

TRANSITION ADVISORY COMMITTEE
Transmission Subcommittee
April 25, 2002
Original Minutes with Attachments

Please note: These are summary minutes. Testimony and discussion are paraphrased and condensed. Committee tapes and Exhibits are on file at the offices of the Legislative Services Division.

SUBCOMMITTEE MEMBERS PRESENT

Mr. Wheelihan, Chair
Rep. Brown
Rep. Gallus
Rep. Olson
Sen. Ryan
Sen. Stonington
Sen. Thomas
Mr. Ritter

STAFF MEMBERS PRESENT

Jeff Martin, Legislative Research Analyst

AGENDA

Attachment 1

VISITORS' REGISTRATION

Attachment 2

I CALL TO ORDER

MR. WHEELIHAN went over the agenda for the meeting. He hoped that the committee members would think about what the policy items are that the state of Montana can influence as far as transmission infrastructure.

The minutes from the February meeting were approved unanimously.

II PRIMER ON RTO-WEST FILING WITH THE FEDERAL ENERGY REGULATORY COMMISSION (FERC)

Ted Williams, NorthWestern Energy, said that FERC issued Order 2000 at the end of 1999. It was characterized as a voluntary mandate for jurisdictional entities to form Regional Transmission Operating Systems (RTO). It defined an RTO and what it should accomplish. In the Pacific Northwest the filing utilities include Avista Corp., BPA, Idaho Power, Nevada Power, NorthWestern Energy, Pacific Corp., Portland General Electric, Puget Sound Energy, Sierra Pacific, and British Columbia Hydro.

A Stage 1 filing was made in fall of 2000 in compliance with the FERC order. That filing formed the basis of what is RTO West. About a year ago FERC generally accepted the filing. When that was received, work began on the Stage 2 filing.

The Stage 2 filing fully defines RTO West in terms of the functions and characteristics that were set forth in Order 2000. This filing asks FERC to issue an order that RTO-West does need all of those functions and characteristics. Tariffs that would define the services and how they would be provided are not included in the filing. Generation integration agreements and load integration agreements were also not included in the filing.

SEN. STONINGTON asked what is FERC getting at with generation interconnection.

Mr. Williams said that it is nationwide rules. FERC wants a standard set of rules regarding how generation interconnection is done. At this time interconnection varies from state to state.

Phil Mesa, Bonneville Power Administration (BPA), said that from BPA's perspective, advancing the RTO-West proposal is similar to herding kittens. There are some things that BPA has a better sense of than others. The reason that there are only certain things in the filing is that the utilities need to further define some of the aspects. In the Stage 2 filing, the utilities wanted to get out what the RTO-West proposal looked at, recognizing that it would be augmented later on with additional details.

MR. WHEELIHAN asked for the time line of addressing the tariff issue. **Mr. Mesa** said that the filing utilities are in the process of developing a detailed implementation plan that gives a better sense of what the components are. **MR. WHEELIHAN** asked if the increased price for Montana that was presented at a previous meeting was part of the tariff that was being worked out. **Mr. Mesa** said that the studies didn't necessarily indicate that the transmission prices would increase. The implications associated with developing the RTO indicated that there was a possibility that wholesale delivered prices might increase. **MR. WHEELIHAN** asked why would the cost of the generation or commodity increase because of the RTO. **Mr. Mesa** said that it is not the cost of the commodity, it is the price of the commodity. The studies said that when you eliminate pancaking, areas that have surplus generation will be able to sell at a higher price elsewhere. He feels that there are some questionable elements in those studies. A lot of people filing complaints said that there are flaws with the studies because of some of the benefits that it showed. They are trying to make use of computer models and technical devices that were designed to deal with a world that was not governed by an RTO.

SEN. STONINGTON asked if the study was the congestion management modeling. **Mr. Williams** said that there was study work done with respect to the Stage 1 filing that showed an increase in price to Montana. The results in general showed that the RTO was a good thing for the region. Montana appeared to be an exception to that. There were people who said that they didn't buy the study because they didn't feel that there were benefits elsewhere. As a result there was an undertaking to try to make the studies less influenced by the filing utility parties. An outside consultant was hired to do the studies. The outcome of this study was essentially the same as had been seen in prior studies. FERC also undertook a cost benefits study for the entire nation. That study also said that same thing.

Mr. Mesa said that there are limitations as to what the models can do. It is difficult to get a model to anticipate how people are going to behave in the future. He said that this was not a mature benefit cost study. At this stage they needed to see some indication that there was a potential benefit for the Pacific Northwest.

Vicki VanZandt, BPA, said that she would agree with what has been said about the study. The quantified part of the study showed benefits in the power market and lower prices for power in the region. It looked at the whole west as a market. There are also reliability benefits that are fairly substantial.

SEN. STONINGTON asked what the Montana issues were. **Ms. VanZandt** said that the assumption was that everything was sold on the spot market. What happens when you removed pancake rates, is that surplus generation is easier to sell, allowing generators to sell into a higher market. **SEN. STONINGTON** said that isolation from the market that has been a benefit, under the RTO will no longer be an advantage. **Ms. VanZandt** said that the study didn't take into account any bilateral deals for long term transactions. It is not anticipated that RTO-West will be anything like California's day ahead market. **SEN. STONINGTON** asked if the playing field for access to market is leveled, would it benefit Montana in terms of incentive for new generation. **Ms. VanZandt** said that it would. **SEN. STONINGTON** asked if the assumption in the common tariff across the entire RTO is that if power is generated in Montana and transmitted in Montana, they are still paying the same access rate that they would be paying if it was generated in Montana and transmitted to California. **Ms. VanZandt** said that was correct to the border of RTO-West. If congestion along the way is encountered, the generator may be subject to congestion clearing charges.

Mr. Williams said that the cost-benefits studies were done on the presumption that all electricity is sold on the spot market, which is not the case when it comes to serving load. Also, the studies said that there is surplus generation in Montana, if it is all sold on the spot market, it has access to higher priced markets. The elimination of the pancake rates allows Montana to source power from somewhere else. The model didn't recognize that there might be a good reason to source power from somewhere else.

MR. WHEELIHAN asked about the concerns of some of the filing utilities that don't want BPA

participation in RTO-West. **Ms. VanZandt** said that some of BPA's long-time customers are full requirement customers. These customers are not particularly interested in making other arrangements for power. The arguments have been that we have had a fairly open transmission system and therefore have not had the same problems as the rest of the country. BPA is also predominantly hydro power. The difference in fuel costs are huge. The concerns are that of uncertainty and the feeling that if it isn't broken, don't fix it.

SPEAKER referred to **Attachment 3**. FERC has a vision of a market across the country where the rules are the same everywhere. There are a lot of reasons that this is not a good idea in the Pacific Northwest. The filing can be found at RTOWest.org.

Melanie Jackson said that governance was part of the Stage 1 filing and was approved by FERC. There are 3 elements to the governance proposal: a board of trustees, a stakeholder advisory committee, and a trustee selection group. All are dependant on each other. The board of trustees is an independent, 9 member board. There are specific criteria for the members that has been identified and can be found in Attachment 3. The board's focus is in ensuring that RTO-West is a viable entity without bias for any particular stakeholder group. The advisory committee has 5 major member classes represented. The third part is the trustee selection committee, which is comprised of stakeholder members. There are 30 members on the committee, 6 from each of the 5 member classes.

