

EUGENE WATER & ELECTRIC BOARD  
WORK SESSION  
EWEB BOARD ROOM  
APRIL 18, 2006  
5:30 P.M.

Commissioners present: Sandra Bishop, Mel Menegat, John Simpson, Patrick Lanning, and Ron Farmer.

Others present: Randy Berggren, Jim Wiley, Debra Smith, Jim Origliosso, Scott Spettel, Dick Helgeson, Dick Varner, Patty Boyle, Marty Douglass, Mel Damewood, Brenda Sirois, Terry Bequette, and Krista Hince of the EWEB staff; Ruth Atcherson, City of Eugene Minutes Recorder.

President Bishop convened the Work Session of the Eugene Water & Electric Board (EWEB).

### **BOARD GOVERNANCE – EL1 POLICY**

Assistant to the General Manager Debra Smith reviewed *ELI*, the policy that governed financial controls. She said Commissioner Simpson had suggested a wording change for section 3 (a), as follows:

“Expenditures for a major capital project are projected to exceed the budget amount for that project by the lesser of....”

Ms. Smith noted that section 3 (c) referred to sections (b) and (c) but should refer to sections (a) and (b).

After some discussion, Ms. Smith suggested that the wording indicate that expenditures for a major capital project that were projected to exceed or actually would exceed the budget amount would require a budget amendment.

Ms. Smith ascertained that the Board was in support of the revised language of *ELI* and said she would refine it and bring it back as a Consent Calendar resolution.

Ms. Smith brought forward the draft language for *GPI*, *GP3*, *GP5*, *GPI2*, and *GPI3*.

President Bishop said it looked good to her.

Ms. Smith noted that *GP3* had not been discussed at the Board Retreat.

President Bishop found the second sentence to be awkward. She was unsure what the Board would be determining and balancing in regard to the points of view of EWEB customers and the community.

Commissioner Farmer disagreed with the last sentence, which assigned the responsibility for development of high-level performance measures to the Board.

Ms. Smith suggested that she take this input and revise **GP3** and bring it back before the Board. The Board agreed to this.

Regarding **GP5**, Ms. Smith related that Commissioner Simpson had submitted changes. She noted that his email communication would be passed on to the other Commissioners. She read his suggestion for section 1(d), as follows:

*“The Board President or his/her designee is responsible for orientation of new members per Board Policy **GP15**.”*

Commissioner Simpson thought it kept the wording consistent with the other paragraphs and established the authority and the responsibility for orientation and indicated it could be delegated.

Commissioner Farmer questioned whether orientation was really the responsibility of the President and Commissioners. Commissioner Simpson felt he raised a good point.

President Bishop thought it should be the responsibility of staff. Ms. Smith responded that it essentially was staff’s responsibility. She explained that the reason it was in the policies was because the Board had discussed making it a higher-level process. She had reviewed the existing policy and had identified those places where a role for the Board President had been specifically called out. She stated that when the policy was created there had been a role for the President.

Commissioner Farmer wished to have a sense of what **GP15** said relative to the Board President.

Commissioner Simpson felt that Commissioner Farmer had raised a good point.

Ms. Smith observed that there were certainly different roles for staff and the Board, depending on where a person was in the process, such as in reference to a Commissioner-nominee who had yet to be elected. She said Assistant Secretary Krista Hince took the lead at that point and then once the Commissioner was elected the roles of the General Manager and staff increased, and then the President played a larger role once the Commissioner was newly seated.

Vice President Menegat noted that section 1(e) referred to the position as Board chair and wondered if that should be clarified. Ms. Smith responded that Commissioner Simpson had suggested a wording change that she felt clarified it, as follows:

*“The Board President will explain at outset of public input about the process for Board comment and response per Board Policy **GP10**.”*

President Bishop expressed discomfort with having the term 'designee' in the proposed wording for section 1(d). She did not believe the Commissioners would have time to orient new Commissioners. She was concerned that a Commissioner with a particular agenda could orient a new Commissioner "with a slant." She suggested wording that indicated the President would be responsible to ensure that staff properly oriented a new Commissioner.

Commissioner Lanning agreed that Commissioners did not have time to orient new Commissioners, but he said they did orient new Commissioners to the responsibilities and roles of being a Commissioner. He did not see that as staff's responsibility. He thought the designee process that Commissioner Simpson suggested would address the possibility of multiple Commissioners coming on at the same time, in order to avoid a situation in which the President was spread thin.

Commissioner Simpson noted that section 1(e) referred to the Board chair and observed that the Board did not technically have a position entitled 'chair.' Ms. Smith offered to replace the word and bring it to the next meeting.

