value for its creditors.

"One thing we are not going to be doing as we move forward is trading energy, gas or power," Thode said. "So we are in process to work with the various counterparties to settle out the contracts." He also said there had been a possibility of litigation over the contracts BPA abrogated, something "which neither party is interested in." He said Enron has already settled "tens, if not hundreds" of other contracts.

BPA's Mosey said that while the settlement will yield a 2 percentage point drop in the proposed net rate increase, it is not yet clear which cost recovery adjustment clause (CRAC) the reduction will come under, the load-based CRAC or the safety net CRAC.

"**Rates staff is continuing** to analyze the treatment," Mosey said. "It's complicated by the fact that some of these purchases turned out to be surplus," as opposed to augmentation, where costs from the added power BPA had to purchase to meet demand for the current rate period are reposed.

The LB CRAC is set to decline on Oct. 1 to 28 percent from its current 39 percent. The financial based (FB) CRAC is and will stay at 11 percent. The SN CRAC is still being worked out in an expedited rate case that is set to be final at the end of June.

Mosey said the $99 million will be paid from the US Treasury Department's Judgment Fund. BPA will repay the fund under a schedule that will minimize the rate impact. Normally government agencies that use the fund repay it, but do not pay interest. But Mosey confirmed that BPA will pay interest because "that is the agency's policy" and because without the fund, BPA would have had to secure other financing or use its own funds, both of which would have been more costly. "We don't want the taxpayer to have to cover any expense associated with our use of the money," he said. BPA will pay an interest rate based on 13-week T-bills, which currently run about 1 percent.

'We are not going to be trading energy, gas or power. So we are in process to work with the various counterparties to settle out the contracts.'

BPA has experience with the Judgment Fund. It repaid fund proceeds that were used to settle a lawsuit brought against it by Tenaska Power Partners over an abrogated long-term power sales contract.

Sen. Cantwell said the "fight is not over" with Enron, as there are still contracts between Enron and Northwest utilities "that must be terminated by FERC." She cited both Snohomish County PUD and PacifiCorp, but there are many other Northwest utilities with total claims against Enron approaching $500 million.

Enron's Thode said he did not have information about the status of other claims from Northwest utilities, but he said there are ongoing discussions with "many if not all" of those that have not already been settled.

A total of 22,800 claims have been filed against Enron in its bankruptcy proceeding. Below is a partial list of claims filed by Northwest utilities in that case. Most are against Enron Power Marketing Inc., but some are against Enron Corp., Enron North America, Enron Broadband Services, and other sundry Enron entities. BPA had a claim for about $15.7 million but that has already been netted against what Enron owed BPA ***[Ben Tansey].***

Enron Bankruptcy Claims Filed By NW Utilities

Portland General Electric:	$157,997,849
Snohomish County PUD:	$125,000,000
Powerex	$104,116,273
PPL Montana	$29,067,294
IdaCorp Energy	$16,555,457
Portland General Holdings Inc.	$13,673,260
PPM Energy	$9,240,150
PacifiCorp:	$8,044,722
Seattle City Light:	$6,108,746
Puget Sound Energy:	$5,261,236
Grant County PUD:	$3,602,924
City of Tacoma:	$3,288,520
City of McMinnville:	$490,695
Benton County PUD:	$190,374
Avista Advantage	$150,724
Eugene Water & Electric Board:	$103,870
Grays Harbor County PUD:	$75,729
City of Tacoma (Finance Dept.):	$71,305
Franklin County PUD:	$20,160
Oregon Trail Electric Cooperative:	$309
Cowlitz County PUD:	$92
City of Idaho Falls	unspecified
Avista Corp.	unspecified

Source: BSI

[17] SSG-WI Study Indicates No Congestion on Two BPA Paths ■ *from [7]*

At least two of the major transmission paths internal to BPA's system are not "heavily utilized," according to a new report. Usage on a third path, known as Path 6, or West of Hatwai, was rated ninth among 33 Western Interconnection paths studied.

The study was careful not to label the paths "congested." But Dean Perry, who chairs the group that produced the study, told *Clearing Up* he did not consider the two BPA paths to be "congested." He said based on his knowledge, BPA does have some lines "that are heavily used and are sometimes congested, but there are a lot of other lines that are not, and there is no problem on them at this time."

The new calculations are part of a path flow study completed by a planning sub-group of the Seams Steering Group-Western Interconnection (SSG-WI), which is working with groups such as RTO West to create a "seamless Western market."

The fact that there is controversy over what constitutes congestion comes through clearly in the study. In one section, the study said that based on the group's analysis, "it cannot be concluded whether there was significant congestion...on a path." But in another section, the report said loads above the benchmark selected for heavy usage "may be associated with paths considered to be 'congested' from a marketing or commercial use viewpoint."

BPA has said that the Northwest grid is congested and that many of its lines are "at capacity and cannot carry more power." Congress approved $700 million in additional borrowing authority for BPA this year, in part to help alleviate growing strain on its grid.

