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**Henry Lorenzen**  
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**W. Bill Booth**  
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**James A. Yost**  
Idaho



**Pat Smith**  
Montana

**Jennifer Anders**  
Montana

**Tom Karier**  
Washington

**Phil Rockefeller**  
Washington

March 5, 2013

## MEMORANDUM

**TO:** Council Members

**FROM:** Charlie Black, Power Planning Division Director

**SUBJECT:** Decision on revised RTF Conflicts of Interest Policy and RTF Charter amendment recommended by the RTF Policy Advisory Group

The Regional Technical Forum Policy Advisory Committee (PAC) has recommended revisions to the Regional Technical Forum (RTF) Conflicts of Interest Policy. Jim West, PAC co-chair, presented the recommended policy revisions and corresponding charter amendment to the Council at the February Council meeting.

At the February RTF meeting, RTF members discussed the policy and charter recommendations of the PAC. While there was no objection to the PAC's recommended revisions, there was a suggestion to include a RTF vote on measure life as a transaction subject to the conflicts of interest policy. The language suggested by the RTF is shown on the attached draft revised policy in red.

Finally, the RTF charter can only be amended with the approval of two-thirds of the Voting Members of the RTF and subsequent Council approval. The RTF voted to amend the charter consistent with the PAC's recommendation. The amendment, if approved by the Council, will ensure the charter references, but does not quote from, the RTF conflicts of interest policy so any future revisions to the policy will not require a charter amendment. The language approved by the RTF and recommended by the PAC is shown on the attached draft charter in red.

The staff recommends the Council approve the revised RTF conflicts of interest policy recommended by the RTF PAC with the additional language suggested by the RTF. The staff also recommends the Council amend the RTF charter as recommended by the PAC and approved by the RTF.

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March 5, 2013

## **DECISION MEMORANDUM**

**TO:** Council Members

**FROM:** Charlie Black, Power Planning Division Director

**SUBJECT:** Approval of revised Regional Technical Forum (RTF) Conflicts of Interest Policy and amendment of RTF Charter

**PROPOSED ACTION:** Approval of revised RTF Conflicts of Interest Policy and amendment of RTF Charter as recommended by the RTF Policy Advisory Committee

**SIGNIFICANCE:** The Regional Technical Forum Policy Advisory Committee (PAC) has recommended revisions to the RTF's Conflict of Interest Policy which was adopted in 2010. The recommended revisions clarify the process for managing conflicts and appearances of conflicts of interest. The recommended revisions also expand the scope of persons subject to the policy and expand the number of imputed financial interests that could give rise to a conflict or appearance of conflict of interest.

### **BUDGETARY / ECONOMIC IMPACTS**

None. Funding for the RTF is based on an annual work plan approved by the Council with input from the PAC. The Council does not contribute funds directly to the RTF; rather, the Council provides the RTF with staff who oversee the day-to-day management of the RTF, recordkeeping, and administrative support.

### **BACKGROUND**

The Regional Technical Forum, an advisory committee to the Council, adopted the current Conflicts of Interest Policy in 2010 to promote accountability and transparency in its operations. The policy is designed to assist the RTF in identifying situations giving rise to conflicts or appearances of conflicts of interest and in managing those situations in a transparent manner.

The PAC reviewed the policy and, at the October 2012 PAC meeting, discussed revisions to the policy to: 1) update and expand the scope of persons subject to the policy; 2) broaden the nexus of financial relationships that could be imputed to members of the RTF for the purpose of identifying potential conflicts; 3) more clearly describe the procedure for disclosing conflicts and appearances of conflicts; and 4) clarify the consequences of having a conflict or an appearance of conflict.

For example, the PAC discussed whether an RTF member with a conflict of interest can participate in the discussion and/or the vote on a RTF matter which is the subject of the conflict. In that situation, after weighing the perceived benefits and pitfalls, the PAC decided that so long as the member disclosed the conflict before any discussion occurs, the possible benefits of allowing a conflicted member (who may have expertise specific to the subject matter) to participate in the discussion that precedes the vote, but not the vote itself, outweighed the risk that the subsequent vote would be improperly biased based on the conflicted member's participation in the discussion. The recommended policy revision reflects this principle.

Based on the discussion and comments received from the PAC, a revised policy was drafted and reviewed by the PAC in January 2013. The PAC voted to recommend the revised policy for Council approval.