Commissioner Farmer remarked that he did not have any problems with **GP15** having read it.

In response to a question from Vice President Menegat, Ms. Smith stated that the language from section 2(a) had come from SMUD. She explained that it meant the Board President would coordinate among the Board in the event that a special meeting was called or other similar circumstances.

Commissioner Simpson felt 2(a) seemed vague. He commented that Ms. Hince did much of the coordinating duties anyway. Commissioner Farmer agreed that the language seemed ambiguous and unrelated to the duties of the President.

Ms. Smith asked if the Commissioners wished to strike (a). The Commissioners agreed it should be stricken.

After further Board discussion of section 2, Ms. Smith offered to truncate the language so that said:

*"The President shall assume other responsibilities as determined by Board policy."*

In response to a question from President Bishop, Ms. Smith affirmed that she would reorder some of the language in the first section and would shorten, as in above, the second section.

Ms. Smith reviewed **GP12**.

President Bishop asked that the first sentence of section 2(a) be revised, as follows:

*"All outside **liaison** appointments will be made by Board Resolution..."*

Vice President Menegat pointed out that when a Commissioner was appointed to the Western Generation Agency (WGA) he or she was not merely a liaison.

President Bishop suggested that it could be changed to say that it would be a liaison position or an appointment as an officer to an outside organization.

Ms. Smith suggested that the language state that “the Board may appoint a Commissioner to an outside organization or entity” and all outside appointments would be made by Board resolution. Further, she recommended that it clarify that the Resolution would state the purpose of the appointment, the nature of the role, the term of the appointment, and succession if applicable.

Commissioner Simpson thought the opening paragraph should be changed, as follows:

*“The Board may use committees, outside appointments and liaisons to staff work as a means of gathering **and disseminating** information...”*

Commissioner Farmer expressed concern that section 1(b) would curtail the ability of a committee to deliberate on issues that the Board may approve of.

President Bishop felt that ‘deliberate’ was a legal term and section (b) would not stop a committee from discussing something.

Commissioner Simpson favored striking the word ‘deliberate.’ President Bishop disagreed. She thought another sentence should be added that indicated that a committee’s purpose was to discuss and recommend.

Regarding **GPI3**, Commissioner Farmer asked if it was feasible to have monthly reports on significant legislation. Ms. Smith thought it would be feasible. She added that in going into a new relationship with a lobbyist it could be one of the requirements for that position.

Commissioner Simpson commented that the first sentence was clumsy and that the primary role of the Board was not solely to convey EWEB’s position in regard to utility related legislative activities. Ms. Smith agreed that it should be changed so that it indicated that it referred to the primary role of the Board *“as it related to legislative activities.”*

Commissioner Farmer interpreted the policy to mean that the General Manager would make a determination if there were a need for a fundamental change of course. He thought if a potential change was needed the Board should at least discuss it and it should be part of staff’s responsibility to ensure this. Mr. Berggren did not read the policy in the same way. He felt the policy dictated that the General Manager was responsible for deciding whether to stay a course that was consistent with existing policy and if he thought it was prudent to depart from policy he should bring it before the Board so that the Board could either reaffirm it or make suggestions on how to proceed in a different manner.

President Bishop remarked that the purpose of the policy was to codify what the Board had done in the past regarding directions given to the lobbyist.

Ms. Smith suggested the following change:

*“The primary role of the Board is to [do something around] influencing things that affect the utility. The Board will utilize professional lobbyist services to achieve that goal. Prior to the start of each session, the Board will adopt general policy directives with broad application and those directives will guide the day to day activities of the lobby staff/professional lobbyist.”*

President Bishop did not think the wording should include ‘day to day.’ She underscored that it was meant to be an overarching policy.

## **REGIONAL ISSUES UPDATE**

Power Resources Division Direct Dick Helgeson provided a power point presentation on **Regional Issues**. He recalled that the last time he had brought this discussion before the Board the Bonneville Power Administration (BPA) had just released its initial proposal for its wholesale rates for the next three fiscal years to go into effect in October 2006. He noted the BPA had held its field hearings in December and though EWEB was not a party in the rate case, staff members had been in attendance in order to gather information.

Mr. Helgeson reported that the BPA had been steadfast in not wishing to address the issues involving pushing costs back and forth between customers, what auxiliary service charges might look like, and how the rate design might play. He said there would be a draft of the decision in late May, followed by a final record and decision in late June. He stated that EWEB could still submit briefs and comments and could file comments at the policy level through that time. This would ultimately set the base rate to go into affect in October, though it would continue to be subject to Cost Recovery Adjustment Clauses (CRACs) and other mechanisms that were built into the rate schedules.

