

# ENERGY UPDATE

## Energy Policy Report

### Win for Tribes & Tribal Utilities

ATNI-EDC successful in keeping door open for new public and tribal utilities in the Bonneville Power Administration TRM Rate Case.

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## Tribal Energy Watch: Elections 2008

Direlle R. Calica

Energy is at the forefront of issues this campaign season, especially in the face of growing national concern over the economy and the rising cost of fuel. Many experts predict, that the presidential candidates' energy plans will be a key driver to decide who wins this election. Although, Arizona Sen. John McCain and Illinois Sen. Barack Obama share many concerns regarding rising cost of energy and oil, they have clear differences in their approach to

dealing with these issues. To learn more about the candidates' energy plans please see the following:

### Obama/Biden Energy Plan:

<http://my.barackobama.com/page/content/newenergy>

### McCain/Palin Energy Plan:

<http://www.johnmccain.com/Informing/Issues/17671aa4-2fe8-4008-859f-0ef1468e96f4.htm?sid=google&t=lexington>

## Update on Energy Legislation: Capitol Hill Focuses on Energy Issues

*House approves and Senate will take up energy bill.*

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Congress	House & Senate take up oil and energy issues before session ends
NW Tribes	NWTEG Update & NW Tribes Legislative Priorities
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Transmission	Integrating renewables & transmission planning

## Capitol Hill Focuses on Energy Issues

By Direlle R. Calica

On September 16 2008, the U.S. House of Representatives approved a measure that would encourage greater use of alternative fuels and ease a longstanding ban on offshore oil drilling as congressional representatives deal with the nation's energy future in this pre-election period. The bill, known as The Comprehensive Energy Security and Consumer Protection Act (HR 6899), would allow for drilling 100 miles from both the Atlantic and Pacific coastlines and as close as 50 miles from shore if individual states elect. The legislation was adopted by a vote of 236 to 189. Also, the legislation would require utilities to produce 15 percent of their electricity from renewable sources by 2020, oil companies may lose some tax benefits, and the ban on developing fuel from Rocky Mountain shale



would be lifted. The Senate plans to take up energy legislation this week. Nonetheless, experts believe this legislation faces challenges to becoming law before Congress breaks at the end of the month. ■

## NWTEG to Add New Membership Category

By Direlle R. Calica

Several NW Tribal leaders have pooled their resources and formed the Northwest Tribal Energy Group (NWTEG) to address NW tribal energy policy matters. With many issues before the U.S. Congress, U.S. Department of Energy, including Bonneville Power Administration (BPA) and the Federal Energy Regulatory Commission (FERC), and State governments that affect NW regional tribal interests, tribal leaders are working collaboratively to fund these important efforts.

A resolution was presented at the ATNI Mid-Year conference in May 2008 at Grand Mound, Washington to support this effort. NWTEG members have energy policy or energy resource interests and pay annual dues in the amount of \$7,500 for full membership. Recently, NWTEG members voted to establish another tier of membership and with dues in the amount of \$2,000 for annual membership.

For more information contact: Direlle Calica at (971) 255-1404. ■

### BULLETIN BOARD

**3rd Annual Energy Nw Tribes Gathering**  
Solutions for the Challenges Ahead: "Open Dialogue Networking"  
Eugene, Oregon at U of O Many Nations Long House  
Open and Free to NW Tribes  
Energy Information for the Native American Community of the NW  
For more information or to RSVP  
please email Scott Hansen, nwteca@gmail.com

# Legislative Priorities for Northwest Tribes Energy Interests

By Direlle R. Calica

In recognition that energy policy will be among the top priorities for whoever wins the upcoming elections and for the congress as well, the Northwest Tribal Energy Group (NWTEG) has developed the following Legislative Priorities. Furthermore, these legislative priorities were developed cooperatively with the broadest of shared tribal interests and will help guide NW tribes policy approach in future legislation. These priorities were also shared at the Council for Energy Resource Tribes' August 4-5, 2008 "Indian Energy Solutions" Conference in Las Vegas, Nevada in their effort to develop a National Indian Energy Platform. A resolution will be offered at this Annual Conference to obtain broader regional support from the ATNI member tribes.

