

Committee on Resources

Testimony

Subcommittee on Water and Power

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**Statement of
Roy Hemmingway
Energy and Salmon Policy Advisor
to Governor John A. Kitzhaber
Governor of Oregon
before the
House Committee on Resources
Subcommittee on Water and Power
June 12, 1997**

**NORTHWEST ENERGY REVIEW TRANSITION BOARD
TESTIMONY BEFORE THE WATER AND POWER SUBCOMMITTEE
COMMITTEE ON RESOURCES
U.S. HOUSE OF REPRESENTATIVES
JUNE 12, 1997**

Mr. Chairman and members of the subcommittee, my name is Roy Hemmingway and I am Oregon Governor John Kitzhaber's energy and salmon policy advisor. I also represent Governor Kitzhaber on the Northwest Energy Review Transition Board. The Transition Board is comprised of four persons representing the governors of the four Pacific Northwest states. Serving with me on the Transition Board are Todd Maddock, representing Governor Batt of Idaho; John Etchart, representing Governor Racicot of Montana; and former Congressman Mike Kreidler, Governor Locke of Washington state's representative. All three are current members of the Northwest Power Planning Council, and Mr. Etchart is the current chairman of the Council. I am a former Council member, where I served from 1981 to 1986.

Background

The Northwest Energy Review Transition Board was established last December by the four governors to implement the recommendations of the Steering Committee to the Comprehensive Review of the Northwest Energy System. The Comprehensive Review was a year-long public process convened by the governors to seize opportunities and moderate risks presented by the transition of the region's power system to a more competitive electricity market. The governors appointed a 20-member Steering Committee that was broadly representative of the various stakeholders in the power system to study that system and make recommendations about its transformation. In addition, each governor had a representative on the Steering Committee to make certain the public was educated about and involved in the Comprehensive Review. The Steering Committee was chaired by Mr. Charles Collins, also a former member of the Northwest Power Planning Council, and currently a businessman in Seattle, Washington.

Over the course of 1996, the Steering Committee held 30 day-long meetings filled with debate and discussion over the future of the Northwest's energy system. In addition, almost 400 people participated in more than 100 meetings of various work groups reporting to the Steering Committee. Hundreds of citizens attended 10 public hearings that were held throughout the region on the Committee's draft report. More than 700 written comments were received. The Steering Committee's final report was a product of that work. It is a recommendation for restructuring the Northwest electricity industry to meet the challenges and seize the opportunities inherent in this industry transition.

The Pacific Northwest's energy system is unique. Its primary component is the Federal Columbia River Power System, which is comprised of 29 federal dams and more than 15,000 miles of transmission lines. The Bonneville Power Administration markets the power produced by this system, which represents approximately 42 percent of the electricity used in the Northwest. While the introduction of competition in the electricity industry will affect every region of the country, the impacts on the Pacific Northwest, because of the presence of Bonneville, will be different from other areas. The desire to understand and shape the impact of competition on the federal hydroelectric and transmission systems was the driving force behind the governors' convening of the Comprehensive Review. The governors wanted to make certain that, in the midst of the transition to deregulation and competition, Northwest citizens and their businesses will continue to enjoy an adequate, reliable, efficient and affordable supply of electric power and a healthy environment.

Until recently, there was little question that the federal power system could carry out its responsibilities and still be the region's chief provider of low-cost electricity. However, the advent of a more competitive electricity industry raises a number of complex questions about Bonneville's future. Bonneville's responsibilities under statutes such as the Northwest Power Act and the Endangered Species Act pose challenges to the agency in the new competitive environment. In addition, Bonneville's ownership of most of the high voltage transmission system raises questions in the minds of some about the role of a federal agency in a competitive marketplace.

In their charge to the Comprehensive Review's Steering Committee, the governors recognized that the electricity industry is changing, whether the region likes it or not. The Review was not an initiation of change, but a response to change. It was an effort to shape that change to ensure that the potential benefits of competition are achieved and equitably shared, environmental goals are met, and the benefits of the hydroelectric system are preserved for the Northwest.

The governors recognized, too, that the region's ability to shape the change in the Northwest electricity industry depended on the ability to develop a regional consensus. The Review helped create that consensus on many important issues. The Steering Committee completed its work last December by issuing a report containing a series of recommendations. A copy of the report is included with my testimony for the Subcommittee's official hearing record.

