



Affiliated Tribes of Northwest Indians Economic Development Corporation

September 9, 2005

Mr. Stephen J. Wright
Administrator
Bonneville Power Administration
PO Box 3621
Portland, OR 97208-3621

RE: Comments on Decision Point #2/Grid West

Dear Mr. Wright,

Thank you for this opportunity to provide comments on BPA's decision on whether to seat the Grid West Board of Directors and to fund further development of Grid West and/or TIG. We would like to begin our comments with some general statements, then, in Attachment 1 we respond to the questions posed by your letter of August 4, 2005.

After following the regional discussions on the high voltage system in detail for over six years, and after applying the criteria for ATNI-EDC's support of a new approach to transmission operation, and considering the tribal interests affected by transmission policy, **ATN-EDC supports BPA's funding of further development of Grid West at Decision Point #2, and supports the seating of the Grid West Board.** However, one tribe, the Confederated Salish and Kootenai Tribes, comments that they support delaying Grid West activities for a reasonable time in order to allow TIG the opportunity to more fully develop their proposal and to attempt to reach a regional consensus on the options.

There has been a suggestion in the utility press that there could now be a melding of the Grid West/TIG proposals. Grid West is, however, already a compromise. Numerous changes were made to the Grid West structure and bylaws to elicit agreement on its features from TIG developers and to assure that the proposal balances efficiencies with cautions. Watering-down Grid West will not be in the best interest of this process.

However, in the event Grid West is not successful, and much of this success will turn on the quality of the Developmental Board members, it may be appropriate to consider the TIG approach, after it has been further developed and improved to meet ATNI-EDC conditions and if it accounts for meaningful tribal and other parties' participation. If the

TIG approach is allowed to be more fully developed, it may also promote a broader consensus on the issues.

In the past, ATNI-EDC has been “conditionally supportive” of Grid West’s predecessors¹. Our conditions for support of an independent body that will take over the operation of the system included:

- First, the cost-benefit analysis must reasonably show that the overall benefits will outweigh the overall costs with consideration of the design and implementation of the study.
- Second, the entity must be governed independently and provide access to all interested parties.
- Third, the entity must be designed to resolve, not institutionalize congestion.
- Fourth, costs to consumers should not be expected to increase more than they would without the action.

ATNI-EDC’s conditional support was based on the ways in which the transmission system may impact tribal interests², including:

1. *Tribal Sovereignty must be acknowledged in transmission policy:* At this time tribal sovereignty is recognized by utilities while working on transmission only on an ad hoc basis. Except with BPA, who has attempted to include tribes in policy decisions, tribes are generally given the burden of raising their energy policy issues with the various utility decision makers, and with federal and state agencies that may seek to regulate transmission as it may impact tribes. There is no broad understanding or acknowledgement of tribal issues during transmission policy discussions.
2. *Tribal land rights must be protected and acknowledged when facilities are operated or constructed on tribal lands or tribally sensitive areas:* At this time certain rights of ways are owned on tribal lands by various utilities with inconsistent right of way policies and negotiations. Tribal issues are generally not considered or are misunderstood during land use planning for new facilities.
3. *Tribal resources, like fish, wildlife and cultural resources must not be impaired by transmission policy decisions:* The operation of the transmission system has impacts on generation resources, including hydroelectric resources. Lines also cross tribal lands and impact wildlife and cultural resources. At this time tribes have the burden of complaining when transmission policy may impact tribal resources. Often the only opportunity for raising such concerns is during FERC hydroelectric relicensing discussions, state siting processes, or during other federal policy initiatives. Even then, information about transmission operations is unavailable to tribes and the impacts of policies are unknown.

¹ The Grid West proposal has been an evolving document. The proposal has been greatly influenced by FERC requirements, regional input, technical system limitations, legal issues, and new good ideas. Our conditional support was expressed in ATNI-EDC’s May 29, 2002’s Protest and Comments in Docket No. RTO1-35-000, “Stage 2 Filing and Request for Declaratory Order Pursuant to Order 2000 ” (“Stage 2 Filing”) of the filing utilities.

² ATNI has passed resolutions consistent with this conditional support. See, for example, Resolution #04-79 from the 2004 Annual Conference, available on www.atnitrines.org.