**The following items have been included in these Legislative Priorities:**

## **Tax Amendments/Business Incentives:**

- Renewable Energy Federal Production Tax Credit (PTC) legislation
- Reauthorize the accelerated depreciation allowance
- Expand and extend the time limits for Clean Renewable Energy Bonds (CREBS).
- Clarify bonding authority for tribal projects

## **Infrastructure Issues:**

- Electric transmission facilitation

## **Climate Change/Carbon Issues:**

- Encourage energy efficiency projects on tribal lands
- Carbon sequestration – create forestry and agricultural opportunities



## **Bioenergy:**

- Encourage tribal forestry and agricultural options for biofuels.

## **Small & Micro Hydropower:**

- Simplify permitting for small hydrokinetic projects.

## **Funding of Authorized Programs:**

- Appropriate funds for existing authorized programs.
- Parity with states.

## **Low Income Energy Programs:**

- Low income energy assistance programs
- Diesel costs support

## **Hydrokinetic (Wave, Tidal, In-Stream) Energy:**

- Tribal fisheries and other coastal interests may be impacted by wave energy projects.

## **Off-Shore Drilling:**

- Tribal fisheries and other coastal interests may be impacted by off-shore drilling.

## **Energy Jobs:**

- Encourage Tribal Energy Jobs.

## **Tribal Sovereignty:**

- Honor each tribe's energy decisions.

For more information about these Legislative Priorities contact either Direlle Calica (971) 255-1404 or Margie Schaff (303) 443-0182. ■

## Bonneville Power Administration

### Regional Dialogue & Tiered Rates Methodology Rate Case:

# Positive Settlement for Tribes & Tribal Utilities By Margie Schaff



On September 12, 2008, a Tiered Rate Methodology (TRM) "settlement" meeting was held for all parties to be able to discuss and come to terms on their TRM issues. ATNI-EDC's issue were on the agenda. The main issue of concern was the limitation of 5 new small public utilities – this includes new tribal utilities-- who could form and become BPA customers under the new 20-year TRM rate construct. Further these new small utilities were limited to 50 MW of power per rate period, the new rate periods are on a two-year cycle. As a result of the settlement discussions, BPA has agreed to provide 10 new small public utilities to form without having to comply with the 50 MW per rate period limit. Consequently, this agreement will be subject to objection from other rate case parties however those in attendance at the settlement meeting were generally in favor.

To put this in context, here is a recap of the rules for forming new BPA public utilities between now and 2028 and for the two current tribal utilities -- Yakama Power and Umpqua Indian Utility Cooperative:

Any new public utility (tribal or other) that forms and wants to become a BPA customer will be given

a Contract High Water Mark (CHWM), which allocates the federal based generation system (the current federal dams and other existing federal generation such as the one nuclear plant and shares in the existing wind farms owned by BPA, equaling about 7300 aMW). The CHWM tells what share of that power the new utility can buy at BPA's cheapest cost based rate (Tier 1 rate). Any power that is purchased above that amount will be at BPA's Tier 2 market based rates. The Tier 1 rate is estimated to be between 2-3 cents/kwh in early years. For comparison, the Tier 2 rate will likely be 5-7 cents/kwh.

The CHWM will be based on the utility's "net requirements", which is the utility's total retail load AFTER the utility's existing generation resources are applied. As an example, if a utility has a private dam, or a wind farm now in existence that can serve 25 aMW, and their total load is 100 aMW, their CHWM will be around 75 aMW.

If a new public forms to serve loads that were previously served by a BPA customer, the new utility gets a share of the existing customer's CHWM. For tribal new publics, they ALSO get the rest of their load served from the 40 aMW pool described below. For new publics forming to serve loads of an investor owned utility, their CHWM comes from the 250 aMW pool described below.

Every 2 years, BPA will set new rates that will price the power and will determine (based on water conditions and other status of generators) what each utility can buy based on their CHWM. This is their Rate Period High Water Mark

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## Federal Energy Regulatory Commission (FERC) Licensing Hydrokinetic Pilot Projects

By Direlle R. Calica

Currently, FERC is supporting efforts toward the advancement and development of innovative hydrokinetic technologies. The purpose of licensing hydrokinetic pilot projects are to test new hydrokinetic technology devices, to determine the appropriate sites for hydrokinetic projects; and to gather information on environmental and other effects of the devices. Some hydrokinetic pilot projects may be appropriate for expedited license application processes under FERC's existing regulations. These procedures are available only a case-by-case basis for hydrokinetic test projects. Hydrokinetic projects generate electricity from the motion of waves or unimpounded flow of tides, ocean currents, or inland waterways. These pilot



projects are small, short-term, removable, and carefully-monitored projects intended to test technologies, sites, or both. A license for a hydrokinetic pilot project will authorize construction, operation, and maintenance of the project, including generation of power and

transmission into the national electric grid under the conditions of the license. On December 20, 2007, FERC issued the first license for a hydrokinetic energy project for the Makah Bay Offshore Wave Pilot Project, the license includes mitigation measures to protect the environment. On April 14, 2008, FERC issued a guidance for new hydropower technologies White Paper on hydrokinetic pilot project licensing. ■

