

Legal Issues

Jurisdiction – Planning for transmission system expansions and upgrades is not an area where FERC has asserted jurisdiction. The activities proposed here should not raise the issue of FERC jurisdiction under the current statutes. If the current Energy Bill is enacted, granting FERC authority to impose mandatory reliability standards conceivably could lead FERC to assert jurisdiction over agreements that implement compliance with those standards. It may be that the proposal will need to be revised to accommodate new statutory provisions, should they be enacted.

Liability – WIS agreement – new Energy Bill makes reliability standards mandatory and changes the liability. Note that E Bill reliability provisions may necessitate revisions to this proposal.

TO's participating in the regional planning process would be required to be parties to the Agreement Limiting Liability Among Western Interconnected Systems ("WIS Agreement"). Since almost all control areas within the Northwest Power Pool are currently signatories to this Agreement, the requirement would have the effect of extending the current liability relationship to all of the new expanded planning activities in which TO's participate under the Single Utility Planning concept contained in this Proposal. Requiring those not currently parties to the WIS Agreement to join avoids the need to separately negotiate different liability provisions for the results of the joint planning process.

TO's would indemnify and hold harmless the planning staff from all claims of negligence or wrongdoing in respect to the the transmission plan and its implementation. This requires that all of the TO's be legally capable of offering indemnity to the joint planning staff in proportion to an agreed upon formula, such as the formula for sharing costs of operations.

Confidentiality – Because NTP Staff and TERC may receive information considered by parties as confidential, concerns may be raised about improper disclosure of use of that information. NTP Staff would have an obligation to keep information confidential and to take reasonable and customary precautions to protect the information. A non-disclosure agreement template will be offered to provide protections to parties submitting information to NTP Staff and TERC.