Continuing, Mr. Helgeson explained that the BPA costs included the costs of running the dams, internal costs, costs for the one nuclear plant, power purchases, residential exchanges, conservation costs, and more. He said a component of this was debt service that comprised 38 percent either on federal debt or third party debt. He stated that the \$2.6 billion average per year represented a \$93 million reduction over what had been identified one year earlier. He related that the BPA had projected that its costs would continue to escalate and would be higher in the next rate period, but had experienced a 5 percent reduction in what had been anticipated.

Mr. Helgeson reported that there was an assumption that there would be no change in the fish mitigation costs or costs associated with river operations.

Mr. Helgeson recalled that in February the President's budget had proposed to take surplus revenues over \$500 million to the Treasury to accelerate payment on the BPA's treasury obligations. He said fortunately it appeared that this would be set aside through the actions of the delegation and the support in the region for heading this off.

In response to a question from President Bishop, Mr. Helgeson stated that the \$4.2 million was due to the cost increases that were still embedded in the BPAs proposal and because of some changes in rate design that put a heavier emphasis on energy charges and demand charges. He and Fiscal Services Supervisor Dick Varner had predicted that EWEB was looking to experience an increase of approximately \$4 million in BPA charges if the proposal played out. He noted that in October 2006, EWEB would lose 25 megawatts (MW) of a pre-subscription contract the utility had with the BPA. This contract had kept costs for that power allotment down and this expiration will add approximately \$2.5 million to EWEB's projected annual power costs.

Commissioner Simpson asked how this was affecting the Springfield Utility Board (SUB). Mr. Helgeson responded that SUB was taking a rate action to try to head off the effects of the contract's conclusion for this calendar year. He thought SUB would have to take further rate actions in the next year to get ahead of this rate change.

Mr. Helgeson stated that the rates would still be subject to a Financial-Based (FB) CRAC so if the BPA's costs went up or their net revenues fell below a certain level, an adjustment would be triggered. He said it had been pointed out that the scope of the fish mitigation costs could be so large that the BPA CRAC could be added as a surcharge that could be kicked in without a whole lot of process and would directly pass through an assumption of what the rates would be. He referred to this as a "Turbo" CRAC.

In response to a question from Commissioner Simpson, Mr. Helgeson affirmed that a "Turbo" CRAC would not eliminate the other CRACs on the Federal Base System (FBS) of dams.

In response to a question from Commissioner Farmer, Mr. Helgeson said there was a lot of process involved in a rate case, but it was the administrator who discussed the changes with senior staff. This administrator reported to the Department of Energy and to the Office of Management and Budget.

Mr. Helgeson stated that there had been no resolution on how to treat the Direct Service Industries (DSIs). He reported that the BPA had proposed to let them have up to 550 MW of power and possibly to sell it at a slightly higher rate than EWEB paid. He said the price differential had a cap of less than \$59 million per year for the subsidy. He related that the DSIs did not like this and were lobbying for something below that rate and for more megawatts. He thought this was realistic because there was not a smelter load out there than this proposal would justify. He noted that the BPA had called for studies that would assess the contribution that the smelters make to the regional economy and how higher power costs might trade off for other industries.

Commissioner Simpson asked if the BPA was making payments to some of the DSIs to keep them off line. Mr. Helgeson replied that the BPA did not give payments directly. He explained that the BPA was incurring an “opportunity cost” by selling power to the DSIs at a lower rate than could otherwise be gained in the marketplace. Then if the power was needed by the publicly owned utilities, they had to replace that power at a higher cost. He said some in the public power sector characterized this as a subsidy and this related to the cap that the BPA was trying to place upon it. He noted that the DSIs disagreed that the BPA was giving them a subsidy in the power costs.

Mr. Helgeson discussed the Slice product, given that there had been some discussion on whether the BPA would put out that product in the next contract period. It had appeared that the BPA would be offering an amount of Slice product comparable to what was available now. He related that the BPA was indicating that it had obligations to meet before it could divide its power up. He said this raised the potential of the BPA taking “stuff off the top” though EWEB was paying for a share of the system. He stated that they were discussing significantly reducing the scheduling flexibility as well. Currently, he said, EWEB had the ability to change its schedule within certain parameters “on the hour, during the hour, during the day” that it had prescheduled to meet such circumstances as a resource outage and in ways that were economically advantageous to EWEB. Additionally, it was unclear whether or not EWEB would get to hold onto any entitlement through Slice that it had through “surplus firm.” He clarified that at this time EWEB had a fixed amount of power as a percentage of the system that had been contracted for and if EWEB loads went down it had the capacity to “undeclared” resources to be able to hold onto that surplus and sell it out. He said EWEB had a “long” position as a result of that. The BPA was looking for ways to make annual determinations of how much a utility could be entitled to buy even through the Slice product.