Summary of Recommendations from the Comprehensive Review

I would like to summarize the main features of the Steering Committee's recommendations. A more detailed discussion of the recommendations can be found in the report itself. Again, I have supplied the committee with a copy.

For purposes of organization, I will present my summary of the recommendations in five main topic areas: federal power marketing; governance of the Columbia River system (a topic related to federal power marketing); transmission; consumer access to the competitive market; and, conservation, renewable

resources and low-income energy services. Although I will describe them as distinct parts, due to the consensus nature of the recommendations, they should be considered an integrated set, the parts of which are interdependent.

Federal Power Marketing + the Bonneville Power Administration

The Review's goals for federal power marketing were to: 1) align the benefits and risks of access to existing federal power; 2) ensure repayment of the debt to the U.S. Treasury with a greater probability than currently exists while not compromising the security or tax-exempt status of Bonneville's third-party debt; and 3) retain the long-term benefits of the system for the region.

The federal power marketing recommendation also was intended to be consistent with emerging competitive markets and regional transmission proposals. The mechanism the Steering Committee proposed to accomplish these goals is a subscription system for purchasing specified amounts of Bonneville power at cost with incentives for customers to take longer-term (15 to 20 year) subscriptions. Customers who leave the system or allow their subscriptions to lapse, however, would not be able to buy at cost in the future. Under the recommendation, public utility customers with small loads would be able to subscribe under contracts that would accommodate minor load growth. Subscriptions would be available first to regional customers in a specified multipart priority order, starting with preference customers, then the direct service industrial customers of Bonneville and the residential and small farm customers of those investor-owned utilities currently participating in Bonneville's residential exchange, followed by other regional customers. Non-regional customers could subscribe after in-region customers. Within each phase of the subscription process, longer-term contracts would have priority over shorter-term contracts if the system is oversubscribed.

Longer-term subscribers would have the right to purchase power at cost for the term of the contract. Short-term subscribers also get the right to purchase power at cost. However, if they wish to be assured the ability to renew their contracts at cost, they must pay an option fee for the term of their contracts to compensate the U.S. Treasury for the risk of shorter-term contracts. The Steering Committee proposed a sliding-scale option fee, ranging between 2 mills per kilowatt-hour for a five-year contract to 0 mills for a 15-20 year contract.

The longer-term subscribers assume more risk than current Bonneville customers from the effects of year-to-year variations in weather, future power system cost increases and changes in market conditions. For example, if the Northwest were to experience lower than expected market prices that were below Bonneville costs for an extended period of time, the subscribers would still be obligated to pay Bonneville's costs. At the end of their subscription period, short-term subscribers would be able to let their subscriptions lapse and buy at market prices. If they let their subscriptions lapse, however, they would not be able to buy at cost at any time in the future.

The Federal Role In a Competitive Marketplace

The recommendations should have the effect of disposing of much if not all of the firm power available from Bonneville on a long- or intermediate-term basis. The fact that the recommendations call for most of Bonneville's power to be subscribed at cost would limit Bonneville's market role. Any remaining firm power and other power products would be sold at Federal Energy Regulatory Commission (FERC)-regulated prices or at competitive prices, where FERC determines that competitive markets exist.

In short, the Steering Committee recommended that to the extent consistent with its obligation to repay

Treasury, Bonneville should return to its historic role of marketing power generated by the Federal Columbia River Power System, rather than becoming an aggressive marketer of products and services in the emerging competitive power market. To ensure scrutiny of Bonneville's actions in the marketplace, the Steering Committee recommended that Bonneville develop a quantitative marketing plan and that the plan be presented to a transition board reporting to the Governors.

In addition, to limit taxpayer and subscriber risk, the Steering Committee recommended that Bonneville not acquire new resources to serve its customers' load growth except on a direct bilateral basis where the customer takes on all the risk of the acquisition. Similarly, the Steering Committee proposed that Bonneville should not sell directly to new retail loads, beyond its existing direct service industry loads, although it may sell through intermediaries whose transactions would be subject to state or local jurisdiction.