At its February 2013 meeting, the RTF had an opportunity to review and comment on the revised policy language. The RTF did not raise any objections to the PAC's recommended revisions. The RTF offered up one additional revision to clarify that a RTF vote on measure life constitutes a "RTF Transaction" and as such, is covered by the policy.

The RTF voted to adopt the revision to the RTF charter recommended by the PAC. The amendment will be necessary if the Council adopts the revised conflict of interest policy. The proposed charter revision excises one paragraph that quotes the existing conflicts policy (which would be inaccurate should the Council adopt the revised policy) and replaces it with a statement that the RTF shall abide by the RTF Conflicts of Interest Policy. The primary importance of amending the charter is to ensure the policy can be amended in the future without need for a further charter amendment.

## **ANALYSIS**

Attached is a revised RTF Conflicts of Interest Policy as recommended by the PAC with the one addition (in red) suggested by the RTF. The revisions strengthen the existing policy by expanding the group to whom the policy applies and broadening the scope of the financial interests imputed to RTF members and staff for purposes of identifying potential conflicts. The policy is further strengthened by requiring disclosure of any conflicts prior to any discussion of the subject and by clarifying the process for identifying, disclosing, and managing conflicts so that RTF members and staff can better implement the policy.

## **ALTERNATIVES**

The RTF can continue operating under the existing RTF Conflicts of Interest Policy and charter.

enclosure

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## **REGIONAL TECHNICAL FORUM**

### **CONFLICTS OF INTEREST POLICY**

#### **I. BACKGROUND**

The Regional Technical Forum (RTF), an advisory committee to the Northwest Power and Conservation Council (Council), wishes to maintain the highest integrity in all its operations, in part, by being aware of and managing properly all conflicts of interest and appearances of a conflict.

This Policy applies to RTF Voting Members, RTF staff and RTF Operations Subcommittee members (“Covered Party” or “Covered Parties”) and is designed to help identify and manage conflicts to promote accountability and transparency in RTF operations.

This Policy supplements, but does not replace, any federal or state laws governing conflicts of interest applicable to Covered Parties.

#### **II. POLICY**

It is the policy of the RTF that Covered Parties shall not participate in any RTF Transaction in which they have a financial interest. It is also the policy of the RTF that Covered Parties should not participate in any RTF Transaction in which there is an appearance of a conflict of interest.

Imputed financial interests. The financial interest of the following will be imputed to a Covered Party as if it were their own: spouse; domestic partner; immediate family; member of household; an organization or entity for which a covered party serves as officer, director, trustee, general partner or holds an ownership interest in; a person or organization with whom a Covered Party is negotiating for or has an arrangement concerning prospective employment.

##### **A. DEFINITIONS**

- 1) “Staff” includes Council staff and RTF contract staff.
- 2) Having a “financial interest” in a RTF Transaction means a person, organization or entity stands to gain or lose money or business as a direct result of the RTF transaction, no matter the amount.
- 3) “RTF Transaction” is:

- i. An RTF vote with respect to any of any of the following:
    - Costs and savings of conservation measures
    - Performance of renewable resources
    - Technical recommendations on standardized protocols for verification and evaluation of energy savings
    - Savings calculation methodologies
    - Measure technical specifications
    - Measure life
    - Adoption of a published report, database, work plan, scope of work, finding, research recommendation or request for proposals
  - ii. An RTF discussion or vote on a contract for performance of services for the RTF.
  - iii. An RTF discussion or vote on contractor qualifications or review of proposals.
- 4) “Appearance of a conflict of interest” occurs when a Covered Party has a relationship to an RTF Transaction such that a reasonable person, fully apprised of all the relevant circumstances, could call into question their impartiality with respect to the transaction.

## **B. EXCLUSIONS**

A conflict of interest does not arise solely by virtue of an existing employment or other business relationship with an entity that funds the RTF.

Covered Parties may work for utilities, regulate utilities, or make recommendations to utilities. Their participation in the ordinary course of RTF business may have a financial impact on utilities they work for, regulate or make recommendations to. So long as any financial impacts of an RTF Transaction accrue to utilities generally and not to the Covered Party specifically or to any interest imputed to the Covered Party, the Covered Party’s participation in the RTF Transaction will not constitute a conflict of interest under this Policy.