Ms. Jackson said that inter-regional coordination, or seams, is a minimum of 8 functions that FERC established in Order 2000 as requirements for RTO's. This deals with how an RTO will do business with a neighboring RTO. FERC ultimately wants 4 RTO's across the country. In response, a lot of stakeholders, the Northwest congressional delegation, and others in the region said that the idea was unacceptable in the Northwest at the time. The response from the RTO-West filing utilities was a western market that recognized 3 separate organizations that would develop common seams, policy approaches, standards, and business practices that would ensure a market that was viable to the west.

Mr. Williams said that there were 4 goals in developing a pricing proposal. The foremost was to avoid price increases and cost shifts. They developed a plan that tries to eliminate some of the cost shifts. The goal is to eliminate the rate pancaking. We need to be able to honor the existing contracts. All users have to pay some of the fixed costs of the system. A lot of power is moved for non-load-serving entities, who need to contribute to the fixed costs of the system. The other goal was to have most of the fixed costs paid by load-based access fees because ultimately the transmission system was built to serve the loads. The filing utilities were trying to establish a mechanism where parties that are moving power through and out of RTO-West would have to pay for that.

It was decided that RTO-West is going to offer transmission service in a number of forms. There is going to be a transmission use service for new or incremental services that would be requested. There will be a non-converted transmission service fee that a utility must buy to serve a customer

who is not a part of the RTO. There will also be a grid management charge, losses and congestion costs, congestion management fees, and ancillary services charges. An existing customer has the choice to convert its contract to RTO service. Depending on the previous contract, the customer will pay a charge to the RTO. If they are a network customer, they would then pay the company rate. The concept is that customers will continue to pay the rates that they have paid historically, but will be able to source their power from anywhere. There has been a lot of debate about an export fee. It was decided that a pricing scheme was needed that provided for collection of revenue from the parties using that system for export. This was left open as part of the seam issues. The export revenues go into a pool. Excess revenue from congestion management will also be put into a pool. The purpose of the pool is to allocate money back to the parties who have historically moved a lot of wholesale energy through their systems. There is also the revenue recovery target, which is what has to be collected across the RTO in total to allocate back to the parties. If there is not enough money collected, the RTO will have the authority to establish a rate to collect the additional money.

MR. WHEELIHAN asked if NorthWestern joins that RTO, do they still retain ownership of the transmission lines. **Mr. Williams** said that the RTO will not own any facilities other than perhaps a control center and some computers. The ownership stays with the existing transmission owners, who are obligated to maintain those facilities. The RTO may establish some standards for the maintenance issues.

SEN. STONINGTON asked about cost shifting. The tradeoff is that Montana may see the commodity cost increase, but will there be a corresponding reduction in transmission costs? **Mr. Williams** said that there was a substantial effort made to separate transmission costs from the commodity costs. If the studies are true, the transmission rates should stay the same or increase at a rate no greater than that absent the RTO. The commodity prices, if the studies are true, could be higher. There was no effort made to try to solve the commodity price problem through the transmission rate because that would distort the pricing signals for the entire system. **SEN. STONINGTON** asked if there are any tools available to protect the default supply through some form of energy taxation. **Mr. Williams** said that the answer to the problem needs to be something different than tacking surcharges on transmission because that would distort the efficiency that they are trying to create in the marketplace. If commodity prices are going to go up in Montana, it is because of the inefficiencies in the system today. They are trying to create an efficient power market.

MR. WHEELIHAN asked if there had been discussion on whether this would be taxable by state legislatures. Are there tax implications? **Mr. Williams** said that they have not contemplated that there would be new taxes associated with the RTO. One of the major issues for BPA was that they don't pay property taxes. One of their concerns was that there might now be a new mechanism that would allow taxes to be assessed on federal facilities. The filing utilities have gone to great pains during this process to prevent that.

Ms. VanZandt said that this issue was raised just before the filing. It is a big issue for BPA. A

provision in the transmission operating agreement (TOA) allows BPA to withdraw if substantial taxes are added to RTO's businesses.

REP. BROWN asked where the money will come from to build new transmission lines and get rid of congestion problems. **Mr. Williams** said that it doesn't matter who owns the transmission. The question of where the money comes from is there regardless. When planning transmission you need to ensure that there is adequate transmission to reliably serve the load. If there isn't, then there is a need to build new transmission. Those costs for building that transmission should be paid by the loads. If you are talking about transmission to get new generation to market, then the loads shouldn't be the parties to pay for that. The entities that benefit from the construction of the transmission should be the ones who pay for it. Hopefully, the establishment of the RTO will create the right price signals that someone will decide to sponsor the construction of transmission. Who pays is dependent on why the transmission is being built.

REP. GALLUS asked about the potential tax implications in regards to Idaho. The response was given that the state of Idaho is looking at the tax issue closely, thinking that when BPA enters into a lease agreement, there could be tax implications. It is also his understanding that one of the major utilities on the west coast has undertaken a study that shows the same sort of tax obligations that may be incurred by the states.

MR. MARTIN asked if that would be similar to Montana beneficial use tax on BPA utilities for use of the commission lines. The response was given that this would be more of a straight property tax because when the facility is leased into the RTO process, it could be taxed.

SPEAKER said that until recently the California ISO had rules which strongly penalized generators who bid and didn't deliver. The purpose of those rules is to prevent exercising market power and having a generator withhold power. An inadvertent effect was that intermittent generators were penalized. FERC has recently corrected that. What is in RTO-West's proposal that addresses that situation? **Mr. Williams** said that with regard to wind, there was an element added into the TOA that essentially said that a charge for services wouldn't be established that would be punitive to intermittent generators. RTO-West has language that specifically says that the penalty can't apply to intermittent generation.

MR. WHEELIHAN asked if you have to firm the resource, can that be charged for.

Mr. Williams said that it could be. NorthWestern Energy doesn't have generation, so they are in the marketplace looking for those types of products. They have found that when they go to the market and say that they need to be able to follow load within a certain range, the proposals that they get say, "Within this range, the charge will be this. Outside that range the price will double." This is a cost, not a penalty.

Mr. Mesa said that the construct of RTO-West includes transmission owners that are having RTO-West manage those assets. It is a contract for services. With such a diverse group, governance is a difficult issue. Using the construct where RTO-West acts as a contractor,

managing the transmission and the transmission owners retain their assets works best with the number of parties that are involved. That is achieved by the transmission operating agreement, which is a contract between each transmission owner and RTO-West. This contract will define what pre-existing transmission obligations RTO-West will manage, as well as identifying what assets will be turned over to RTO-West's control. One of the biggest challenges is dealing with both the old and the new. There are pre-existing contracts. One of the fundamental principles in RTO-West is preserving pre-existing transmission rights. What has been done in the RTO-West proposal is by having a construct where they are changing from a contract path to a flow base. Flow base systems look at where power enters the grid, where it is withdrawn, and how it actually flows. This provides several advantages. When you sell transmission it is only up to whatever the contract path has. Once that has been sold, the generator is done. The RTO-West proposal is looking at a flow-based injection-withdrawal system that accepts nearly all schedules.

RTO-West will handle congestion costs by looking at the most economic way to clear the congestion through re-dispatching generation. Re-dispatching generation is location specific in nature in that there are certain generators that are better suited to clear congestion in different places on the system. Any generator can work, it is just a matter of efficiency in clearing the congestion. RTO-West will set up a day-ahead energy market where generators will bid in.