In response to a question from President Bishop, Mr. Helgeson stated that all of the customers who had Slice products currently had the right to withdraw resources and hold on to that contract.

Commissioner Farmer asked if the other customers were “long.” Power Management and Planning Manager Scott Spettel replied that the major Slice customers were generally in that position, such as Seattle and Snohomish. He explained that when the market had fallen out in the recession of 2001 it had left load forecasts high and Seattle had lost some of its load, as had others. This had resulted in a better resource position for Slice customers.

Mr. Spettel reviewed the attachment entitled *BPA Allocation Issues*.

Commissioner Simpson asked for clarification on what it meant when the BPA augmented its system. Mr. Spettel affirmed that it meant that all of the approximately 7,300+ average megawatt hours of firm energy had been allocated and the BPA had to purchase more power.

Mr. Spettel reviewed graphs that delineated projections for EWEB’s load in 2012. He related that the “non-generators” were worried that utilities that generated some power would “play” with the numbers of their traditional generating units and “run away” with all of the FBS power. He said politically the “haves and have-nots” were squaring off and not really trusting one another. He stated

that the net requirements of all of the BPA customers depended on what the needs of the rest of the publicly owned customers might be and what additional net requirements might be placed on the BPA in time. He noted that there were several areas that could exceed load growth expectations and some places, such as Snohomish County, could ultimately be allocated a greater share of the FBS entitlement.

President Bishop asked which utility had major industrial facilities operating customer-owned generation. Mr. Spettel replied that it was the Cowlitz County Public Utility District. He explained that they had industrial customers that had been involved in cogeneration for a long time and the industrial customers believed they had obtained a contractual right with the BPA to take any generation currently used for mill load and take it out of the market after the contract was over and have it replaced with BPA power. He added that the Weyerhaeuser plant that is EWEB's partner in cogeneration had retained its right to BPA power.

Mr. Spettel expressed some concern about the nuclear plant given that nation-wide nuclear plants were not lasting as long as their 40-year licenses. He predicted that the nuclear plant would not last until 2020. He noted that the plant provided 800 average megawatts of firm energy.

Mr. Helgeson projected that EWEB was more likely to end up short than long on power. He speculated that it would be in the 10 to 30 MW range.

Mr. Helgeson reviewed the Slice true-up process. He noted that more often than not it had been an upward adjustment.

Mr. Helgeson outlined some of the other costs that the BPA faced such as bad debt from the energy crisis and from some smelters that had "gone down" and payments made on conservation investments, made in part in Eugene ten years earlier. He related that the BPA had amortized the cost over ten years and some Slice customers asserted that this could not be included in current costs. He said when EWEB challenged this, the BPA had responded that EWEB would not be able to force the arbitration rules under the contract. He clarified that anything that affects the rates had to be decided in the 9<sup>th</sup> Circuit Court. EWEB had ended up in that court and had argued over who had jurisdiction and whether or not EWEB could force the arbitration provisions of the contract. The ruling on this was anticipated in the spring. He underscored that the decision would merely rule on whether or not EWEB could exercise its arbitration rights and would not rule on the merits nor resolve the issues. He related that currently EWEB and the BPA was working on a settlement and those discussions had moved forward to a point where a number of the issues could be settled. He stressed that the bottom line would be that EWEB's share of the refund would be approximately \$2.5 million and then other provisions would address other issues that the utility had.

In conclusion, Mr. Helgeson stated that in the last couple of months the Governor had announced a number of sustainability and energy initiatives with which the Integrated Energy Resource Portfolio (IERP) plans and Board's interest shared an affinity. The Governor wanted to set up assessment centers throughout the State to disseminate information about new energy technology

and was looking at establishing these at State institutions. He added that it was not clear at this point how the centers would be funding. He said this was being seen as an economic opportunity and to put a premium on things that could be developed in the State. He related that the Governor was interested in testing some legislation that would require all utilities in the State to meet 25 percent of their loads with renewable resources by 2025.

Commissioner Farmer thanked staff for the great educational information. He commented that he worried more about what he could control than what was out of the Board's hands. He asked staff to recap which things should remain at the center of the Board's focus.

Mr. Helgeson summarized the main areas of focus: the BPA power allocation and how that will be queued up; the rate case and what the rate level will be for this year; and the new conservation contracts that will begin in the fall and replace current contracts.

Commissioner Farmer supported engaging in contingency planning.

President Bishop adjourned the meeting at 7:34 p.m.

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Assistant Secretary

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President