- This exclusion does not apply to situations where the RTF discusses a specific contract or proposal to enter into a contract with a utility. In that situation, a Covered Party who is employed by that utility may have an actual conflict or an appearance of conflict of interest.

## **C. EXAMPLES**

The following examples are not exhaustive, but illustrate the application of this Policy.

A conflict of interest occurs when a Covered Party:

- Is a party to a contract with the RTF; or
- Has a financial interest in an entity that has or seeks a business relationship with the RTF; or
- Will receive incentive pay or a bonus as a result of his/her participation in a particular RTF Transaction.

- Accepts any gift or entertainment with a value over \$50 from an individual or entity involved in a Transaction with the RTF.

An appearance of conflict of interest occurs when a Covered Party:

- Has an employment relationship with an entity that has or seeks a business relationship with the RTF

### **III. PROCEDURE**

#### **A. DISCLOSURE REQUIRED**

- 1) A Covered Party must disclose to Voting Members present at the meeting, the material facts pertaining to a conflict of interest or an appearance of a conflict **prior** to any discussion related to the RTF Transaction.
- 2) If a Covered Party is unclear whether a particular situation gives rise to a conflict of interest or constitutes an appearance of conflict of interest, the Covered Party must disclose the material facts of the situation to the RTF Chair or the Chair's designee. The Chair or designee shall determine whether a conflict of interest or appearance of conflict of interest exists. The Chair may delegate this decision to a vote of the Members not involved in the potential conflict but only if the Covered Party consents to the disclosure of the material facts. If the Covered Party does not agree to such disclosure, the Chair or the Chair's designee shall determine whether an actual conflict or appearance of conflict of interest exists.

#### **B. EFFECTS OF DISCLOSURE**

- 1) The material facts disclosed about the conflict of interest or appearance of conflict of interest shall be recorded in the meeting minutes.
- 2) Covered Parties with a conflict of interest must not participate in the RTF Transaction. Covered Parties with an appearance of conflict of interest should not participate in the RTF Transaction.
- 3) A Covered Party with a conflict of interest or with an appearance of a conflict of interest shall not attempt to exert his or her personal influence regarding the RTF Transaction at any time.
- 4) A Covered Party's non-participation in a vote due to a conflict of interest or an appearance of a conflict of interest shall be reflected in the minutes of the meeting as an abstention.

### **IV. REVIEW OF POLICY AND DISCLOSURE FORMS**

- A.** The RTF shall review this Policy no less than every five years, or as necessary.
- B.** Covered Parties shall review this Policy and acknowledge in writing that he or she has done so, when appointed and each year thereafter.
- C.** Covered Parties shall complete a disclosure form when appointed and each year thereafter identifying (i) their employer and position along with the employer and

position held by any spouse, domestic partner, immediate family members, and member of household; (ii) any existing employment or business relationship with an organization or entity doing work for the RTF; and (iii) any RTF Transaction in which the Covered Party, a spouse, a domestic partner, immediate family member or member of household is involved in that could constitute or lead to a conflict of interest or an appearance of a conflict of interest.

- 1) Such disclosure shall be confidential, and shall be made available only to the Council's legal division to review and to the RTF Chair, as necessary, to implement this Policy.
- 2) The legal division will work with the Covered Party to resolve any actual conflicts of interest and any appearances of a conflict of interest.
- 3) The confidential nature of the disclosure shall not limit the recording in meeting minutes, of material facts pertaining to a conflict of interest or appearance of a conflict of interest pursuant to this Policy if it is determined that a conflict of interest or appearance of a conflict of interest exists.
- 4) Covered Parties have an ongoing obligation throughout their term of service to keep their disclosure form current.

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## **Charter of the Regional Technical Forum of the Northwest Power and Conservation Council**

Official Designation: This advisory committee will be known as the Pacific Northwest Electric Power and Conservation Planning Council's Regional Technical Forum.

1. Background: In 1995, the Bonneville Power Administration (Bonneville) began to shift responsibility for financing and acquiring conservation savings to its utility customers to reduce Bonneville's costs and to allow utilities to better tailor their conservation programs to local situations. Congress recognized that this shift would likely result in a more diversified approach to conservation acquisition across the region. Consequently, in 1996 Congress directed Bonneville and the Northwest Power Planning Council (Council) to convene a regional technical forum to develop standardized protocols for verifying and evaluating conservation savings and to ensure that the region continues to meet the Council's targets for securing cost-effective conservation. Congress further recommended that the forum's membership include individuals with technical expertise in conservation program planning, implementation, and evaluation and that the forum's services be made available to all utilities in the Northwest.