MR. WHEELIHAN asked if the re-dispatching can be done mechanically, but the clearing of the congestion would be driven by price.

Mr. Mesa said that once the RTO figures out the bids and the various locations of the generators, the RTO can decide the most economic way to clear the congestion by shifting power around. This decision is based on the bids. It is a voluntary bid system. The RTO, using that same information, can develop prices at each point on the system. Those prices will be for each point on the system where you can either inject or withdraw power. The congestion clearing costs are simply the differential between the prices. If there is a system that is not congested, nearly identical prices could be expected at the points of injection and withdrawal. If there is congestion, there will be a different price at those points. If congestion gets too bad, the price for re-dispatch will go up.

A user can protect itself from those costs with pre-existing rights that provide for access and protection against congestion. RTO-West will look at those pre-existing contracts and then issue catalog transmission rights, which takes the existing contract right, looking at the range of possible use, and defines that in terms of injections and withdrawals. As long as the schedule fits in the catalog transmission right, the customer is protected from the congestion costs. The second way for a customer to protect itself is to buy a financial transmission option (FTO), which is a congestion credit that is based on the differential between 2 points. This FTO can be resold into a secondary market. It doesn't necessarily require that the transmission be used in the same way that the FTO is structured. The FTO's are flexible. The hope is that there will be a market for the trading of these. In regards to the catalog transmission rights, the RTO needs to assure

that each transmission owner is putting up sufficient transmission assets to make good on that right. If this is not done the result will be one transmission owner leaning on the assets of another. RTO-West will look at the catalog transmission rights for each transmission owner and look at the assets of the owner. Hopefully, the transmission assets will be greater than the pre-existing contract rights. Another way to get an FTO is that the RTO will allow the holder of a transmission right to convert to RTO service and take FTO's. This is voluntary. Another incentive is the flexibility of the FTO.

With RTO-West they are opening up the transmission so nearly all schedules will be accepted. The cost of accepting all schedules is that all schedules must pay for congestion.

MR. RITTER asked about the effect of the RTO on his company.

Mr. Mesa said that there are a lot of options that a potential customer of RTO-West could take. One is that if there is very little congestion on the path, when RTO-West is in place the customer could go in uncovered and secure a deal, turn in the schedule, and then subject themselves to the congestion costs. If that line is not very congested, most of the time that would be a very good deal. If the customer wants some certainty, they could buy an FTO to cover that. The RTO-West construct has done a good job of protecting pre-existing contract rights. If the customer signs a contract now, they won't lose anything having shifted over to RTO-West. **MR. RITTER** said that his company would like some level of predictability as far as those costs are concerned. **Mr. Mesa** said that they could lock in their costs by using an FTO. Sitting here today, the price of the FTO is unknown until the auction when they will buy the FTO. At that point the company will be bidding against other people who want that congestion hedge. Once they have the FTO, they will know exactly what the costs are. **MR. RITTER** asked if that would be available for periods of up to 10 years. **Mr. Mesa** said that RTO-West is intending to have long term FTO's, but that is part of the details that have yet to be worked out. There is still more work to be done on this. **Mr. Williams** said that if the company is faced with making decisions today about buying power supply, they should keep in mind that they still have the same situation today and the RTO decision can be made at a later point in time.

SEN. RYAN asked if the default supply was close to what the transmission could handle and then a company came in and caused congestion, will all of the costs of the congestion be put on the company that's starting or will that cost be shifted to the customers in the default supply.

Mr. Mesa said that we are faced with that today.

SEN. STONINGTON asked what plans there are for testing the model and how are they addressing the issues of cost shifting and price volatility. **Mr. Mesa** said that those are BPA's concerns. There is a potential for locational market power where there could be price spikes. They are looking at stress testing the congestion management model. They have also identified another major area of concern for BPA, which is the cataloging process where the pre-existing contracts are looked at. BPA is working with the rest of the filing utilities to work out an implementation plan and see what steps are needed. Stress testing is definitely needed.

SEN. RYAN asked if there is any comparison as to whether any of the RTO's in the west are heavy in supply as compared to ones that are lower in supply. **Mr. Mesa** said that the system as it exists today has California short of supply and the Pacific Northwest and the Desert Southwest long in supply. **SEN. RYAN** asked what are the consequences of having RTO-West as a nonprofit while some of the other RTO's are for-profit. **Mr. Mesa** said that if these RTO's are operated correctly and they are dealing with the transmission issues and not the commodity issues, it shouldn't matter whether they are non-profit or for-profit. **Mr. Williams** said that NorthWestern has such a high dependence on hydro power, even though we may be long, there are certain conditions that require that they import power. The general characterization is that Montana would be exporting, but there are times that Montana will import power.

MR. WHEELIHAN said that one of the things that the subcommittee has been wrestling with is whether or not to take a position on RTO-West. He asked for comment on a letter to FERC from the Northwest congressional delegation, **Attachment 4**. **Mr. Mesa** said that in general BPA is pleased with what the congressional delegation had to say about RTO-West.

Ms. VanZandt said that BPA was quite pleased with the letter. A lot of what was written in the letter is reflective of the types of things that BPA had noted in testimony.

MR. RITTER asked what effect will an RTO have on new generation in the state where transmission is needed to move power out of Montana. Also, what is the opportunity to move power east? **Mr. Mesa** said that the RTO provides a better forum in terms of planning and expansion than there is today. The RTO will have a planning function that would be a one-stop shop for generators. It will provide a mechanism to go to the marketplace and find someone willing to build transmission. There are RTO development efforts east of Montana as well. **MR. RITTER** asked how long a time will there be an opportunity for companies to come to Montana and develop the mine mouth facilities as compared to just shipping all the coal out of Montana. **Mr. Mesa** said that in terms of an RTO development time line, studies have been done to indicate that it may be late 2005 or early 2006 before the RTO would be actually up and operating. There are a lot of uncertainties in getting to those dates.

The comment was given that the Public Service Commission (PSC) is hosting a workshop similar to this discussion on May 23. There will be presentations from the Northwest, BPA and the filing utilities, as well as reactions from the stakeholders.

MR. MARTIN asked who the stakeholders would be. The response was given that the agenda hadn't been concluded yet. It could be anybody that may be affected by RTO-West.

SEN. STONINGTON said that a letter to articulate Montana specific concerns would be appropriate because all of the planning that is going on for the RTO is going on with a regional outlook. There are some concerns that are specific to Montana. It would be good to get that in writing and in a letter to FERC and to the filing utilities.

Mr. Williams said that May 29 is the final date for FERC for comments on the RTO-West filing.

MR. MARTIN asked how the subcommittee would articulate their comments so that they would have some significance to FERC and the filing utilities.

SEN. STONINGTON said that the concern is that Montana still is getting run over by a regional concept. There are possible benefits and there are possible detriments, but that from a state's point of view we want the benefits and not the detriments. There are possible tax implications. There is concern about retaining Montana's sovereignty. Those are the concerns.

MR. WHEELIHAN asked about the Northwest Power Planning Council's (NPPC) comments to FERC. **John Hines, NPPC**, said that there is an attempt to get to where **SEN. STONINGTON** was referring to. There was a meeting in Washington D.C. with the Northwest caucus addressing the FERC thing. The Consumer Counsel and the Montana PSC put together a joint letter starting to put forward some of the Montana concerns. The letter could be broadened, but may form a basis. **SEN. STONINGTON** would like to see what they are coming up with.