Bonneville's Fish and Wildlife Costs

I would like to highlight one issue related to the subscription proposal that likely will be of concern to the Steering Committee. That issue is funding for fish and wildlife mitigation efforts. The governors specifically asked the Review Steering Committee to consider power system issues and to avoid making recommendations regarding fish and wildlife recovery plans or specific recovery measures.

In accordance with the governors' guidance, the Steering Committee specifically recognized Bonneville's existing fish and wildlife obligations, and stated that none of its recommendations should affect existing trust obligations or treaty rights. The Steering Committee further recognized that the Northwest would need to provide most of the required fish and wildlife funding.

To provide greater certainty to fish and wildlife interests and power system customers, the Steering Committee recommended that detailed multiyear fish and wildlife budgets be developed in government-to-government consultations by federal, state and tribal authorities. The budgets would be incorporated into Bonneville rate projections, allowing shorter-term (e.g., five years) customers certainty regarding fish and wildlife costs. If market prices increase above Bonneville's costs, federal taxpayers would receive a percentage of the difference between market prices and the cost via a payment to the Treasury. The Treasury's share would be applied to accelerate repayment of Bonneville's debt.

Columbia River System Governance

The Steering Committee was asked by the Northwest governors to focus on the restructuring of the electricity system and to address the financial stability of the federal power system. The Steering Committee did its best to recommend changes to the federal system that accomplish that goal. It fully recognized that there are other important, related issues and decisions, including those affecting fish and wildlife, that must be resolved before a truly comprehensive package can be achieved.

The Steering Committee concluded that the Northwest cannot expect to achieve both the degree of cost stability the electricity industry requires to maintain the benefits of the Columbia River power system for the region and achieve sustainable fish and wildlife restoration unless predictability, accountability and effective governance for the fish and wildlife interests of the river are ensured. In addition, the Steering Committee found that an effective conclusion of the energy-system restructuring effort in the Northwest will not be possible without an improved system of river governance.

Through its public process, the Steering Committee found that until governance deliberations move forward

through a government-to-government consultation among federal, state and tribal authorities, the prospects for a consensus on the response to utility restructuring will be diminished and controversial. The Steering Committee recommended that the governors initiate a broadly based discussion of improvements in river system governance that would provide more effective decision-making for this complex ecosystem and all of its competing uses. I will describe the governors' efforts on this subject later in my testimony.

Transmission

If there is to be effective competition among generators, the Steering Committee found that transmission facilities should be operated independently of generation ownership. The Steering Committee proposed that an independent grid operator (IGO) regulated by the Federal Energy Regulatory Commission with broad membership, including Bonneville and the region's other major transmission owners, be formed as a means of ensuring independence of transmission operation and improving the efficiency of transmission operation. The recommendations also call for the independent grid operator to have clear incentives to maintain reliability and encourage efficient use of the transmission system.

The Steering Committee determined that the independent operation of Bonneville's transmission facilities is particularly important to effective competition among generators in the Northwest because Bonneville's facilities make up a large part of the regional transmission system. To ensure this independence, the Steering Committee recommended that Bonneville be legally separated into two organizations -- a power marketing organization to market the electricity from the federal system and a transmission organization to carry out the transmission functions. The separation of these functions should be structured so that it does not jeopardize or diminish the legal obligation and ability of Bonneville to meet fish and wildlife and other obligations. Under the recommendations, a separate federal transmission owner (e.g., the Bonneville Transmission Corporation) could lease its assets to an independent grid operator, or could be an independent grid operator and operate other participants' assets if FERC and the other participants agree.

Legislation would be required to accomplish these recommendations. While legislation is under consideration, the Steering Committee recommended that Bonneville move quickly to achieve as much administrative separation as possible, and to participate in efforts to form an independent grid operator that could operate both federal and non-federal transmission assets.

Consumer Access to the Competitive Market

The Steering Committee's recommendations on retail markets and customer choice were designed to encourage a more efficient power system, lower electricity costs, increase product choice for all consumers, and encourage greater product innovation for all consumers. These goals were adopted subject to a commitment to maintain the reliability and safety of the electrical power system. The Steering Committee concluded that this could best be accomplished by putting in place a competitive electricity market that is driven by consumer choice. However, there is concern that the benefits of a competitive market may flow unevenly to different classes of consumers and that some small consumers may even suffer harm. The report recommends safeguards intended to help mitigate these concerns.