4. *Tribal opportunities for renewable and traditional energy generation should be facilitated by transmission policy:* At this time the transmission system is severely constrained prohibiting almost any new generation unless significant investments in new transmission are made. No procedures exist for fairly determining how costs of facilities that may benefit many entities should be shared. Uniform policies for determining available transmission capacity do not exist.
5. *Costs to tribal consumers of electricity should be kept down as tribes are among the poorest of consumers and any increase in costs impacts them in a disproportionate manner:* Transmission is approximately 20% of consumers' electric bills. The cost of transmission is dependent on which utility's lines are in used to bring power to the particular consumer. Transmission costs have generally been kept down because very little new transmission has been constructed over the past 25 years. The system is antiquated and new investments are needed. Without coordinated planning and procedures to fairly share costs of new construction, new construction is unlikely which raises concerns over the reliability of the system. If new construction is built under the current system, its costs may be unfairly borne by certain entities.
6. *Tribes must have a seat at the table and be able to participate in transmission related decisions:* Tribal participation in decisions at this time is ad hoc. When participation is invited, tribes do not often have information necessary to comment on issues³.

Our recommendation to support Grid West is based on the following analysis of the Grid West and TIG proposals as they are applied to our earlier described conditions for support:

1. The cost-benefit analysis must reasonably show that the overall benefits will outweigh the overall costs with consideration of the design and implementation of the study:

Grid West held a two day workshop to explain the expected costs of startup and operations (in a level detail sufficient to establish a rate) and to estimate a low, medium, and high estimate of quantifiable benefits, and a description of likely benefits that could not be empirically quantified. *Some of the most important benefits fall into this latter category.* The total annual operating costs of Grid West, including utilities' internal costs, would be about \$101 million. Even counting only the *quantifiable* benefits, we concur that the benefits of Grid West would be between \$106 and \$181 million per year. The benefits of Grid West appear to clearly outweigh their costs.

TIG costs are estimated to be between \$51 and \$61 million per year. TIG benefits have not been estimated, which is clearly a problem in the analysis of the options.

³ ATNI-EDC's 5 year participation in the RRG has been made possible by grants from BPA, and has been welcomed by other RRG members. This is an appreciated exception to an ad hoc and uninformed participation.

2. The entity must be governed independently and provide access to all interested parties.

The hallmark of Grid West is the creation of an independent entity, governed by a board that is elected by a broad range of membership that can make decisions in the best interest of the grid and the region, under criteria established in the bylaws. Independence assures that decisions are not made based on any particular market interest.

Grid West acknowledges tribal sovereignty by including all regional tribes as eligible corporate members. (We must submit a timely application and pay a \$1000 annual fee, or obtain a waiver of the fee, which has so far been granted to all requesting tribes.) Tribes may join the “tribes” group or may instead join in another category as a tribal utility, or tribal generator or other tribal business if those businesses qualify under the other categories of membership. Members are entitled to attend meetings, sit on committees keeping them active in transmission policy decisions, obtain corporate and technical information, and vote on issues and for seats on the Members Representatives Committee which will elect Board members. Tribal corporate members are required to appoint a tribal representative but can also appoint an alternate who is someone that represents numerous members in order to share the costs of participation. Any member may also appoint up to three representatives (from areas of interest such as fish and wildlife, new facilities, or legal) to a Member Advisor Committee that will work with the Board on issues and programs. Tribes also have a seat on the Governmental Committee, with the states, that will have a special consulting role to any major Board decisions. Tribal members also have access to corporate dispute resolution procedures.

The TIG proposal does not mention tribes. When asked about tribal participation, representatives stated that they would consider the issue for further development. Regulators, tribes, independent power producers, power marketers, renewable interests, environmental interests, and other energy companies can be “stakeholders” in the TIG process. Tribes are not “stakeholders” but have federal treaty rights and sovereign government responsibilities.

The hallmark of the TIG approach is that it *does not* create an independent entity that is designed to become FERC jurisdictional. Under the TIG proposal, utilities with transmission lines would sign a Coordinating Agreement for transmission activities. At least five different contracts called Implementation Agreements would be signed in various subject matter areas. There appears to be no opportunity for anyone other than transmission owners to participate contractually. The TIG approach is governance by committee. The agreements will each establish and fund committees. Who is on the committees, and how they are voted there is still at issue, but it is clear there are no protections at this time to assure it is independent of market interests. TIG states that all entities would be allowed to be “members”, however, they will not sign a contract and the

Committees will have limited independent member seats. The majority vote of the committee is clearly with the transmission owners and utilities. There is a provision for election of a policy level Executive Committee. When market participants clearly have a majority vote of each underlying committee, such an election is problematic.