MR. WHEELIHAN asked if **SEN. STONINGTON** is looking at having the subcommittee endorse the concept for a letter outlining Montana's concerns to bring to the full TAC meeting for approval. **SEN. RYAN** said that we have to take a position on it, otherwise we will get run over. Montana needs to be part of the decision making process. We do need a letter endorsing the RTO concept because it is going to come either way. **MR. WHEELIHAN** asked if the Montana specific concerns would be the taxes and the cost/benefits implications. **SEN. RYAN** added the congestion situation and the surplus supply situation are also concerns.

MR. WHEELIHAN asked if the subcommittee made such a recommendation, is that something that **MR. MARTIN** could draft.

REP. BROWN said that there are two reasons to do a letter. One is to feel good and the other is to try to have an effect. If the subcommittee is going to try to have an effect, they need to be specific and address the filing. He wouldn't recommend drafting a letter tonight. Perhaps TAC could sign on to a letter that is coming from another entity.

REP. GALLUS asked if the letter from the Consumer Counsel and the PSC was a joint letter or two separate letters. The response was given that it was a joint letter. **REP. GALLUS** asked if there is a way for the subcommittee to be a co-sponsor of that letter. The response was given that the letter had already been sent and there hasn't been any direct discussion of doing another letter on the FERC comments, but that discussion will take place. **REP. GALLUS** said that if the subcommittee could see the next letter, they could agree to sponsor if they want to be a part of it.

SEN. STONINGTON said that it would be helpful for the subcommittee to articulate Montana specific concerns so that the members understand what the policy issues are that they need to be

paying attention to. Maybe we could take the letter and address it as “Are any of these issues something that the subcommittee or the full committee needs to pursue?”

MR. RITTER said that as important as the RTO’s seem to be, he is still concerned that there are companies who are looking at utilizing coal to be able to build generating facilities. He is hearing that it might be 2008 before they can actually do anything. The simple way of looking at it is, how can we better create basic industry jobs and use our natural resources? It seems to be that value added is a viable opportunity. MRI needs to know the costs to be able to sell power outside of Montana. The frustration is to look at the opportunity of the RTO’s, but not until 2007, it doesn’t encourage development in the state of Montana.

III GENERATOR PERSPECTIVES ON TRANSMISSION NEEDS

• *Continental Energy*

Mike Enterline, Continental Energy Services, said that their 500 megawatts plant is to be sited west of Butte. They have completed an environmental impact statement (EIS) for the plant. The air permit is being appealed at this point. They are working with NorthWestern Energy for an interconnection facility study. They are also working with NorthWestern Energy on the gas system upgrades required to develop natural gas fuel for the plant. The transmission issues they are facing are getting the power out of state. They see a market both in the state and out of the state. Their understanding is that the NorthWestern Energy transmission system is capable of moving the power within the state and to the borders, but that there are significant restrictions to moving that power west out of Montana. Some of those issues are being addressed at this point. BPA has a fix in the works for the west of Hatwai bottleneck. There are other restrictions west of Montana that are not being addressed at this point. The plant is due to come on in the fall of 2004. They are hoping that the RTO will be on line by that time because they see benefits to the generator through the RTO.

Continental Energy has hired a consulting firm to work with them in developing a strategy for transmission for the plant to the west. They are doing some modeling with the consultants. They expect that they will be able to identify and keep track of all the changes that are going on in the RTO and have a workable strategy for the plant when it comes on. Transmission is a big issue. If they can’t get their product to the market, it is a significant problem.

SEN. STONINGTON asked about Continental Energy’s willingness to pay for transmission.

Mr. Enterline said that they have talked with NorthWestern Energy and any transmission that is required because of the plant would be their responsibility with cost sharing where the transmission upgrades would benefit all the customers because of additional capacity and stability. They anticipate some transmission costs.

MR. WHEELIHAN asked if there is anything specifically that this subcommittee should recommend to the full TAC that would help facilitate transmission for the project. **Mr.**

Enterline said that the first thing is to support BPA and their activities in upgrading the transmission system west of Montana. The RTO is beneficial because of the elimination of the pancake rates.

SEN. RYAN asked, if the plant creates a congestion problem in trying to get their power out of the state, does that fall in line that the plant would pay the additional costs that are associated with congestion so that it doesn't fall on the ratepayer. **Mr. Enterline** said that what was described about the congestion charges makes sense and would have some benefits.

• *Great Northern/Kiewit Mining*

Jerry Vaninetti, Great Northern Power Development (GNPD), said that without transmission, they don't have a project. Without the project, the jobs that come with, the economic stimulus won't happen. They are in support of what can happen in Montana. About a year ago Great Northern and Kiewit joined forces to develop a project in eastern Montana.

GNPD is the largest private coal owner in the United States. Their lands are largely concentrated in Montana and North Dakota. They have historically leased the coal lands out to mining companies for development. They control 200,000 acres of land scattered throughout eastern Montana. That land is leased out for grazing interests.

Clark Fritz, Kiewit Mining, said that they have been mining coal in the Decker area since 1943.

Mr. Vaninetti said that GNPD thinks that Montana is on the right track. They are trying to monitor policy discussions on both the regional and national level. They are encouraged by what is going on in the transmission area because it is going to create some opportunities for additional supply development. Supply influences pricing. He referred to **Attachment 5** and various maps contained within. There is a bottleneck that effectively separates the west from the mid-west.

GNPD's future involves mine mouth power plants. It is easier to move electricity than to ship coal extensive distances. They are trying to get a project in place that is amenable to the environmental community, but still located near water and transmission lines. Kiewit has done some drilling in order to find the site that makes the most sense. Western Area Power Administration (WAPA) has commissioned a series of transmission studies that will give some direction as to options and costs of transmission upgrades. All the permitting and feasibility work still has to be done. They don't see a project on line any sooner than 2006. They are going to be the lowest cost operating coal producer in the region.

Montana is the place to be. However, there are transmission constraints throughout the grid. If power can move to where the market is, it will encourage power development. Power flows are limited by physical and contractual constraints. Often the capacity is there, but it is already contracted. They think that with the RTO there is a mechanism to get that excess capacity in

play. They think that the RTO is in Montana's best interest. Transmission reform is underway. Without transmission they don't have a project. He referred to Attachment 5.

Coal is the answer for a base load plant. Gas is more appropriate for a peaking plant. The economics from a coal standpoint are very good, but only if there is transmission. Without transmission reform there will be no new power generation. By improving transmission, unstable, high cost power rates will be eliminated.

MR. RITTER asked where the figure for transmission came from. **Mr. Vaninetti** said that it came from the WAPA study. **MR. RITTER** asked where does that price take the power. **Mr. Vaninetti** said that it takes power throughout the west.

• *NorthWestern Corp.*

Mark Thompson, NorthWestern Corp., said that the plant in Great Falls was in the works before the sale of Montana Power to NorthWestern. The turbines are on site and have been bolted down. They are using proven technology that allows a quick reaction in following the load, but it also increases the liability. The technology is fairly efficient. The plant has spent \$68 million to date.

• *Roundup – Bull Mountain*

Larry Taylor, FGS & Associates, referred to **Attachment 6**. Montana is a great place with natural resources and it is a shame that it is exporting all of the raw materials. In order to use those raw materials in Montana, transmission is needed. Transmission should enable economic development. The idea of a postage stamp rate is a way of looking at things.