The Steering Committee recommended that no later than July 1, 1999, regulators and local utility boards and commissions offer open access for all customers who desire it. The Steering Committee recognized that some of these regulatory bodies may choose to phase in full retail access. In these cases, a similar phase-in of the recommendations on conservation, renewable resources and low-income energy services may be effected.

As stated earlier, the Steering Committee found that to achieve a competitive retail electricity market, distribution and electricity marketing functions of retail utilities must be separated. This is necessary to ensure that consumers will have unimpeded access to alternative electricity suppliers, and vice versa, over the wires of the distribution utility. Under the recommendations, the distribution utility would continue to be a regulated monopoly responsible for the reliable and safe delivery of electricity from electric service companies to consumers over local distribution wires. Electricity service companies could offer consumers a variety of electricity products and services (e.g., firm or interruptible power, power from renewable resources, peak or off-peak power, fixed or spot-market prices) on a competitive basis and could, in fact, offer other products unrelated to electricity markets. The Steering Committee found that the electricity services portion of current integrated retail utilities could compete in this market if the distribution utility function was sufficiently separated from the electricity services business to ensure that control of distribution is not used to advantage the electricity services business.

The Steering Committee found that putting such a competitive market in place will require a significant transition and ongoing market maintenance procedures. The Steering Committee's recommendations state there is a danger that, until competitive markets have fully developed for all consumers, some of the benefits of increased competition may be realized primarily by large consumers at the expense of small consumers. Therefore, the Steering Committee called for active government oversight of the transition and active ongoing programs to facilitate and encourage the development of meaningful market access for all consumer classes and to prevent unwarranted cost shifts among consumer classes.

Specifically, the recommendations call for licensing of new electricity service providers, applicability of consumer protection laws, formal complaint processes, consumer information programs, and a "provider of last resort" to ensure continued affordable service to all consumers. To further minimize cost shifts to small consumers, the Steering Committee recommended that policies be adopted to provide utilities a fair opportunity to recover costs of previous investments that may be stranded by the opening of the market. The Steering Committee viewed stranded costs as a transitional problem only, and called for the creation of incentives for utilities to mitigate any stranded costs they face.

Conservation, Renewable Resources and Low-Income Energy Services

The Northwest electric utility industry has a long and successful history of developing cost-effective conservation and supporting the development of renewable electricity sources, such as wind, geothermal and biomass energy. In addition, Northwest utilities have played a major role in delivering weatherization to low-income households and helping low-income households with their energy bills. Competitive pressures, however, are expected to make significant changes in the ways utilities carry out these activities in the future. The goal of the Steering Committee's recommendations was to provide for maximum local control in the implementation of conservation, renewables and low-income energy services, while establishing an effective minimum standard that ensures stable funding for these purposes.

To ensure that cost-effective conservation, renewable resource development and low-income weatherization are sustained during the transition to competition and beyond, the Steering Committee recommended that by July 1, 1997, and annually thereafter for a period of 10 years, 3 percent of the revenues from the sale of electricity services in the region (\$210 million in 1995) be dedicated to those purposes. The Steering Committee recommended that the commitment be re-evaluated after 10 years. Three percent of revenues is roughly 65 percent of what was spent for these purposes by the region's utilities and Bonneville in 1995.

The Steering Committee also recommended that by July 1, 1999, each Northwest state enact legislation to ensure that all electric utilities operating within its borders are meeting the minimum standard for investment in the development of conservation and renewable resources and provision of weatherization and energy-efficiency services to low-income consumers. The Steering Committee called on utilities to demonstrate compliance with the minimum standard by July 1, 1999, and stated that public utilities could satisfy the standard in aggregate. If the minimum standard was not met, the Steering Committee recommended that state legislation provide for the assessment of a uniform system benefits charge that ensures the collection and investment of funds for these purposes. Due to the rapid emergence of competitive pressures, the Steering Committee strongly recommended prompt legislative action, and, more importantly, that legislation implementing these requirements be adopted simultaneously with open retail access.