## BPA: Opens Comment Period on Proposed Modifications to 5(b) & 9(c) of the Northwest Power Act

By Direlle R. Calica

Currently, BPA is accepting comments on its proposed modifications to its current policy on Determining Net Requirements of Pacific Northwest Utility Customers under Sections 5(b)(1) and 9(c) of the Northwest Power Act. These sections of the Act describe how BPA determines customers' net requirements, the amount of customer firm retail load that BPA is obligated under statute to serve. These modifications are designed to support implementation of the Long-Term Regional Dialogue Policy. The comment period is open through September 26, 2008.

How to comment The Proposed Modifications and the redline of the original 5(b)/9(c) Policy are

available for comment on the BPA Web site at: <http://www.bpa.gov/power/pl/regionaldialogue/implementation/documents/>.

You can mail written comments to Bonneville Power Administration, Public Affairs Office - DKE-7, P.O. Box 14428, Portland, OR, 97293-4428; submit your comments on-line at [www.bpa.gov/comment](http://www.bpa.gov/comment); or fax comments to (503) 230-3285. You also can call us toll free with your comments at (800) 622-4519.

If you have any questions, please contact your Power Account Executive, Constituent Account Executive or Tribal Account Executive. ■

## STATE BY STATE ENERGY POLICY UPDATE



### OREGON Energy Summit Explores Costs Of Renewable Power

Reprinted article by Rob Manning, OPB News

On August 27, 2008, Oregon Gov. Ted Kulongoski convened a summit intended to help chart a path toward a renewable energy future without breaking the bank. Oregon has mandates dealing with renewable energy and greenhouse gases and some tax incentives to help reach them. But the electricity grid needs new transmission lines, and those are expensive. And new renewable energy has technological and reliability problems.

Meantime, power demand is growing. Participants from the energy production side, like Steven Wright, with the Bonneville Power Administration, stressed efficiency and conservation, as step one. Steven Wright: "Energy efficiency is the least-cost option, it's the one that certainly doesn't lead to CO2 emissions, and so it clearly needs to be at the top of the list." Business participants cautioned that there are limits to conservation, especially for manufacturing. Gov. Kulongoski concluded the summit by calling for a council of energy advisors. It would help guide short-term steps, consistent with Oregon's long-term energy goals. ■

### WASHINGTON Update on the House Technology, Energy & Communications Committee

By Direlle R. Calica

The Washington State House of Representatives Technology, Energy & Communications Committee, which is chaired by Representative John McCoy, has been addressing a number of key energy issues in

2008. The Committee is responsible for deployment, regulation, and access to technology and electronic communications; energy availability, production, and conservation; and related infrastructure issues. Between September to December 2008 the Committee will be taking up several important energy issues including: renewable fuels, waste-to-energy, vegetation management near utility rights-of-way, wave, tidal, and offshore, wind energy development, and the Energy Independence Act of 2006.

For more information regarding the Committee see:

<http://www.leg.wa.gov/House/Committees/TEC>

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### FERC Grants Washington Coast Studies for Wind & Wave Energy

Prepared by Direlle R. Calica

On August 1, 2008, Federal Energy Regulatory Commission has issued a preliminary permit to grant the Grays Harbor Ocean Energy Co. the exclusive right to conduct a feasibility study for generating power from wind and wave energy on a 28-mile stretch of the Pacific Coast from Ocean Shores to Gray Harbor and over the next three years. The permit does not authorize any construction.

The project foresees as many as 90 260-foot tall steel wind turbines, as well as wave energy converters to convert ocean waves and wind into a renewable source of energy. This project could make Grays Harbor one of the largest producers of renewable energy in the world, according to the creator of the Grays Harbor Energy Co. Further, according to project proponents the feasibility study will seek to find out if the turbines would affect gray whale migration patterns; flight patterns of birds; and examine whether or not the locations of the turbines could limit the areas in which

fisherman can fish. Funding for this study would come from state and federal grants and after the feasibility study is completed, actual construction would take another four years to complete the project. ■

## **MONTANA**

### **Governor Schweitzer Releases 2008 Tribal Relations Report**

September 11, 2008, Press Release

On September 11, 2008, Governor Brian Schweitzer released the 2008 Tribal Relations Report at the Board of Education meeting on the Salish and Kootenai College campus in Pablo. The full text of the report is available online, at <http://gain.mt.gov/reports.asp>.