One of the approaches to transmission is the direct current lines. Why not separate the DC and put it in load areas rather than source areas with a transmission line between them? This allows for 2 lines instead of 3. You can put DC lines over the existing AC lines. The reason that the high spikes occur is that you can't afford the power. Everybody thinks very short term. Transmission is a long term investment. DC has the advantage of allowing the power to be put where it is wanted. It is an interstate system. AC capacity can be improved by integrating the operation. This is where we need to go long term in Montana

The Roundup project is working to get transmission access to the project.

MR. WHEELIHAN asked, from a policy standpoint, is there something that this subcommittee needs to recommend to the full TAC. **Mr. Taylor** said that supporting the RTO is good. It is a regional look at the transmission system. We need to look at what the RTO is going to do. There is some concern about the RTO over managing a scarce resource. They need to eliminate the scarcity. We need to look at the long term.

IV BPA ASSESSMENT OF TRANSMISSION NEEDS OF PROPOSED ENERGY PROJECTS IN MONTANA

Ms. VanZandt, BPA, said that the subcommittee had asked what would be necessary to move a significant amount of generation in Montana to the west. BPA has made a general attempt to look at this. Based on the information that was first provided, they identified what would be necessary to move some generation in eastern Montana and some generation in western Montana out through the Spokane interchange. This does not get the power to California. The Western Governors' Association study was a good overview that presented some good conclusions. It assumed a 2004 base case and it assumed that the transmission that BPA is intending to put in got put in. We have a really congested transmission system. She emphasized that today's report is not a detailed study.

If an RTO is operational in 2006 and transmission is requested to be built the first day the RTO is in operation it will still be another 7 years before the transmission is complete. BPA builds transmission when they have a request. She would like to see transmission built because the system as is, is very hard to operate. It is also hard to tell their customers that the transmission funding is not available. Most of the long term, firm transmission is tied up in contracts. BPA has statutory authority to build within their service territory.

There is a constraint north of the John Day cutplane, just north of the Columbia River. That is a constraint in getting to the head of the intertie. They didn't cost out what it would take to unclog the Pacific Northwest-Southwest intertie. In the early 1990's they did a joint project to upgrade interties. They got 1,600 megawatts more capacity for roughly \$500 million. The parts to the south would be the planning responsibility of the California ISO. The California system is more limiting than the Oregon system. The RTO benefit cost study used the same database as the Western Governors' Association. The point of reference was 2004. It assumed that only generators that were under construction at the time would be finished. FERC likes postage stamp rates, but have not been leaning that direction as far as facilities that are needed to be built to integrate new generators.

Mike Kreipe, BPA, referred to **Attachment 7**. BPA received information from the subcommittee staff on the generation location, size, and service date. They took that and aggregated it into western and eastern Montana. Attachment 7 is a result of extrapolating what they already have. There is a total of 1,510 megawatts near Billings. In western Montana they aggregated 990 megawatts near Butte. The last group was the Great Falls generator, which was a bit smaller. BPA transmission from both western and eastern Montana must cross 2 congested cutplanes, the Montana Northwest and West of Hatwai. Power transmitted from eastern Montana must also cross the West of Broadview cutplane. They didn't include the connection costs for that generation into the existing grid.

The existing West of Broadview capability is rated 2,573 megawatts by MPC. Most of the capacity is from Colstrip. The operation in the Montana Northwest path usually reaches its limit

to the west before the West of Broadview path reaches its limit. The next cutplane going west is Montana Northwest intertie. Its rated path capability is about 2,200 megawatts. There is some available firm capacity on that, but it is around 100 megawatts or less. The West of Hatwai cutplane capability is about 2,800 megawatts under favorable conditions. It reduces during peak load conditions to about 2,200. The reason for that is that the system is congested east of Spokane and the system is trying to transfer hydro resources in the area on peak, plus the power from Montana.

In the past the Columbia Falls Aluminum (CFA) load was served by local generation. When CFA closed, that power became surplus power. In order to use it, it needs to go across West of Hatwai to get to the load center. In the last few months CFA has restarted a couple pot lines, reducing some of that surplus power. However, the operation is uncertain.

BPA is doing studies with Avista on West of Hatwai cutplane. BPA is committed to completing the Grand Coulee-Bell line in fall of 2004 to enable the system to meet current needs. This should raise the capacity to about 3,800 megawatts during light load hours and 2,800 megawatts during peak load hours.

There is an interaction with the Montana Northwest connection and the West of Hatwai cutplane. On peak, there is not enough generation in Montana to load the 2,200 megawatts and serve the whole load, so the cycle comes down. The problem is that there is less available transfer capability across the West of Hatwai cutplane during peak loads than during light loads. The curves don't match up. When there is maximum on one, there is minimum on the other. Therefore, the excess capacity of Montana Northwest interconnection during peak load conditions is not usable to send power west of Spokane. There could be some non-firm availability. In order to use the excess Montana Northwest transfer capability, equal megawatt re-enforcement of the West of Hatwai cutplane is necessary.

The analysis of generation in Montana considers what transmission conditions are required to get from Montana to the northwest and California load centers. Power generated west of Montana must first cross the Montana Northwest interconnection and the West of Hatwai cutplane to reach eastern Washington. The first plan was to suggest the integration of 1,000 megawatts in western Montana, which will require at least an additional 500 kv line from Garrison to Spokane. Another option is to put 1,000 megawatts in eastern Montana. That power must cross the West of Broadview cutplane, in addition to Montana Northwest and West of Hatwai. This line would require a new right-of-way across Montana with an in-service date of 2008. Other projects would be needed outside of the BPA service territory. The third scenario combines the 2 previous ideas.

Mr. Kreipe presented some cost estimates. The cost, based on 7% interest for a 40 year term, a \$1.45 billion in principal would mean a cost of \$105 million per year. This is about \$6 per megawatt hour. California is the final market for this new generation. The California ISO would be responsible for everything south of the Oregon border.

One new technology is flexible AC transmission systems (FACTS), which are solid state devices that can support voltage, improve transmission stability problems, and control power. In certain cases, FACTS are cheaper than transmission. These could be used in conjunction with some of the transmission that has been discussed.

Ms. VanZandt said that BPA is getting close to starting the first project of the 700 mile re-enforcement. No new major transmission has been sited for a long time. Siting issues are tough and they are running into that in trying to site a small 9 mile line in the Puget Sound area. The siting issues could take a long time to work through.

Mr. Kreipe said that BPA has a 230 kv right-of-way from the Garrison area to Spokane, but it does cross a reservation. The best option for the next line using existing right-of-ways is across the reservation and there may be some problems.

Mr. Kreipe said that an option is looking at using DC lines. There are some problems with DC lines. The nature of the AC and DC systems is that the AC system has to backup the DC system, but there isn't support the other way. In some cases they don't work well together. Perhaps this will be solved by the RTO. DC is for long distances and is more economical, but there needs to be some distance between converter stations or it is no longer economical.

Ms. VanZandt said that you can only go to where the DC terminal is. AC is more flexible in where the power can go.

The question was asked, since BPA has committed \$39 million for transmission work in the next couple years, where will that money be spent? **Ms. VanZandt** said that it is a construction contract to help with the 700 miles of line. There is some re-enforcement in the Puget Sound area. There is West of McNary, which will help anything from Montana and to the north get to the head of the intertie. There will be some spent on a project to re-enforce the center of Washington from Schultz and help bring Grand Coulee to the head of the intertie.