The Steering Committee also proposed that between two-thirds and five-sixths of the funds be retained by local distribution utilities to carry out locally initiated cost-effective conservation, low-income weatherization and energy-efficiency services and renewable energy projects. The recommendations state that conservation projects implemented and funded by large consumers should be credited against the local conservation target, not including low-income energy-efficiency services. Under the recommendations, local utilities also would offer, or allow other electricity service providers to offer, "green" power to their consumers + power from renewable energy sources.

The Steering Committee recommended that utilities maintain their current level of low-income energy assistance until states adopt alternative mechanisms for providing these services. The Steering Committee recognized and affirmed the energy system's historic role in providing energy assistance and proposed that states now provide this assistance by establishing a "Universal Electrical Service Fund" to provide energy bill assistance. This fund could be supported by federal Low-Income Home Energy Assistance Program (LIHEAP) funds, state or local government funds, other funds and/or by a retail distribution system access fee or meters charge.

The Steering Committee found that some conservation and renewable resource activities benefit from regional planning and coordination. Consequently, it proposed that between one-sixth and one-third of the funds be used by a regional non-profit entity with utility, government, consumer and public interest membership. The entity's functions would be to bring about changes in the markets for targeted energy-efficiency products and services that would improve their market share; to plan and contract for research and limited demonstration of renewable energy technologies; and to support the development of several megawatts annually of renewable generating capacity.

The Steering Committee also called for the establishment of a regional technical forum to track progress toward the achievement of regional goals, and provide feedback and suggestions for improving the effectiveness of conservation and renewable resource development programs. The Steering Committee called for funds for these activities to be collected in part through Bonneville's wholesale rates to the extent regional firm loads are served by power from Bonneville.

The Steering Committee recommended that state or local jurisdictions -- as appropriate -- determine the manner in which the funds are collected. The Steering Committee called for those jurisdictions to develop methods of collection that are competitively neutral and affect all participants in the market equally.

That completes my summary of the Steering Committee's recommendations. Now, I would like to move from the recommendations to implementation, and to the Northwest governors' current efforts.

The Northwest Energy Review Transition Board

As mentioned earlier, the governors, consistent with the recommendation of the Steering Committee, appointed representatives to the Transition Board last December. We are the same individuals who represented the governors on a non-voting basis during the Comprehensive Review process. As with the Review, staff from the Northwest Power Planning Council are providing technical and logistical support to the Board.

Since its inception, the Transition Board has convened public meetings on a monthly basis throughout the region. In addition, we created two working groups comprised of Bonneville customers, Bonneville staff, and other interested parties to make recommendations on how to carry out the federal power marketing subscription process and for identifying the legal issues surrounding the separation of Bonneville's transmission and marketing functions. We have endorsed work plans for each group, and both are holding regularly scheduled public meetings in the region.

One of the primary objectives of each working group is to identify areas where federal legislation may be necessary. The need for legislation is clearer for some issues than it is for others. In almost all cases, it is too soon to propose specific legislation, but the general areas of concern and some more specific issues can be pointed out at this time. I would like to discuss briefly the progress we are making on the topics of transmission, federal power marketing subscription, Bonneville cost control, transition cost recovery, river governance and public purposes.

Transmission

The Steering Committee to the Comprehensive Review called for the Bonneville Power Administration to participate in a regional independent grid operator (IGO). The Steering Committee also called for legal separation of Bonneville's transmission functions from its power functions. The goals in calling for Bonneville's participation in a regional IGO and separation of its functions are to promote competitive practices, improve reliability and reduce or, in the case of separation, eliminate the potential for self-dealing between the generation system and the transmission system. At the same time, the Steering Committee established a goal that such separation not jeopardize or diminish the legal obligation and ability of Bonneville to meet fish and wildlife and other obligations. Finally, the Steering Committee called for legislation to subject Bonneville's transmission to regulation by the Federal Energy Regulatory Commission (FERC) that is equivalent to FERC's regulation of investor-owned utilities.

The issues regarding legal separation and FERC jurisdiction are complex. This is particularly so because separation has implications for the security of Bonneville's third-party debt that need to be addressed carefully to ensure that the security is not impaired. The regional working group that is examining the legal and other issues related to transmission separation has a target of this fall for developing draft legislation.

