

**FOR THE RECORD:**

**SUBJECT: Authority of the Council/ 5<sup>TH</sup> Power Plan**

**DATE: October 9, 2003**

John Shurts e-mail; Wednesday October 08, 2003, 5:55PM

Response to Jim Kempton e-mail Tuesday, October 07, 2003, 4:18PM

(Shurts e-mail converted from second person "you" to third person, "the Council", as applicable.)

Jim,

A way of thinking about and answering some of the questions you've posed in the last few days:

The power plan elements themselves require consideration of an adequate, efficient, economic, and reliable power supply. (The Council) need not rely solely on or be confined to the AEERPS ("available, economical, efficient, reliable power supply") language in Section 4(h)(5) of the fish and wildlife provisions.

The basic purposes of the Act include, among a handful, "to assure the Pacific Northwest of an adequate, efficient, economical, and reliable power supply." All of the more specific provisions of the Act -- including the power plan and the fish and wildlife program -- are intended to serve and satisfy these broader purposes. To implement or supplement this general purpose, while the power plan provisions in Sec 4(d) and (e) may not string together the magic AEERPS words (although by the fact that the fish and wildlife program is part of the power plan, even the precise standard is indirectly part of the power plan elements), the power plan provisions clearly do call, in separate elements, for consideration of the concepts of adequate resources, reliability and reserve requirements, cost-effectiveness and other economic concerns, etc. So while Section 4(h)(5) focuses the Council on the relationship of the fish and wildlife measures to the AEERPS standard, and (the Council) can address that particular relationship in both the fish and wildlife program and the power plan, (Council) consideration of the AEERPS standard need not be confined to that particular question. (The Council) should consider trying to assure the region an adequate, efficient, economical and reliable power supply to be a basic goal or purpose of the power plan. That does not give (the Council) free license to muck around in any aspect of power supply in the region that you wish -- (the Council) is still bound or guided by the specific elements of the power plan -- but it does give (the Council) the overall point to shoot for, and a broad purpose to use to interpret the meaning and scope of the specific provisions.

Similar considerations apply to your other questions. Yes, it is true that the power plan and its elements are closely tied to the acquisition of resources by Bonneville. And (the Council) could darn near choose to limit (itself) to just that narrow topic. (Not quite -- some of what is called for is clearly regional, not Bonneville, in scope -- demand forecast, model conservation standards, analysis of reserve and reliability requirements, etc.) On the other hand, if figuring out the right approach to Bonneville resource acquisition requires a broader consideration of topics, in order to really meet both the AEERPS standard and the real regional needs of the current moment, then the Council should consider itself authorized to consider those broader topics.

So, for example, the power plan elements do not explicitly call for the Council to get involved in transmission issues, or for broader issues of non-Bonneville development of generating resources. On the other hand, it seems to me in the current context nearly impossible to analyze the future generating resource needs of the region, and to plan for what should be Bonneville's role (or not) in developing those resources, without some consideration of transmission issues and transmission alternatives, as well as whether the current policy context provides the right incentives for others to develop resources. (The Council) cannot muck around in transmission and non-Bonneville generation issues just because you want to, or even because they are important policy issues (well, the Council does do those kinds of things, and serves as a bully

pulpit for that purpose, but without any statutory connection to the power plan), but (the Council) can get involved if it is necessary and proper to the correct exercise of the power plan elements and tasks (the Council) does have to achieve. (And the very reason why historically the power plan has been a very regional, not Bonneville, exercise in analyze generating resources, loads and needs.) And I think the same is true of the Bonneville cost and management issues: The Council needs to provide a good faith explanation for why engaging in the cost and management issues is a necessary part of addressing the resource elements and the AEERPS standard in the power plan. But if it can do so, these issues need not be out of bounds.

Jim or anyone else who has questions or concerns with these views,  
please let me know,

John Shurts

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