The question can be asked: “who is steering the TIG ship?” On the one hand the TIG proposal relies on committees as described above. On the other hand, TIG uses contractors for many features that require a measure of independence. For example in planning, an “independent staff” has final say over the transmission plan. When asked about this staff, it was stated that they will likely be contractors supported by transmission owners and utilities. This is clearly not an “independent” staff. After the plan is formulated, a Transmission Expansion Review Council (TERC), made up of Transmission owners and users (clearly not independent) would endorse the plan. Then utilities signing contracts would have an obligation to make a “reasonable and prudent effort” to build projects under the plan. If the plan calls for construction and a utility “declines to do so” then non-binding dispute resolution is called for and TERC may file a complaint at FERC. However, if a utility does not want to build a project, and they have a seat or influence on TERC, it is likely the plan suggesting that facility will not be approved anyway, negating any real disputes.

Another example of the problems with a lack of independence is in market monitoring. While TIG proposes some good improvements to data sharing, it is likely that any truly commercially sensitive data will be withheld by utilities. Can the markets really be monitored if data deemed confidential by certain parties can not be shared with a truly independent party with confidentiality obligations?

A third example of the problems with a lack of independence, or independence by contractors, is operations. TIG cites the services provided to the Mid Area Power Pool (MAPP), including calculation of Available Transmission Capability from data provided by members, operating the OASIS⁴, receiving and evaluating transmission requests, and entering into service agreements. MAPP contracts with MAPPCOR, a contractor to provide these services. While the use of consultants does insulate decisions away from the competing parties, using consultants or contractors to achieve “independence” is clearly inappropriate and troubling. Consultants are not independent but are responsive to whoever is paying their bill. Consultants should not be used for making policy unless you would like to see that consultant replaced each time the policy goes against the entity with the biggest wallet.

⁴ Open Access Same-Time Information System, which is an internet based tool used by utilities for monitoring and scheduling system transmission.

3. The entity must be designed to resolve, not institutionalize congestion:

Two categories of resolving congestion can be discussed: first, the ability to identify and trade unused transmission and second, the ability to require expansion of the transmission system or a non-wires solution when new capacity is determined necessary under established criteria.

Grid West has proposed a “Reconfiguration Service” for selling unutilized capacity on the grid. Actual markets (for each of the long term, short term and real time) are created for transmission capacity and these markets are operated by Grid West. By modeling the whole grid, it can be determined that if a certain utility does not need a certain number of megawatts at injection and withdrawal points⁵ there is new capacity available on other places within the system and that new capacity can be sold in the market. Because of the grid modeling, this new capacity is not necessarily at the same place as the released capacity. The Reconfiguration Service markets create a new revenue stream for utilities and holders of transmission contracts when their needs are not at peak, as well as new ways to obtain capacity for small generators like wind, and for others needed access to the system and a more efficiently run grid.

Because the TIG approach emphasizes avoiding FERC jurisdiction, they must avoid active negotiation or price setting for unutilized transmission capacity or ancillary services. Instead, an internet “bulletin board” is used to identify unutilized capacity and buyers for that capacity. If there is a match for a certain line segment the two entities create a bilateral contract for the service. This approach is inferior to the Grid West Reconfiguration Service. It is generally an emergency system to assist utilities facing curtailments. The price and other terms and conditions under the TIG approach are not based on participation in open negotiations, and do not encourage appropriate price signals because the negotiations involve only the two parties, and are not administered through an open process. The transmission system is used less efficiently because there is no ability to determine whether there may be a better use of the released capacity based on congestion, market needs and price signals. The TIG approach works in real time only, and is not intended for use in advance markets.

TIG does suggest that their approach is only the first step and it may some day be able to evolve to utilize the technical improvements described in the Grid West filing. It is unclear, however, that such an evolution can happen without a true independent entity. The TIG approach appears to institutionalize congestion.

Both Grid West and TIG propose unified planning and expansion efforts. The Grid West proposal contains an immediate backstop authority for expansion that addresses transmission adequacy and reliability, but requires a supermajority vote

⁵ These are points on the system where power is injected into the system (either by a generator or for an import of power) and taken off the system (either at a substation to serve load or exported from the Grid West system to neighboring systems).

of the Members Representatives Committee (MRC) prior to implementation of the backstop for utility expansion and cost assignment for congestion relief. However, the Grid West proposal does contain *objective criteria* for when the congestion backstop can be imposed, assuming the vote permits the back-stop at some time. The concerns with the TIG planning and expansion proposal are covered in the discussion about independence. In addition, the TIG proposal does not now contain any objective criteria for deciding when transmission is necessary (certainly this has been a long debate in the utility community) but appears to have a subjective approach. We find the TIG approach clearly inferior to the Grid West approach.