A somewhat less complex, but important, problem is the removal of barriers to Bonneville's participation in a regional IGO. Participation in an IGO could go a long way toward meeting the Review's goals for transmission. A Northwest IGO is currently in a relatively advanced stage of formation, and Bonneville is an active participant in the organizing discussions. Bonneville's actual participation in the IGO, however, is problematic. One reason is that Bonneville is believed to be constrained from turning over operational control of its transmission system to a regional IGO primarily by Bonneville's transmission responsibilities under its organic authorities and by the provisions of Section 208 of the Urgent Supplemental Appropriations Act of 1986 (Pub. L. No. 99-349, 100 Stat. 749, July 2, 1986). Section 208 had a broader

purpose, but one of its consequences is believed to be to preclude Bonneville's participation in the regional IGO. These constraints would need to be changed.

The change should not mandate Bonneville's participation in an IGO. There are additional issues that must be resolved before Bonneville can be a full participant, but it is possible those issues can be resolved contractually. Bonneville and the other participants in the IGO process should be encouraged to work expeditiously to reach resolution. If the issues cannot be resolved contractually, additional legislation may be required.

Strategically, it may be prudent to wait until the legislative requirements for separation of Bonneville's generation and transmission are known so that legislation can be pursued in a complete package. However, if by early fall it appears that the steps necessary to achieve separation may be delayed, and it appears the other issues associated with Bonneville's participation in the IGO can be satisfactorily resolved without legislation, legislation addressing Section 208 and Bonneville's transmission responsibilities should be pursued in order to allow Bonneville to turn over operational control of its transmission facilities to the IGO.

Subscription

The Steering Committee of the Comprehensive Review intended that its recommendations for a subscription process for federal power be accomplished, to the greatest extent possible, without legislative changes. Bonneville has made a preliminary examination of the recommendations and believes that it has sufficient flexibility under existing legislation to carry out the recommendations, given some latitude for their interpretation. There is, however, some uncertainty whether Bonneville would be able to enforce certain aspects of the recommendations. For example, the Steering Committee recommended that preference customers that choose not to continue to purchase from Bonneville at cost would, if they subsequently wish to return to Bonneville service, have to take service at market prices. Bonneville believes it can implement this provision. However, it is not absolutely certain what would happen if a customer chose to challenge Bonneville's implementation of that recommendation in the courts.

At this point in the process, it is too soon to know with complete certainty whether the existing law places such possible impediments in front of implementation of the recommendations. The federal power subscription work group has as one of its tasks clarification of the legal issues involved in implementation, with a preliminary report scheduled in its work plan for the end of 1997. The participants in this work group are trying to accelerate their process. If they are successful, we will endeavor to have recommendations in the fall regarding any legislative barriers to the subscription process.

Bonneville Cost Control

Effective control of Bonneville's costs is essential if the subscription process is to be successful. We believe that any regulatory barriers to achieving better cost control should be removed if it can be done without diminishing Bonneville's public accountability. However, we are not yet at the point of being able to identify specific measures.

We also believe there is a need for more effective regional oversight of Bonneville's costs. The Steering Committee called for the establishment of a customer advisory committee that would also include representatives of other interests. The intent was that the advisory committee would review Bonneville's budget requests, overall capital and operating costs, rate setting, and key marketing issues. The committee

also would provide input on the power-related capital and operating cost decisions of the U. S. Army Corps of Engineers and the Bureau of Reclamation.

Bonneville's own objective of selling power for 20 mills per kilowatt-hour by the year 2000 likely will require substantial cost-cutting efforts. In addition, there is widespread interest by Bonneville's customers to review thoroughly Bonneville's operating and capital costs prior to serious discussions regarding potential transition cost recovery mechanisms. Consequently, the governors have asked the Northwest Power Planning Council to work with Bonneville to establish a cost-control forum to assist Bonneville in controlling costs in preparation for a post-2001 subscription process.

Transition Costs

The final report from the Comprehensive Review noted that if its recommendations were prudently implemented, the risk that Bonneville would need to seek recovery of its transition costs would be reduced dramatically. Working to ensure effective cost controls and a successful subscription process is our highest priority. Many parties would rather not take up the issue of transition costs at this time. We have received warnings that addressing transition costs could distract from efforts to bring about a successful subscription process. Others have encouraged us not to defer discussion of transition costs until the subscription process is complete. When all is taken into consideration, we believe that if the region's efforts are to be well-received, a realistic process for dealing with Bonneville's possible transition costs will be required.