The report summarizes the major accomplishments of the State and the Tribes working together during the 2008 fiscal year. The report also contains a thorough appendix listing all of the state-tribal agreements that were in effect during the course of the last fiscal year. There were nearly 500 cooperative agreements and programs in effect between the State and Tribal governments during the fiscal year, covering every aspect of governmental operations, including economic development and energy-related issues and these accomplishments include:

- Signing of a tax revenue sharing agreement with the Fort Peck Tribes, designed to prevent double taxation and promote new oil and natural gas development on reservations;
- The Many Stars project, facilitated by the Governor's Office, that brings together the Crow Tribe and the Australian-American Energy Company, LLC to develop the first coal-to-liquids facility in the nation. The facility is expected to employ 4,000 people during construction and 900 people once it is

in operation. It will produce up to 50,000 barrels of diesel and jet fuel per day and contribute to the energy security of our country;

- The signing of the Birch Creek water agreement as part of the overall water rights settlement with the Blackfoot Tribe, including provisions to transfer to the Tribe the interest on \$15 million appropriated by the State Legislature as part of the agreement;
- State funding for a large, multi-phased telecommunications project on the Northern Cheyenne Reservation which will support wireless communication services; and

The State also launched a comprehensive Indian Country Economic Development grants program, pursuant to which tribal governments and businesses have obtained funding for a variety of economic development projects across the State. Full report available at: <http://gain.mt.gov/reports.asp>

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## **IDAHO**

### **Idaho's Legislative Committee Meets to Discuss the States Energy Issues**

By Direlle R. Calica

On September 17-18 the Energy, Environment & Technology Interim Committee met in Boise, Idaho. The committee took up the following energy related issues: draft legislation regarding rates of electric and gas utilities, legislation for high-efficiency buildings and homes; and a presentation by Climate Solutions on "Securing Idaho's Energy Future". For more information about the Committee and this meeting see: <http://www.legislature.idaho.gov/sessioninfo/2008/Interim/interimcommittees.htm#energy>

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## Western Renewable Energy Zones By Direlle R. Calica

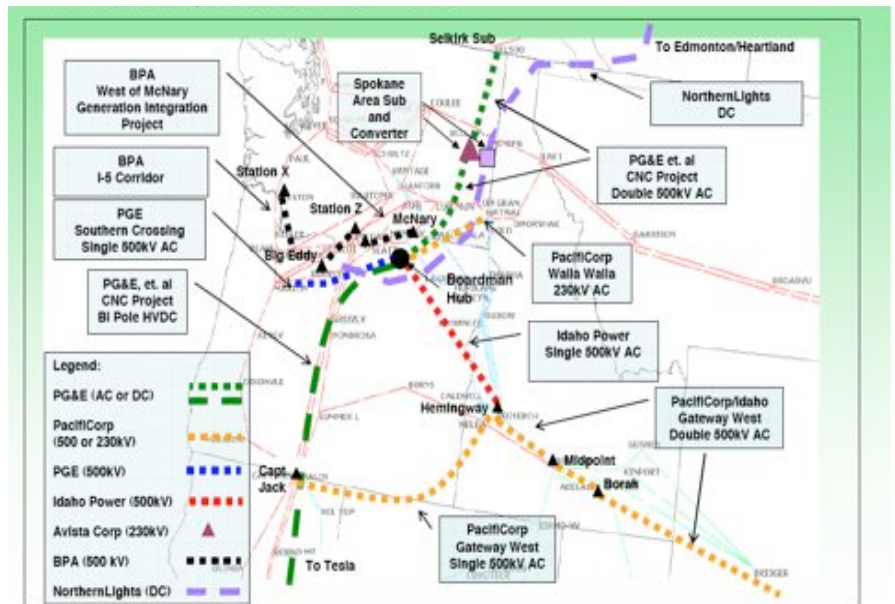
Renewable energy integration is a major driver in Northwest transmission planning. The Western Governors' Association and U.S. Department of Energy launched the Western Renewable Energy Zones (WREZ) Project in May 2008. The goal of WREZ is utilize those areas in the West with vast renewable resources to expedite the development and delivery of renewable energy. Participating in the project are 11 states, including Oregon, Washington, Idaho, Montana, two Canadian provinces, and areas in Mexico that are

part of the Western Interconnection. The WREZ project will generate: reliable information for use by decision-makers that supports the cost-effective and environmentally sensitive development of renewable energy in specified zones, and conceptual transmission plans for delivering that energy to load centers within the Western Interconnection. For more information see: <http://www.westgov.org/wga/initiatives/wrez/index.htm> ■