4. Costs to consumers should not be expected to increase more than they would without the action:

This question is partially answered by consideration of the Cost/Benefit and Planning and Expansion discussions above. Additional considerations include how transmission service will be priced under the proposals and whether the proposals will lead to a system that avoids unnecessary expenditures in the future, and whether future innovations and cost savings can be captured under the proposals.

Grid West proposes to address rate pancaking, which is the cost of crossing numerous utilities' systems and paying each rate one on top of the other, with four alternatives. The winning alternative would be negotiated as part of the Transmission Operating Agreements. TIG does not address pricing reform and does not seek to remedy rate pancaking. At the August 10, 2005 TIG meeting one of the developers of TIG stated that rate pancaking is simply not a problem. It is clear that it is not a problem *for them*, because they are mostly BPA customers on the BPA system who do not need to transport power over numerous systems.

With regard to pricing of transmission, Grid West proposes a "company rate" for at least the next eight years. Under that rate, each company will establish its own rates to cover their allowable costs. Income to Grid West from the reconfiguration services, etc., will first be used to make whole the companies who have short-falls due to removal of rate pancaking, and then distributed pro-rata. A Grid Management Charge would be applied to all transactions to cover Grid West's costs. TIG does not address pricing as no new entity would be created and the cost of entering into the TIG agreements would be borne by the utilities as an addition to their existing rates.

Our recommendation to support Grid West is also based on the following analysis of the Grid West and TIG proposals as they are applied to the above listed tribal interests in the transmission systems:

1. Tribal Sovereignty:

As described above, the Grid West proposal is superior to the TIG proposal in including tribes and in establishing decision processes that are independent from market influences.

2. Tribal Land Rights:

Grid West will not have ownership in lines, rights of ways, or obligations for maintenance. Under the current proposal, Grid West will control the flow of power over transmission lines, be in charge of regional transmission planning, monitor the transmission markets, and have related administrative and operational functions. The TIG approach would not change any utility's land rights or their maintenance obligations on facilities on Indian lands. Both approaches contain planning processes that allow for at least some "stakeholder" input in planning and siting. Tribes likely have a more effective role in transmission planning under the Grid West proposal since they, and their energy companies, can join as full members.

3. Tribal Natural Resource Protection:

Impacts to natural resources due to transmission operation are indirect; they are changes in generation (especially hydroelectric generation which alters river flow) due to economic or physical changes in transmission. This concern has been largely mitigated by BPA's clear statement that no grid system will be adopted that permits the transmission operator to influence generation operation beyond standards set by generators. This concern also exists for other generators, but the concern is mitigated as long as the Transmission Operations Agreement (TOA) signed by BPA will also be signed by these other generators.

4. Generation:

Many tribes are in the process of developing generation, or are considering generation. Of special interest is wind generation. Development of wind energy is limited at this time to places where transmission exists between windy areas and customer loads. This consideration drastically limits the choices for wind development.

The Independent Power Producers (IPPs), and their trade organizations have been active in the development of Grid West. Grid West supports new development with the a process for acquisition of long term rights and a Reconfiguration Services market, which will provide access to the grid for "short term" (up to one year) transactions. Grid West also has a transmission expansion feature, that while an

incremental step, does have objective criteria for expanding the system, determining cost sharing, and an independent board to oversee the decisions.

The IPPs have refused to participate in the TIG process because there is no new market created for long term transmission capacity, and system expansion remains to be determined by the utility interests, which are generally competitors of the IPPs. Data sharing without an independent body is also of issue. Comments of TIG developers at the TIG meeting expressed their concern at sharing sensitive utility data with “power marketers” who are their competitors.

5. Cost to Consumers/Benefit of Changes:

The Cost and Benefits of both proposals are described above.

6. Tribal Ability to Participate in Decisions:

As described above, the Grid West proposal is superior to the TIG proposal for its inclusion of tribes.

Members of ATNI-EDC that are interested in utility matters and other interested Indian Tribes and tribal utilities in the United States⁶ have had the opportunity to consider these comments. Their feedback is included here. The ATNI Utilities and Telecommunications Subcommittee and the ATNI Economic Development Subcommittee will both be presented with the information contained in these comments at the ATNI Summer Conference at the Coeur D’Alene, Idaho, September 19-23, 2005. ATNI-EDC will seek a resolution from the ATNI membership regarding the consensus view on these issues which can be presented to the RRG on September 29, 2005 and which will be shared with our Congressional Delegation.