SEN. THOMAS asked what could be done with existing lines. **Mr. Kreipe** said that there is a line from Garrison to Spokane that would potentially be the 230 kv line that BPA owns. It was one of the first transmission lines across there. Typically a 500 kv line can transmit 4 to 5 times the capacity of a 230 kv line. The other half of the line from Spokane to the Hanford area would be a new right-of-way. **SEN. THOMAS** asked if that section is needed to get power out of Montana. **Mr. Kreipe** said that it was. To get from eastern to western Montana it needs the Garrison to Broadview line. This would be a third line parallel to the existing line and a new right-of-way. If both of these are done at the same time, another line from Garrison to Hanford is needed. **SEN. THOMAS** asked if page 11 of Attachment 7 shows the transmission cost or the cost of the project. **Mr. Kreipe** said that would be essentially the cost of the project over 4 years spread over 2,000 megawatts.

SEN. THOMAS asked if this is a good thing. **Ms. VanZandt** said that it is huge. It is a lot of

transmission and it will be hard to build. Either we build transmission or we site at the loads. There is no place left to site generation that won't cause congestion in half of the season. There is nowhere left to site generation without transmission implications. For a market to work, there needs to be a little surplus of generation and transmission. There were price spikes because of a lack of generation and a lack of transmission. It would be nuts to ignore this.

MR. WHEELIHAN asked, if public policy started leaning towards what came out of the Western Governors' Association study, the \$6 per megawatt hour would be significantly less if it was spread across everyone. **Ms. VanZandt** said that was correct.

MR. RITTER said that the reality of everyone paying was slim.

SEN. THOMAS asked, if we want to facilitate the building of new generation in Montana, is this what it is going to take. **Ms. VanZandt** said it was. **Mr. Kreipe** said that the only cheap increment is the first little bit. Once lines start being built that will change.

REP. OLSON asked how many megawatts can go over a 500 kv line. **Mr. Kreipe** said that thermal capacities of the lines may be upwards of 3,000 megawatts. Over long distances only a third of that can be used. **REP. OLSON** asked if some of the FACTS were used would that help. **Mr. Kreipe** said that maybe FACTS could get more capacity instead of building another line. **REP. OLSON** asked how many megawatts can go over a 500 kv DC line. **Mr. Kreipe** said that they have a DC line with a capacity of 3,100 megawatts. **Ms. VanZandt** said that is a 1,100 kv DC line. **REP. OLSON** asked about the possibility of building a DC line from Broadview to Bismark and going from Garrison to Spokane with a DC line. What would the cost be from Garrison to Washington for a DC line? He would imagine that would be considerably cheaper. **Ms. VanZandt** said that terminal DC is expensive. You can only drop off at terminal. **Mr. Kreipe** said that you also have to have an AC system to handle backup of the DC when it goes out. **REP. OLSON** asked if the cost savings on an DC line allows BPA to put in the converters at a reasonable cost. **Mr. Kreipe** said that the break even point is between 300 and 400 miles.

REP. BROWN said that if we have generators that want to get electricity to the west coast market, DC seems to be the only way to go. **Mr. Kreipe** said that there are some down sides to DC. There is a very complex terminal that has to be taken off for maintenance.

MR. RITTER asked, with the current system, in order to move DC we wouldn't have to go through the same steps because the requirements are less. **Mr. Kreipe** said that across the distance, a 500 kv AC line is only good for 1,000 to 1,200 megawatts. That same land could be used for a DC line and get 2,000 to 3,000 megawatts. **MR. RITTER** asked if there is a way to take a current AC system from 350 to 500. **Mr. Kreipe** said that couldn't be done.

MR. RITTER asked if that was because of the cost. **Mr. Kreipe** said that the conductors are not set up for that kind of increase. **MR. RITTER** asked if the legal implications would be eliminated. **Mr. Kreipe** said that they do have existing right-of-way.

Mark Thompson, NorthWestern Energy, said that when the aluminum plants went off line, it impacted many people on the transmission line. BPA impacted the ability of people to continue to the western markets with the decision to take the aluminum plants off line. There are plants that the California ISO pays to stay on line. **Ms. VanZandt** said that when the region was struggling last year, the power business line didn't fully appreciate the impacts to the West of Hatwai cutplane. If there had been some surplus transmission that may not have been such a bad call. On the other hand, the region needed to make some megawatts go away for the prices that would have been involved in covering it all. The prices would have driven the plant off anyway with a worse outcome. **Mr. Thompson** said, going forward, it makes sense to have the ability to pay the plants to stay on line. **Ms. VanZandt** said that the transmission rates don't anticipate the purchase of power products.

SEN. RYAN asked, when CFA was taken off line, how much power was generated in Montana that was servicing CFA that is now tying up transmission going out of the state. **Mr. Kreipe** said that the big hydro one was from Montana, with almost 1,000 megawatts of generation. There were also some smaller ones. **SEN. RYAN** asked, if BPA makes a decision to not sell power to CFA thereby creating a congestion problem, who would be paying the difference for the congestion problem. **Ms. VanZandt** said that unless you have rights across a path, you usually don't use it because you have a lot of load. If you decide that you want to use those rights, you can do that. The difference is that the transmission wasn't used in one scenario and perhaps was sold on a secondary market. **SEN. RYAN** said that even though the contractual rights weren't being used they were available, so there was non-firm transmission going out. By shutting down an operation, congestion was created by the decision to shut down the operation. **Mr. Mesa** said that for pre-existing contracts each transmission owner has a catalog of transmission assets that they will need to assure are available to RTO-West. Today the system works because each transmission owner looks at all the requests for transmission and capitalizes on diversities of use. Sometimes the pattern of use changes, stressing the transmission system in new and different ways. In the future, transmission owners may have to secure transmission contracts with generators or say to RTO-West that they will pay for a certain number of re-dispatches. To the extent that changes occur, that use will pay the congestion costs. **Ms. VanZandt** said that BPA made a number of enhancements to the Spokane area system, upgrade on Avista's system to restore some of the loss of capacity. Which generators run has an impact on the amount of transmission capacity.

V RTO DEVELOPMENT EAST OF THE MILES CITY INTERTIE

Dan Plemple, Basin Electric Power Cooperative (BEC), said that BEC is one of the few utilities that span the eastern and western interconnections. Because of that they have back to back DC ties. The one in Sidney was built by WAPA and BEC bought the rights. The Miles City interconnection is 200 megawatts back to back. It was built jointly by BEC and WAPA. They are in the process of constructing a 200 megawatt back-to-back DC tie in Rapid City. Because they are on the eastern interconnection, they have been working with the Midwest ISO for arms-length negotiations. Some of the participants in the Midwest ISO are conditional

participants, who will join the ISO if a set of conditions are met. Southwest Power Pool has recently joined the Midwest ISO. Nebraska is part of Translink, which is not a member of the ISO. The Crescent Moon Group started under the assumption that there would be a postage stamp rate throughout the region. In order to avoid cost shifting, dollars would be exchanged within the group and then the exchange would be shared out. The Midwest ISO said that in order to be a member, the utility had to be a control area by a certain date. That criteria was changed in order to allow MDU in. Now, as long as the utility has its own system, you can be a separate pricing zone.