Analyzing congestion within BPA's system was not the main objective of the study. Perry said SSG-WI needed some empirical data to test a new model aimed at predicting congestion over the next five to 10 years.

Nearly all of the paths studied are between--not within--control areas, and are located throughout the 11-state Western Interconnection. But Perry said the group decided to include Paths 5 and 6, both of which are internal to BPA's control area. Both are east-west paths and consist of several transmission lines, all or most of which are owned by BPA. Path 4 is in Washington and is known as West of Cascades-North; Path 5 is in Oregon and is known as West of Cascades-South.

> **'They are not congested in the traditional definition of congestion, in that they are not utilized for much of the year.'**

To allow usage comparisons between paths, the SSG-WI study selected what it called a "utilization indicator...calculated as the percentage of time [that a] path exceeds 75 percent of its operating transfer capability" (OTC) over a season. It cautioned that the 75 percent OTC benchmark "has no basis in terms of an accepted industry standard or practice" and that its magnitude "is not necessarily an indicator that there is congestion."

The study said Path 5 exceeded the benchmark no more than 4.6 percent of the time during any season of the four years examined. Path 4--which was rated the least heavily used of all the paths examined--never exceeded the benchmark by more than 1.1 percent, according to the study.

Overall, Perry said, the most heavily used paths were in Wyoming, Colorado and Arizona--the eastern edge of the Interconnection. Except for the Canadian Intertie (Path 3), "The ones in and out of Bonneville's control were not among the most heavily used," he said.

Brian Silverstein, BPA's manager of network planning, said both Paths 5 and 6 serve load in the Interstate 5 corridor, "so they are winter peaking and we would not expect them to be heavily utilized" except during a cold winter. "They are not congested in the traditional definition of congestion, in that they are not utilized for much of the year."

The SSG-WI study only utilizes data from the last four years, and during that time "we have not had a cold winter, so we wouldn't expect much congestion," Silverstein said. Nor does the study include data on how often requests for transmission service are turned down.

Silverstein said BPA's investment strategy is consistent with the SSG-WI study's characterization of the two paths. The agency is proposing no major new lines, but is adding "low cost capacitor" equipment on Path 4 for about $17.6 million.

Also included in the study was Path 6, better known as West of Hatwai, which is an east-west path in eastern

Washington that divides both BPA and Avista's control areas into two parts. BPA owns 2200 MW of the Path 6 capacity and Avista owns 600 MW. The study said Path 6 exceeded the 75 percent OTC benchmark 42 percent of the time in spring 2002, but far less in all other seasons. Perry said West of Hatwai is and has been congested "at times."

In 2001, Portland General Electric and Puget Sound Energy sued BPA for its decision to reduce OTC across the West of Hatwai cutplane, thereby curtailing their firm transmission service on certain dates during that year. BPA maintained it had a right to do so, and in PGE's case blamed a line outage. But according to settlements recently disclosed under a Freedom of Information Act request, BPA agreed to pay PGE $324,000 to settle the case and also to pay both IOUs half their costs for further Path 6 curtailments.

BPA recently began a $152 million project to increase the OTC--and thereby reduce congestion--along Grand Coulee-Bell, one of the lines that comprise Path 6 ***[Ben Tansey].***

[18] Montana Governor Signs Energy Bills, Reviews Others ■ *from [8]*

NorthWestern Energy will be immune from a $3 million lawsuit filed by shareholders of Montana Power Co. and will be able to seek pre-approval of power supply contracts under two bills signed last week by Montana Gov. Judy Martz.

Senate Bill 458 protects NorthWestern from an ongoing shareholders' lawsuit filed against Montana Power's successor and reverses a district court order naming NorthWestern as MPC's responsible successor.

Senate Bill 247, also signed by Martz, requires the PSC to pre-approve or provide early disapproval of proposed power purchase contracts that default energy suppliers like NorthWestern want to sign with power generators or marketers to meet their default supply load.

Martz also recently signed Senate Bill 77, which extends the state's Universal System Benefits programs--which include low-income energy assistance and energy efficiency programs--through December 2005. Another bill Martz signed, Senate Bill 247, directs the PSC to establish guidelines for utilities procuring power for their default supply customers.

Martz has also signed House Bill 642, which allows utilities to disclose on their customers' bills the state and local taxes and fees they pay; and Senate Bill 138, which revises the state's alternative energy and energy conservation tax policies, including subjecting renewable-energy generators of 1 MW or more to both property taxes and property tax incentives, and expanding tax deductions for energy-conservation investments.

The state's major energy bill, House Bill 509, passed the Legislature and was sent to the governor's office last week. Among other things, the bill extends Montana's transition to a deregulated energy structure to 2027 and gives industrial customers now served by competitive electricity suppliers until Dec. 31 to switch to a default power supplier without paying large fees. It also requires the PSC to establish an electricity cost recovery mechanism and requires default suppliers to offer their customers green power options.

A controversial bill (Senate Bill 453) that would have doubled PPL Montana's property taxes by placing the company in a different tax class, died after passing a Senate committee in March.

Montana's Legislature wrapped up its session April 26 ***[Cassandra Sweet].***

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