We appreciate your consideration of our comments and Attachment 1. As always, we ask for and expect your consideration of the federal trust responsibility to tribes as you make your decisions.

Sincerely,

Margaret Schaff

Margaret Schaff
ATNI-EDC Energy Policy Analyst

⁶ To our knowledge, Canadian tribes have not been involved in this process.

Attachment 1

1. Do you agree with BPA's goal of applying the "one utility" vision to the region's transmission system?

Yes. The region clearly has a consensus that significant transmission problems exist and that they should be resolved with a unified effort. We do not support further consideration of a "status quo" alternative.

2. Please describe how well you think each alternative achieves the six benefits described on pages 2-3 of this letter (planning and expansion, reliability, ATC, congestion management, market monitoring, and "one stop" shopping).

Please see our comments in the letter above.

3. How well do you believe the Grid West and TIG proposals meet the goal of effective decision-making that is not unduly influenced by market participants?

Independent decision making is the key to success in the operation of the transmission system. As discussed in the letter above, Grid West is designed for independence with a balance of regional input, while TIG retains decision making by transmission owning utilities.

Another important issue to consider in this decision is whether utility information and data will be available for market monitoring and for managing the system efficiently. Data sharing without an independent body is problematic because utilities and marketers do not want to share sensitive data with their competitors. When the information is available is also important. The sooner information is shared the better the planning process. TIG developers at the August 10, 2005 TIG meeting expressed their concern at sharing sensitive utility data with "power marketers" who are their competitors. Visibility of information is critical to all aspects of an integrated system, and for interested parties, even those who are members but are not creating the data, such as regulators. Independent entities with confidentiality obligations help to resolve the transparency concerns.

4. If BPA supports the TIG proposal, are you committed to all of the elements of the TIG proposal? If not, which ones are troubling? And why?

We are troubled by a complete lack of consideration of tribes in any role other than a “stakeholder”.

We are also troubled by the lack of independent decision making, based on a desire to avoid jurisdiction by the Federal Energy Regulatory Commission (FERC). Is the fear of FERC really justified in the long term? We have recently had an activist Commission that has, in the minds of many, created havoc, or at least not done enough to slow the havoc created by the “deregulation” of the utility industry, and the movement of the industry to a market base rather than a load service base. Deregulation was not created by FERC, however, but was created by Congress in the Energy Policy Act of 1992. While tribes are familiar with the concerns of having an unfriendly court, we must still live with the concerns and find better ways of resolving disputes and making policies, which includes seeking consensus and having willingness to compromise.

The fact of the matter is that you must have a place to settle disputes, and a place to air policy decisions. In a democratic society that is government and with the nature of the interstate utility industry, it is the federal government. The federal arm of these utility matters starts with FERC and then can move to the federal courts. While all dispute resolution should aim toward inexpensive direct agreements between parties, a fall-back must be in place. Grid West does have an extensive dispute resolution system of arbitration and eventual appeal of arbitration. While work is needed to clarify some aspects, it does attempt to keep disputes local and inexpensive. TIG does not have such a clear dispute resolution system, and in fact in some cases TIG proposes sending disputes to FERC.

As far as policy initiatives created at the federal level and vetted at FERC, FERC is not a tyrant but a forum for hearing all sides of the story and making decisions based on the information gathered. At some point we must have faith in the democratic system. It is throwing the baby out with the bathwater for TIG to go to such lengths to avoid FERC jurisdiction. They are foregoing most of the benefits of an independent and coordinated system. We have been fairly successful in stopping many of FERC’s bad ideas, through our comments and protests at FERC and through involvement of our Congressional staff. FERC will be less inclined to be activist if we can show there is real progress being made and problems are resolved. If the TIG proposal is adopted, FERC may again become activist and force the regional utilities under their jurisdiction to come up with a new plan. Even after all TIG’s efforts FERC may still retain some jurisdiction over some of the TIG activities.

5. If the TIG proposal were to be chosen, how likely would it be that the proposal would be successfully implemented?

Some of the RRG work has been driven by policies of FERC, however after long discussion and participation in political and administrative processes, FERC has generally agreed to allow regions of the country to resolve the problems on their

electrical grids in ways that best suit each region⁷. However, it is my opinion that if the region does not take steps to resolve the problems, or if the region takes steps that are too small, FERC may once again take a leading role in forcing action.⁸ Choosing the TIG proposal, which is inferior to the Grid West proposal in the ways described in these comments, only invites FERC to require a plan of their own making, which could be devastating to the region.