The primary concern in the Midwest ISO is the license plate pricing that they are using along with most other RTO's. The problem with this pricing is that about 1/3 of the load that is served by the integrated transmission system is outside of the system. These are customers that have federal hydro power allocations that are not directly connected to the integrated transmission system. Under the license plate pricing protocols, they wouldn't pay any of the transmission costs of the ISO. The remaining load on the ISO would have to pick up the costs. Under license plate pricing, if there are 2 utilities with different costs for their transmission system, each pays its own costs to the RTO and the RTO pays that back to them. That doesn't make any sense. With a license plate you get free use of other people's transmission. There will be no significant improvements to the transmission system under this system. He said that everybody using the RTO system should pay the same. This says to the investors that they will get their investment back. This however brings up concerns about cost shifts.

The ISO has a 500 kv line to the south that is operated at 245 kv. It is constructed at 500, but it wasn't needed at the time it was built. The cost of changing the transformers is the only cost needed to upgrade that line. The concern is that under the pricing protocols, that could be done for a cost of approximately \$30 million and whoever did it gets the rights to use it. If the ISO did it, they could charge a tariff. However, under license plate pricing, nobody pays anything for use of somebody else's system.

As a cooperative, BEC has trouble with member contracts being terminated. It is the member contracts that provides security for the banks to lend them the money.

They still don't know what firm transmission rights will be. It is still up in the air in terms of what congestion management will be and how the cost of that will be spread. All of this is a whole lot of smoke. There are huge profits to be made with congestion on the system. The marketers make their money off of volatility.

We need to require postage stamp rates within the RTO's. All customers within the RTO should pay the same rate for transmission, which would guarantee transmission investors will recover their investment. We need to talk to the congressional delegates about these issues. This system will not work under the pricing models that we have.

VI PANEL DISCUSSION OF STATE'S ROLE IN THE ENHANCEMENT OF

TRANSMISSION SYSTEMS, INCLUDING NON-TRANSMISSION ALTERNATIVES

- *Northwest Power Planning Council (NPPC)*

John Hines, NPPC, said that there is a state role, but he is unsure of how involved the state really can be. The state can facilitate the siting of transmission. There is an interagency task force that to facilitate generation siting; a similar concept could be employed on the transmission siting mechanism. A second way that the state can be involved is through existing legislation. A third way is that the state can and is working with Alberta in exploring the development of transmission connection between Alberta and Montana and seeing if there is a path that can be developed that would result in some win-win situations. A fourth area is working with reliability councils to see if we can't modify the way the reliability criteria are currently applied to allow some flexibility in the siting of transmission. The state could also become more involved in trying to shape the outcome of an RTO to ensure that it benefits the Montana ratepayers while at the same time accommodating new energy development in the state.

NPPC sees a need for changing the way the transmission system is currently operated. The current system doesn't encourage development of any new transmission. The removal of pancake rates is beneficial for consumers and developers. The RTO-West would provide a more efficient means for transporting electricity. There is still a great deal of concern about the RTO proposal. They endorse the idea that change is needed, but are unsure that this proposal best suits the purpose. It is necessary to take the RTO-West proposal and link it with the FERC market strategy proposal, which is how they want the wholesale market and potentially the retail market to look down the road. Another concern is that the transmission system may become the driver for how almost all power operations are undertaken. There is also a concern that the transmission system will dictate through pricing where generation is located. Another issue that is relevant to policy makers in Montana is that the studies show that Montana has more costs than benefits under the RTO proposal. There are certainly flaws in the way these studies were undertaken, but they are the only studies out there. He would like to see a study that shows benefits to Montana. There is a great deal of talk about not doing cost shifting. If you are not going to have cost shifting, how are you going to get the true benefits out of the system? There are tax implication concerns with the RTO.

He presented a joint letter, see **Attachment 8**.

MR. WHEELIHAN asked how the idea of spreading the costs of new transmission follows FERC's vision of how transmission should be paid for. **Mr. Hines** said that people who are proposing generation need to be concerned about that. His understanding is that the people who want the space are the ones who are going to pay for it. The people who want to send kilowatt hours over the lines will be responsible for paying for it. That is not to say that these parties can't make the claim that new transmission will benefit beyond the individual supplier.

- *NorthWestern Energy*

Ted Williams, NorthWestern, said that really understanding the issues is going to be key to solving some of the problems that we have. He referred to **Attachment 9**, which shows how transmission rates are calculated. The typical buildup of transmission rates starts with the gross transmission plant investment. He offered an example that can be seen in Attachment 9. He agrees that postage stamps rates are the way to go rather than license plate rates.

The cost benefit analysis is a tough issue. This feels like they are missing some fundamental point with the cost benefit analysis. There have been three models that came out with the same results, as well as one by FERC. As Montanans, maybe we should say that all of the studies suggest that this isn't a good thing. Our strategy might be to say that Montana is willing to take one for the benefit of the region in exchange for something else. He doesn't know what that value would be. If it works and the RTO does result in efficient markets, then we have won twice. If it turns out that the studies are right and the costs did increase, then we have something to mitigate it.

The question was asked about the other benefits of the RTO that are not quantified. Mr. Williams said that there is value to those, but what gets measured, gets dealt with. If you can't measure it, it is hard to deal with. If you can't quantify it, it will be hard to say that the value of those benefits offsets the costs.

- *Public Service Commission (PSC)*

Bob Anderson, PSC, said that the commission tends to not be outcome driven. If the question is, how can the state get more transmission, the PSC is unlikely to jump to the premise that we need more transmission. The PSC is more interested in principles such as having good price signals so that we get the right outcome through markets. The PSC wants to provide the right incentives so that good outcomes occur.

One of the things that everyone can do is talk about the issues. Transmission is largely a federal issue. It is interstate commerce and is regulated by FERC. The state has limited jurisdiction because of federal authority. RTO-West is somewhere where the state can have a role. RTO's in general are a great concept and have tremendous potential to increase the efficiency of the system, enhance reliability, and eliminate uncertainty. The principle reason that there has not been investment in transmission in the last 20 years is uncertainty of the ability to recover investments. RTO's have the potential to take that uncertainty away. They may also deliver good price signals and can have a good planning function. The planning has to consider all alternatives fairly, should not be outcome driven, and should consider the alignment of responsibility and authority.

The PSC is still studying RTO-West. The PSC may exert jurisdiction over NorthWestern's participation in RTO-West. NorthWestern doesn't think that the PSC has that jurisdiction.

There can be an argument made both ways. He thinks that it is in the company's interest to get approval from the PSC regarding participation in RTO-West. At the least, the PSC will likely comment on RTO-West. Those comments would include aspects such as the pricing structure and planning function. The PSC has a strong relationship with BPA, who keeps them informed about what is happening in the transmission arena.

Transmission rates are FERC jurisdiction, but come up in the rate cases. The PSC is bound to allocate transmission costs in different customer classes. It can allocate those costs to different times of day or different seasons. There are ways that the PSC through rate regulation deals with transmission rates.

The whole reason that we are doing this is to serve customers. Generation close to the load is an alternative to transmission. Using electricity more efficiently is an alternative for transmission. How does the state influence these alternatives? The way that the PSC regulates the distribution system can affect transmission. This again gets down to the right price signals. The default portfolio, because it includes new and existing generation, affects transmission.

It could take decades to get more transmission in the state. This tends to drive the system toward distributed generation and more efficiency. We need to get more out of the system that we have.