Bonneville and most of its major customer groups have signed a settlement agreement that provides a procedure that can be implemented under Bonneville's existing authorities for determining transition cost obligations. This process would determine whether Bonneville has any transition costs and the amount and allocation of those costs. However, the question of Bonneville's authority to impose a transition cost charge would also be at issue in such a proceeding. That authority is contested by many parties.

The process envisioned in the settlement would be an evidentiary proceeding conducted by Bonneville consistent with the requirements of Section 7(i) of the Northwest Power Act. The scope of that proceeding would include a fresh review of all relevant issues. The decisions of the Bonneville administrator in this proceeding would be subject to limited review by the Federal Energy Regulatory Commission on the adequacy of the resulting rates to meet Bonneville's obligations and, with respect to transmission rates, the equity of the allocation of costs between federal and non-federal users of transmission. In addition, parties would have the right to challenge the administrator's decisions in federal court. Although this settlement process is in place, we do not feel it is adequate to cover the needs in a post-2001 subscription process. The issue of transition costs has come up in the discussions of transmission separation because of the Steering Committee's recommendation that any separation of Bonneville's transmission and generation functions not jeopardize or diminish the legal obligation and ability of Bonneville to meet its financial obligations. The transmission working group has made considerable progress in terms of understanding the legal issues associated with Bonneville's possible authority to deal with transition costs, but the group has not reached any conclusions.

Developing a realistic process for Bonneville's possible transition costs will take time. The Transition Board soon will initiate a process to discuss Bonneville's potential transition costs. This process should go forward parallel to, but somewhat slower than, the subscription process. We hope that will not detract from the subscription discussions. The objective is to analyze options for a contingent transition-cost recovery mechanism at a pace that will be measured enough so as to not disrupt subscription and timely enough to provide the basis for legislation if required.

River Governance

The question of river governance (how decisions are to be made with respect to the costs of fish and wildlife restoration and the operation and configuration of the Columbia River System affecting fish and wildlife, power and other river uses) is central to the success of the recommendations of the Comprehensive Review. Those whose primary interest is the recovery of salmon need greater certainty regarding the restoration measures that will be undertaken and the availability of funding to carry them out. Utilities and others need greater certainty with regard to their obligations to pay for such measures. No one is entirely satisfied with the process as it currently exists.

We asked a group of people from the tribes, federal agencies, the states, utilities, fish and environmental interests and other river users to provide us with ideas on how to work toward a more effective process of river governance. That group met on May 15 and 16. The governors met with the region's tribal leaders and representatives of the administration on June 3 to discuss those ideas. There was a shared sense at that meeting that the states, tribes and federal government need to work together to address governance and the fish, wildlife, energy and other issues that governance entails. The governors are committed to pursue this dialogue, recognizing that they have a limited period of time in which to address these very challenging issues.

Public Purposes

The Steering Committee to the Comprehensive Review recommended that each state enact legislation calling for a minimum investment of 3 percent of energy service revenues to fund conservation, renewable resources, and low-income weatherization. The Steering Committee also provided that, if by June 30 of this year 90 percent of the load in the Northwest had not committed to meet the minimum standard, the region should seek federal legislation calling for a regional minimum standard. The commitment could take the form of state statutes, utility tariffs, rate or other filings, utility budget resolutions or other evidence. The state legislatures have been working hard to address retail access legislation, including public purposes, and many utilities are continuing their efforts to secure conservation and renewable resources.

The complex and controversial nature of this legislation is such that only one state has been able to enact legislation and it is unlikely that we will know by June 30 whether or not the regional standard is being met. Versions of retail competition legislation that contain provisions for funding public purposes have been introduced in Congress. As Congress considers this and other legislation regarding retail competition, it is possible that the region will be seeking provisions in that legislation establishing a minimum standard for public purposes consistent with the recommendations of the Review.

Mr. Chairman, this concludes my testimony, and I would be pleased to answer any questions you or the other Members of the subcommittee may have.

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