Most importantly, the TIG proposal now lacks support from key transmission owners and key generators, namely the independent power producers. TIG can not operate without the support of these parties. Grid West, can however successfully operate without the initial support of TIG supporters if BPA supports Grid West. It is likely that a good Grid West Board of Directors that is responsive to the concerns of the TIG constituency will allay the fears that Grid West will make poor decisions, and eventually win the support of all regional parties. If Grid West is given a chance and eventually fails, we would like to have the TIG proposal improved so that it can be used as an alternative.

Narrowing the question to the workability of the TIG proposal, raises more issues. Utilities with transmission lines would sign an umbrella coordination agreement (TIG Coordinating Agreement) and individual Implementation Agreements for cooperation and coordination of their activities. Different Implementation Agreements would be signed in various subject matter areas such as Flow Based Approach Agreement, Planning and Expansion Agreement, Reliability and Security Agreements, Common Northwest OASIS Agreement and a Market Monitoring Agreement. These implementation agreements would have to be drafted in a manner that all involved parties deem acceptable. We assume that all agreements would be standard, with no special provisions for various parties. On its face, “joining” under such arrangements seems unworkable. The proposal does allow each party to sign only some of the agreements which leads to a patchwork of participation.

To achieve a broad participation of competing utility parties the TIG contracts would have to be so general as to be meaningless and unenforceable. This seems especially true in light of the long discussions and negotiations we have experienced in almost every aspect of the RRG, where it has been the conclusion of all parties that Grid West Transmission Operating Agreements could not be negotiated without an independent third party with whom to negotiate. A large cluster of competitors (who

⁷ FERC has cancelled its Standard Market Design Order, 112 FERC ¶ 61,073, and has issued an order generally supportive to the Grid West approach and clarifying certain important points, See *Declaratory Order Providing Guidance Concerning Grid West Proposal*, 112 FERC ¶ 61,012, July 1, 2005, even though Grid West does not meet FERC’s original requirements for Regional Transmission Organizations.

⁸ For example, the Grid West Order cited above did have a concurring view by Commissioner stating, “While I agree with the conclusions of this order, I am writing separately to express my grave concern about the future efficacy of this entity. Grid West’s Operational Bylaws contain several provisions that have the potential to limit the effectiveness of the Board of Trustees in addressing the issues confronting the region.” Commissioner Brownell then cites the “Special Issues list” which requires a supermajority of the Members Representatives Committee before Grid West can take action. The Commissioner believes these limitations on the power of the Board to make needed changes. As a comparison, she cites the “ineffective governance” of the California Independent System Operator in summer and fall of 2000.

by the way have not been able to reach agreement on these issues in the RRG) sitting down to create a set of at least 5 identical contracts they are all willing to sign, especially in the subject matters of transmission planning and expansion (which may require them to spend millions of dollars on projects they don't like), and market monitoring (where they will be required to disclose information with competitive sensitivities) seems highly unlikely.

In addition, TIG requires changes in all utility participants' tariffs to make them consistent. How will these changes be overseen? Standard interconnection agreements will be necessary to make the reserve sharing pool open to all generators. Will there be a process for the enforcement of standard interconnections? What about changes to the contracts? Every amendment will have to be negotiated with all parties. This seems to guarantee a system of perpetual negotiations and gridlock.

6. If BPA supports Grid West, are you committed to all of the elements of the Grid West proposal? If not, which ones are troubling? And why?

Grid West is a compromise. It was not designed to meet all of the wishes of any party. We are, in the spirit of fair negotiations, willing to live with the compromises made and to continue to work within the system established to air our views.

One element of the proposal that is of interest to tribes and still appears unclear is the issue of the policies for pricing of lower voltage distribution. We assume that this will be developed further as the process unfolds.

7. If the Grid West proposal were to be chosen, how likely would it be that the proposal would be successfully implemented?

The Grid West proposal has been considered extensively with regard to the workability of the Developmental and Operational Bylaws. They have been the subject of extensive compromise that creates a balance of efficiency and caution. The next step, the seating of an Independent Board is required for success. A good board will resolve many of the "what if" concerns that have been raised. On the other hand a poor board may create other issues. We support the nomination and election of board candidates to move the process forward to the next step.