The 1996 Comprehensive Review of the Northwest Energy System (Comprehensive Review) recommended that the technical forum should, in addition to the Congressional directives, track conservation and renewable resource goals and provide feedback and suggestions for improving the effectiveness of conservation and renewable resource development programs in the region. The Comprehensive Review also recommended that the forum review the region's progress toward meeting its conservation and renewable resource goals at least every five years and communicate to appropriate decision-makers any resulting recommendations for improving the effectiveness of the region's conservation and renewable resource programs.

In February 1999, Bonneville's Administrator requested the Council also task the forum with providing specific recommendations to Bonneville to assist it in implementing a conservation and renewable rate discount.

The Pacific Northwest Electric Power Planning and Conservation Act (Act), P.L. 96-501, 16 U.S.C. 839 et seq. in Section 4 authorizes the Council to ". . . establish such other voluntary advisory committees as it determines are necessary or appropriate to assist it in carrying out its functions and responsibilities . . .". In April 1999, the Council voted to charter the Regional Technical Forum (RTF) as an advisory committee to the Council.



In 2010, recognizing the growing scale and importance of the RTF's work in the region, the Northwest Energy Efficiency Taskforce (NEET) recommended that the scope and operations of the RTF be reevaluated. This revised charter addresses issues raised during the RTF reevaluation process.

2. Authority: The RTF is established as part of a network of advisory committees satisfying the Council's obligation under the Act to establish a Scientific and Statistical Advisory Committee. (Section 4(c)(11)).

3. Objectives and Scope of Activity:

Consistent with the Congressional directive calling for the establishment of a regional technical forum and the 2010 recommendations from the NEET Review, the RTF shall advise the Council during the development and implementation of its power plan by:

- Developing and maintaining a readily accessible list of eligible conservation resources, the estimated lifetime costs and savings associated with those resources, and the estimated regional power system value associated with those savings;
- Establishing a process for updating the list of eligible conservation resources as technology and standard practices change, and an appeals process through which utilities, trade allies, and customers can demonstrate that different savings and value estimates should apply;
- Developing a set of protocols by which the savings and system value of conservation resources should be estimated with a process for applying the protocols to existing or new measures;
- Assisting the Council in assessing: 1) the current performance, cost and availability of new conservation technologies and measures; 2) technology development trends; and 3) the effect of these trends on the future performance, cost and availability of new conservation resources;
- Tracking regional progress toward the achievement of the region's conservation targets by collecting and reporting on regional research findings and energy savings annually.

In carrying out the above responsibilities, the RTF shall develop annual work plans and multi-year business plans. Additionally, the RTF shall make budget recommendations to the Council based on the RTF work plans. The Council shall be responsible for approving the RTF's work plans and budget, along with any significant modifications the RTF may make to the work plans or budget throughout the course of the fiscal year.

4. Official to Whom the Advisory Committee Reports: The Regional Technical Forum will report to the Executive Director of the Council.

5. Authority of the Advisory Committee: The Regional Technical Forum will serve in an advisory capacity only. Neither the Regional Technical Forum nor members who are not also members of the Council staff are authorized to make statements or commitments on behalf of the Council.

6. Estimated Annual Operating Costs in Dollars and Staff Time: The RTF budget recommended to the Council for approval will be based on work plans that are approved by the Council with input from the RTF Policy Advisory Committee. RTF funders include Bonneville Power Administration, investor-owned utilities, the Energy Trust of Oregon, customer-owned utilities and other organizations within and without the region. In addition, the Council contributes staff support and management to the RTF.

7. Appointment of Advisory Committee Members and Staff:

Voting Members. Approximately every three years, the Council, in consultation with the Chair of the Power Committee and Director of the Power Division, will appoint the RTF's voting members. In appointing members, the Council will ensure that membership is fairly balanced in terms of technical expertise, sector experience, technology focus, policy experience and institutional experience. The process for nomination and selection of RTF voting members shall be described in the RTF bylaws.