## Transmission Planning: Big Tent Projects By Direlle R. Calica

The following is a status update regarding the nine proposed new Northwest transmission projects known as the “Big Tent projects.” All nine projects are currently in or will be in the Western Electricity Coordinating Council (WECC) Phase 1 rating process and sponsors report planning and coordination efforts are reasonably on schedule. Project sponsors include, Bonneville Power Administration, Idaho Power, PacificCorp, PGE, PG&E, TransCanada, among others.

The projects include the following: Gateway Project (PacifiCorp), West of McNary Project (BPA), Idaho-Northwest Project (Idaho Power & Others), I-5 Corridor Reinforcement (BPA), Southern Crossing Project (PGE), Canada to Northern California Project (PG&E, Avista, BCTC, PacifiCorp, PGE), Canada to Northern



California Project – Devil’s Gap Interconnection (Avista), and NorthernLights Project (TransCanada).

A follow up public meeting and status update is scheduled for November 2008. ■

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(RHWM). Any power needs above the RHWM can be served by BPA's Tier 2 power, or by the utility supplying their own power from power sources not previously included in their net requirements. There are notice requirements to switch from BPA supply to self-supply, etc.

By 2010 the existing federal based generation system will be allocated to existing customers, so BPA will augment the current system with 250 aMW of power for new utilities. Once this 250 aMW is shared among the new utilities that form, all new utilities forming will be served at Tier 2 rates only. The number 250 aMW was chosen as this is the load of new utilities in the past 30 years. ATNI-EDC proposed increasing this amount, but approval is doubtful since Department of Energy and our congressional delegation have given their approval. ATNI-EDC was successful however, in excepting any new utility's formation to serve loads of existing BPA customers from the 250 aMW pool, which greatly expands tribes ability to form new utilities.

In order to avoid a very large utility to form and taking the entire 250 aMW, BPA has limited the amount of power a new utility can buy to 50 aMW per each two-year rate period. If more than 50 aMW of new utility load was requested in any rate period, BPA would give each requester a proportional share and phase in that new utility. Further, BPA proposed an exception to this for the first 5 new small utilities (under 10 aMW). In settlement ATNI-EDC sought to increase this amount and BPA agreed to allow this exception to apply to the first 10 new small utilities. (Which is equal to the number of known tribal utilities considering formation.)

The existing tribal utilities, Yakama Power and Umpqua Indian Utility Cooperative (UIUC) (Mission Valley is not in this group as they are a federal utility), and any other new tribal utilities

formed also share a 40 aMW pool of power for load growth and new annexed load. (The 40 aMW is part of the 250 aMW). This means that Yakama Power, UIUC and other new tribal utilities can increase their CHWM if their load grows or if they bring on new load. This is a significant victory for tribes, as no other customer has this right, nonetheless this point was under a considerable amount of scrutiny.

ATNI-EDC was also successful in changing the notice requirements for new publics. BPA originally required a 3 year notice period before power deliveries could begin, which notice would be effective only after a new utility formed and acquired all the necessary infrastructure (making new utilities virtually impossible). BPA dropped this requirement for any new utility formed out of the service territory of an existing BPA customer (which is most of the likely new tribal utilities), and provided an easier notice period (provide notice approximately 15 months before the next rate period) for any new small utilities.

We were also successful in getting BPA to acknowledge (in writing) their obligations in the Energy Policy Act of 2005, which requires BPA to encourage tribal energy businesses. They acknowledged this requirement and stated they would use this language to allow flexibility in the formation of new tribal utilities.

As a result of ATNI-EDC and with the financial support of the Northwest Tribal Energy Group, all tribal utilities that want to form will have an open door with reasonable formation processes. BPA's final policy and Record of Decision is scheduled to be published on October 10, 2008. On September 26, ATNI-EDC has filed a brief describing our proposed settlement. We will also summarize all our arguments for the record in the event that the settlement is not approved. ■

# Affiliated Tribes of Northwest Indians



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THE ATNI ENERGY UPDATE  
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