8. If you are a supporter of the TIG alternative, please explain why adopting the TIG alternative will be in the collective best interests of all of BPA's customers who depend on the Northwest transmission grid and of other stakeholders who have an interest in regional transmission issues.

We respectfully suggest that this is not a proper question for BPA to ask or consider. The proper question is “Which alternative best meets BPA’s statutory and trust obligations?” BPA is a federal entity entrusted with assets and natural resources a share of which belongs to Indian tribes, the region, and to the country as a whole, and which are governed by federal laws and Treaties. This decision is not a customer and “stakeholder” popularity contest. The “best interests” of customers and stakeholders is quite subjective, depending on which customer or stakeholder you ask. Bonneville must have the courage to make the right decision based on its statutory and trust obligations.

9. If you are a supporter of the Grid West alternative, please explain why adopting the Grid West alternative will be in the collective best interests of all of BPA’s customers who depend on the Northwest transmission grid and of other stakeholders who have an interest in regional transmission issues.

It is worth repeating. We respectfully suggest that this is not a proper question for BPA to ask or consider. The proper question is “Which alternative best meets BPA’s statutory and trust obligations?” BPA is a federal entity entrusted with assets and natural resources a share of which belongs to Indian tribes, the region, and to the country as a whole, and which are governed by federal laws and Treaties. This decision is not a customer and “stakeholder” popularity contest. The “best interests” of customers and stakeholders is quite subjective, depending on which customer or stakeholder you ask. Bonneville must have the courage to make the right decision based on its statutory and trust obligations.

10. The RRG recently completed an examination of the benefits of the Grid West proposal. Do you have additional views on the benefits of the Grid West proposal that you have not already brought to our attention?

Some of the unquantifiable benefits are likely quantifiable, such as the conservation related benefits. The unquantifiable benefits are the real substance of the Grid West proposal.

11. Do you have additional views on the estimated costs of the TIG and Grid West proposals.

Though unquantifiable, we feel the savings to all the Grid West customers by an effective market monitoring presence is significant. In addition, we also feel there is a significant benefit to an independent body that can pursue innovation. “Innovation” is often stifled if left to market participants, since they are more likely to be competing against their own embedded interests.

12. What 2-3 improvements might you suggest for each alternative?

Both alternatives need further development. The Grid West proposal is better developed technically, however a trust factor is missing that can only be resolved by leadership from a Board of Directors that is considered trustworthy to the region. The Grid West board should be seated to resolve this issue. Many improvements are suggested by these comments, but clearly the TIG proposal needs to appropriately include tribes in the decision processes.

13. The Grid West and TIG alternatives seem to be quite similar. Please suggest how these alternatives may converge?

An independent decision making body is critical. The Grid West bylaws were molded as a compromise with the express purpose of retaining independence while allowing for regional input. The TIG approach simply rejects the fundamental importance of independence in order to avoid FERC jurisdiction. This distinction prohibits a comingling of the proposals.

14. Where do you think the region will be in ten years under each alternative?

New grid operations must have the ability to innovate and apply new technologies and ideas. The region has been working toward a new grid operational construct for over 15 years. With that rate of change, it seems pretty clear that whatever we choose will be with us for a long term.

Over the long term, we can expect to see massive changes in energy technologies, markets, prices, and systems. If you look only at fuels, you will see that North American gas supplies, which power more and more generation, are in decline. FERC has new authorities to approve terminals for the importing of liquid natural gas (LNG). North American coal supplies are strong but global warming concerns may impact the burning of coal for electricity. Renewables are becoming more economically viable, but issues still exist as a baseload resource due to their intermittent nature. The Energy Policy Act of 2005 has a large provision benefiting the nuclear industry. Hydropower is subject to restrictions now and may be more or less regulated in the future. With these considerations, it is highly likely that major changes in generation patterns will occur. With regard to transmission, it is harder and harder to site and build. New technologies are making lines more efficient and facilities better able to transfer more capacity. These issues are coupled with huge increases in loads. These issues and the basic uncertainties of the security of our energy infrastructure in the event of terrorist attacks, war or other emergencies leave us with a sure need to remain nimble, flexible, and ready to institute important changes.

Leaving aside the concerns, there are huge opportunities. Are there new technological ways to drastically improve our energy generation, delivery, conservation, or to

encourage local distributed technologies? What kind of entity will be motivated to encourage new innovations and prudently consider their effects? The utility industry has had a mixed success in these areas. The utility industry has generally been a highly conservative business. The reformers have also had serious problems. We do not need innovations imposed upon us when it is not clear that they will be effective and they may cause great harm.