The state utility regulatory commissions from Idaho, Montana, Oregon and Washington shall be offered the opportunity to participate as *Ex Officio* non-voting members of the RTF or to serve as voting members at their discretion.

The RTF shall have a minimum of twenty (20) and a maximum of thirty (30) voting members.

Non-voting Members. The Director of the Council's Power Division, in consultation with the Chair of the Power Committee, may appoint corresponding members, ex officio members, and interested parties as non-voting members of the RTF.

Staff. The Director of the Council's Power Division will designate members of the Council's staff to attend meetings of the RTF and serve as staff to the RTF.

8. Rules: The advisory committee rules approved and adopted by the Council on March 17, 1982, as amended from time to time, will apply to the RTF.

The RTF shall develop bylaws and amend them from time to time. Adoption or amendment of bylaws requires the affirmative vote of a two-thirds majority of the voting members of the RTF and Council approval.

The RTF may also develop and publish an operations manual if experience demonstrates such a document would promote the RTF's goals and objectives.

9. Chair:

(A) The Council, in consultation with the Chair of the Power Committee and Director of the Power Division shall appoint a RTF Chair.

(B) The Chair may be called upon to report to the Executive Director of the Council on appropriate matters, including the RTF's progress on its work plan and responsibilities.

(C) The Chair will preside over RTF meetings, ensure that detailed minutes of such meetings are prepared and submitted to the Executive Director of the Council in a timely manner, and maintain communication between the RTF and the Council and the RTF Policy Advisory Committee as necessary.

(D) The Chair is a voting member of the RTF. The Chair shall vote only in cases where his/her vote will affect the result, i.e. the Chair can vote either to cause or to block the attainment of the necessary sixty percent or two-thirds vote.

10. Vice-Chair:

(A) The Council, in consultation with the Chair of the Power Committee and Director of the Power Division shall appoint a RTF Vice-Chair.

(B) The Vice-Chair will perform the duties of the Chair of the Regional Technical Forum in the absence of that Chair and such other duties as the Chair may assign.

(C) The Vice-Chair is a voting member of the RTF.

11. Voting:

The affirmative vote of at least sixty (60) percent of the Voting Members participating in a vote but no less than forty (40) percent of the total number of RTF Voting Members shall be the act of the committee unless a different number is required by law, the RTF charter, or the bylaws.

Proxies shall not be allowed.

A Voting Member may abstain from a vote. An abstention will not be counted as either a “yes” or “no” vote. A member who abstains from a vote is not counted as “participating in a vote.”

“Voting Members” are persons appointed by the Council pursuant to Section 7 of this charter.

~~Per the RTF Conflicts of Interest Policy, a member who has a Conflict of Interest shall not vote or be present when the vote on the Transaction is taken. The Member shall not participate in or hear the RTF discussion of the Transaction and shall refrain from exerting his or her personal influence regarding the Transaction at all times. Also per the Conflicts of Interest Policy, such person's ineligibility to vote shall be reflected in the minutes of the meeting along with all material facts pertaining to the Conflict of Interest.~~

**The RTF shall abide by the RTF Conflicts of Interest Policy at all times.**

12. Meetings:

Regular Meetings. The Chair of the RTF, after consultation with the Director of the Power Planning Division, or his designee, will call meetings as necessary. It is estimated that RTF meetings will occur at approximately monthly intervals.

The RTF will provide remote access to its meetings through such means as live webinars and/or conference calls. In recognition of the inherent difference between in-person and remote attendance, RTF meetings will be conducted in a manner that facilitates active engagement and participation by remote access attendees.

Special Meetings. Special meetings may be called by the RTF Chair. RTF members may request the RTF Chair call a special meeting.

Public Meetings. All meetings will be open to the public, unless closed pursuant to 5 U.S.C. §552b(c). Timely notice of meetings, including agendas, will be made. Interested persons may attend RTF meetings and appear before or file statements with the RTF, subject to such reasonable rules as the Council may prescribe.

13. Duration: The RTF will serve as a standing advisory committee to the Council, unless terminated in accordance with the Federal Advisory Committee Act.

14. Amendment: This Charter may only be amended with the approval of two-thirds of the Voting Members of the RTF and subsequent Council approval.

This revised Charter for the RTF was approved and adopted at a duly noticed meeting of the Northwest Power and Conservation Council on March 12, 2013 in Portland, Oregon.

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Bill Bradbury

Chair

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