VII TRANSMISSION POLICY ISSUES AND OPTIONS

Matthew Brown, National Conference of State Legislatures (NCSL), said that FERC wields significant authority over transmission, but that authority is not complete. States have power as well. The states and FERC have to be working together. In 1927, the Attleboro case created the Attleboro gap. There was an Rhode Island generator selling power to a Massachusetts company which then resold it to the city of Attleboro. Rhode Island tried to assert jurisdiction over the rate being charged for the sale. The generator appealed to the Supreme Court. The finding was that Rhode Island didn't have any jurisdiction over that sale because it was a sale in interstate commerce. At the time the Federal Power Act didn't exist. It began the precedence of states not having power to exert jurisdiction over a lot of what happens in the wholesale markets and a lot of what happens in transmission. In 1935, the Federal Power Act comes in as part of a host of federal regulatory initiatives. It essentially gave the federal government jurisdiction over interstate transmission and wholesale transactions. About 10 years later Connecticut Light and Power attempted to close itself off from federal jurisdiction by severing most connections with the grid. It then said that the federal government did not have jurisdiction over the rates and company. However, Connecticut Light and Power was still buying power from another entity which was in turn buying power from a Massachusetts utility, thus it was interstate commerce and subject to federal jurisdiction. In 1972, Florida Power and Light tried to assert that it was not subject to federal jurisdiction because its facilities didn't intertie directly with the rest of the facilities. It also had that assertion rejected. All of these point to a fairly strong presence for FERC.

What remains for the states? The states have authority over siting, some possible financing authority, power system planning, regional collaboration, taxation, and authority over the distribution grid. There are a few things to consider with regard to siting. A lot of states have tried to streamline the siting process whereby there is one basket for easier to site projects and one basket for harder to site projects; Montana already does this. There may be some additional ways to streamline the siting process. Another issue with siting is to look at the need standard within the statute. If the need standard for transmission would make it difficult to build transmission for which the benefit would accrue to other states, it could be a problem. Also the state can look at regional siting efforts.

Financing is another area that the state may have a role. For the most part, the financing side of transmission is going to be taken care of through the RTO and under FERC jurisdiction. However, there are possibilities for a state role through a direct cash contributions or backing from the state. There are risks associated with this. In the financing, he would suggest thinking about why the private market hasn't moved into that realm. It is a risky market.

The third broad category is planning issues. In most states they still have the requirement to oversee the adequacy of service. How does that then influence the need to oversee what is happening with the transmission system? Under planning, he would also bring up the issue of interstate collaboration.

There remains a number of questions as to state jurisdiction even over the RTO. Is the RTO considered a utility in Montana? This has been brought up in a couple other states. How much of the RTO activity would fall under state law if this is the case? There is a question of liability under state law should something go wrong.

Other options to think about are tax incentives for new transmission. There may be some interest for tax incentives for installation of new transmission efficient technology, such as the FACTS technology. Another possibility is payments to communities that host new transmission.

Distributed generation is under the jurisdiction of the state. That is becoming a much more viable alternative to new transmission and to the centralized generation load. The price of distributed generation is coming down. There is an issue of efficiency through rate design and through USB programs.

MR. RITTER asked, if Montana has a surplus of generation, how does having distributed generation help. **Mr. Brown** said that to the extent that you are freeing up space on the transmission system, siting load will help within Montana. It is by no means a complete solution. Distributed generation is going to be a state issue.

VIII SUBCOMMITTEE DISCUSSION OF "WHERE DO WE GO FROM HERE?"

MR. WHEELIHAN said that one issue is whether the subcommittee wants to weigh in on the

RTO issue with FERC or with the congressional delegation. This is the most time sensitive. He referred to **Attachment 10**, which is a letter that REP. GALLUS drafted.

Mr. Brown said that the trade off idea of what can Montana get for joining the RTO even though there are some detriments to the state is something that he has thought about. FERC commissioners don't want to see Montana lose either. He would reaffirm the idea of trying to bring that idea forward.

Marc Donaldson, NorthWestern Energy, said that they would help in anyway they could.

Comm. Anderson said that the idea had been talked about by the PSC as well. He is not troubled by the studies that show a detriment to Montana because benefit costs studies don't ask if we are better off without it or with an alternative. He thinks that it is in our interest that we look for something. He thinks that the studies should be used in a political way to try to get something. The PSC hasn't figured out what to ask for.

MR. WHEELIHAN said that it is difficult for the subcommittee to arrive at a direction to present to the full TAC and the legislature.

REP. BROWN asked if NPPC had already sent a letter concerning this issue. **Mr. Hines** said that they had sent a letter to the delegation that outlined some preliminary concerns, but they have not sent anything since the utilities had filed. **REP. BROWN** said that he would feel more comfortable signing on to something that the NPPC came up with, incorporating some of the ideas found in Attachment 10 with their own ideas.

Mr. Hines said that there are 2 different letters that we may be talking about. The council as a whole will be sending comments on the filing utilities proposal. He anticipates that the Montana office of the council, incorporating what the whole council sends, will be working with other parties to see if they can send a joint letter. At this stage they need to sit down with members of this committee, Consumer Counsel, and the PSC to see what parameters everyone has and wants to put forward as specific issues. He likes the idea of leveraging the negative costs finding. It will be hard to derail the RTO process. They best way to address this is to work within the process and try to get things that ensures that Montana receives benefits out of it. The RTO process has shown some clear divisions between the cooperative community, the investor-owned utility community, and the large industrial customers.

REP. BROWN said that if we send a general letter that doesn't address certain things that the RTO is proposing, it will most likely be ignored.

Mr. Brown said that giving FERC something to react to such as a specific proposal will get a lot further. Also, he would be happy to help in setting up a dialogue with the legislatures in Idaho, Washington, and Oregon.

SEN. RYAN thinks that the subcommittee needs to digest some of the information that they heard. **MR. WHEELIHAN** agreed. Is there any problem with reconvening after the full TAC meeting? **SEN. THOMAS** said that he didn't see a problem.

REP. GALLUS said that Attachment 10 was intended to get the ball rolling. It was not intended to be the letter. The subcommittee members need to think about what they want included in the letter.

MR. WHEELIHAN said that it was a good letter.

MR. MARTIN said that it seems like a more regional issue than a Montana specific issue because you can build all the transmission you want in Montana, but it won't do that much good because of the existing bottlenecks to other states. One thing that this committee can do is to set up a formal structure with the other states in the region to discuss these issues. Is the existing structure for regional state participation sufficient that we don't need to worry about it?

Mr. Hines said that the legislative process is not as involved as it could be. The PSC in the states are all involved at different levels. We should look beyond the general costs benefits analysis. FERC is on such a general path right now that asking them to take in the uniqueness of the federal system that we have may not deter them.

MR. RITTER said that the role of the government is important, but he thinks that the private sector that sees the opportunity to profit needs to have a role. The bottom line is that government isn't going to put out money to build transmission lines that someone else is going to profit from. The private sector is going to have to be a major player. He would hope that whatever the subcommittee comes up with identifies what role the private sector will play.

REP. OLSON said that what ends up holding us up is the cost. That is where we need to start addressing some of these issues. If it can be addressed here it would go a long way toward helping BPA, private investors, and WAPA to move some of the power to where it would do the most good.

MR. WHEELIHAN said that the subcommittee would meet after the full TAC meeting to look at formulating a letter and what needs to be included. The question is, how do we come up with some agreement that we want to bring to FERC by the end of the comment period.

Mr. Hines said that the NPPC will be having a meeting around May 14th to put together their comments, more from a regional perspective. If he could have some direction from the subcommittee before that date it would be helpful in formulating a regional response.

IX OTHER BUSINESS

There being no further business the meeting was adjourned.