One thing has been sure, that the energy prices and economical viability of projects has been the key determinant in innovation. Except for government subsidized research and development, very few uneconomical projects have purposely been planned just for their social or other benefits. One very important tool of a leader in innovation is therefore the ability to send price signals. The structure of rates is important to public policy decisions and will drive certain actions. Grid West does not have authority, without a supermajority vote of the MRC to change from a company rate, but at some point this may be desirable and the region will wish to institute certain changes. This is a benefit over the TIG proposal where rates continue to be set by utilities. Individual utilities could also use their rates for price signals, however, their main concern is keeping rates low for their customers.

It is not clear whether a Grid West or a TIG construct will be the best bet for judging which innovations are best, however, an entity that is governed by independent experts, and who must, by their organizational documents, consider the input of a broad based membership is more likely to innovate than the existing conservative utilities.

This decision also affects the long term nature of “public power”. The Public Power Council⁹ (PPC), has endorsed the TIG approach. This is likely a reaction to the fiasco that has been “deregulation” and the desire on the part of very conservative utilities to fight anything that appears to be a change. Prior to “deregulation” utilities had monopolies that had load serving responsibilities for a geographic area. This worked very well until market interests realized there was a lot of money to be made in the utility sector. The Energy Policy Act of 1992 opened the industry to these market forces and initiated what appeared to be an innocuous change but has flourished into a full scale commercializing of the electric utility industry. Now there is a market for wholesale power, generation, transmission, and even for loads in some places.

While it is a waste of time now to debate whether this was good public policy, we have to live with the world as it is. We need to protect our economic future from unfettered commercial practices that will drive up consumer costs. What more important sector of our economy is there to national security and economic security than the supply of electricity? Therefore we need to protect the infrastructure from security threats, and from inefficient practices. It seems a ripe opportunity for government, but the socializing of the utility system is now more than ever a radical idea.

Public power was started when farmers and cities received very low interest government loans to form cooperatives to build their own power systems or to have an arm of city

⁹ Not all PPC members support TIG.

government build a power system to serve their local populations. This was grass-roots action at its finest to improve the lives of many and share the risks and costs and benefits. Now that those small kingdoms have been established, and their supply of cost-based federal power is assured (for the most part) they do not want to take the step of looking at the system as a whole and applying the concepts of everyone having a voice, and sharing the costs, risks, and benefits of the system as a whole. The Grid West proposal is to band together, as all interest holders, to create a government-like independent non-profit body to gather and analyze information, run a fair market, plan and expand the system, and be the arbiter of policy based on standards set forth in bylaws. This is much closer to the concepts of public power than the TIG proposal of limited special interests retaining the true decision making authority. Grid West is a public operation of the system and TIG is a private operation of the system. Is this where public power is going?

As an example, at the August 10, 2005 TIG workshop in Boise, TIG representatives suggested that utilities should be able to move non-federal power under General Transfer Agreements between Bonneville and other utilities which were originally negotiated to move federal power to preference entities which are remote from the BPA system. This view is consistent with a shared (public) use of the transmission system, as is proposed by Grid West, which would effectively resolve the problem by allowing any party to use excess capacity on the grid for one price. Under a privately operated system, these issues remain embroiled in contractual disputes and are the subject of BPA decision processes.

Bonneville has a clear practical choice between Grid West and TIG if it wants progress, on the region's terms, in the next ten years. What if the TIG approach is chosen and the IPPs or a jurisdictional utility does not like the approach? This dislike seems fairly likely. Their recourse would be to fight the necessary tariff changes of the jurisdictional entities at FERC, and to fight the changes before state public utility commissions. FERC would likely be sympathetic and could issue a compliance order for the regional jurisdictional entities to form a true RTO, which the region clearly opposes.

Or the utilities could simply refuse to participate. In that case, the effectiveness of the proposal is minimized due to the lack of participation of much of the region. It will not be effective to have BPA and its own customers (who you could argue are already quite coordinated under the BPA system) and perhaps one other utility (who will need FERC approval) signing the TIG agreements and consolidating their control areas. Once again FERC could issue a compliance order to the jurisdictional utilities that could create serious problems for the region.

If BPA agrees to support the Grid West approach, there is already a stated commitment by two other utilities, Pacificorp and Idaho Power, to participate. Just this critical mass is a clear improvement from current system operations. Under this scenario, BPA really has no choice but to support Grid West.