

**Minutes of the Regular Meeting of the Okanogan County  
Public Utility District Board of Commissioners  
Held in Okanogan December 2, 2003**

**Present:**

Board: David Womack, Darrel Bunch, Donald Johnson  
Staff: Harlan Warner, Chuck Berrie, Don Coppock, Derek Miller, Joe Miller,  
Frederick Burke, Steve Brown, Julie Pyper, Jerry Day, Kathy Gordon, Dan  
Boettger  
Other: Michael Howe, Legal Counsel  
Public: Toyne Tibbets, Rebecca Meadows, Dave Johnson, Esther Johnson,  
William Colyar, Ann McCreary, Susie Ives, Maeyowa

President Womack called the meeting to order at 8:30 a.m., and asked for any additional agenda items. Commissioner Johnson submitted 1) a response to letters received from BPA Administrator; and 2) a request to address Resolution No. 1269 before the PURMS annual meeting report. Ann Ringwood's 9:00 a.m. presentation was deleted from the agenda at her request.

**Summary Agenda**

1. Approval of Minutes
2. Approval of Work Orders
3. Approval of Vouchers
4. Approval of Transfer of Accounts
5. Public Comment
6. Telecom Report
7. CERB Grant
8. Resolution No. 1269
9. PURMS Annual Meeting Report
10. Response to Letters Received From BPA Administrator
11. Public Comment
12. Meetings
13. Executive Session – Litigation

**1. Approval of Minutes:**

Commissioner Bunch moved, and Commissioner Johnson seconded, to approve the Minutes of the November 18, 2003 regular meeting. The motion carried.

Commissioner Johnson submitted for the public record supplemental agenda item information.

**2. Approval of Work Orders:**

There were no work orders submitted for approval.

**3. Approval of Vouchers:**

Vouchers No.'s 79632 through 79671 in the amount of \$1,585,054.86, No. 79672 in the amount of \$17,305.67, No.'s 79673 through 79702 in the amount of \$163,600.93, and No.'s 79703 through 79764 in the amount of \$312,994.81 were approved for payment from the revenue fund.

Commissioner Johnson moved, and Commissioner Bunch seconded, to approve the vouchers. The motion carried.

**4. Transfer of Accounts:**

There were no accounts/invoices submitted for write-off/collection.

**5. Public Comment:**

Maeyowa submitted written comments regarding PUD Board Highlights, and the Methow Transmission Line Project EIS Scoping Notice and map inaccuracies.

Esther Johnson noted her trust and satisfaction with the PUD.

Rebecca Meadows inquired about the scoping/commenting period.

**6. Telecom Report:**

Telecom Manager Joe Miller noted the Shellrock Point access point is working well under normal operating conditions, with retail providers currently providing service to 88 end users (200 customers are waiting for service). He recommends removing that portion from the Wireless Pilot Project to allow for a normal billing operation. The District has not billed retail providers during the testing period, nor have retail providers billed their customers. At this time, the Shellrock Point portion would generate income for the District of \$1,900/month. The Oroville access point is expected to be activated some time in December, and should be a much shorter Pilot Project than Shellrock due to a different network connection.

Commissioner Johnson moved, and Commissioner Bunch seconded, to continue the Wireless Pilot Project as previously defined and initiate a billing procedure for the Omak-Okanogan area. Following discussion, Commissioner Bunch withdrew his second to the motion because it was his intention to terminate the Pilot Project in the Omak/Okanogan

area as recommended by staff. Following continued discussion that the Shellrock Point portion should remain a part of the Pilot Project because the District is not currently building beyond the access points, Commissioner Womack moved to second the motion. Upon the vote, Commissioner Bunch voted nay and noted his concern with billing customers under a Pilot Project. The motion carried.

Mr. Miller reported the Washington State Department of Informational Services (DIS) recently awarded the bid for Phase II of the K-20 telecommunications project to Qwest. It is anticipated that Qwest will likely utilize some of the District's fiber network to provide service to schools and state offices throughout the county.

**7. CERB Grant:**

The District executed Contract #C2001-137 on March 8, 2002 for the use of Community Economic Revitalization Board (CERB) grant funds to install fiber-optic cable to support construction of a business facility by NCTeleserve in Twisp. Since that time, unfavorable market conditions have prevented NCTeleserve from moving forward with its plan. In a November 14, 2003 letter from CERB, it was noted that unless immediate commencement of the CERB project occurs, CERB is obligated to review the District's contract performance. The District would have the option to return to CERB with a new application supporting NCTeleserve when market conditions are favorable for the facility development. Chief Engineer Derek Miller contacted NCTeleserve and confirmed that no plans are anticipated. He recommended responding to CERB that it does not appear NCTeleserve will proceed at this time.

The Commission directed staff to inform CERB the proposed project will not proceed at this time due to continued unfavorable market conditions.

**8. Resolution No. 1269:**

In response to last meeting's discussion regarding policy on a Commissioner's use of official letterhead of the District, Attorney Howe reviewed the Revised Code of Washington, past resolutions and court interpretations regarding this issue. RCW 54.12.090 and Resolution No. 1266 provide that all proceedings of the Board of Commissioners of this public utility district shall be by motion or resolution, and an affirmative vote by the majority of the entire commission shall be required to pass any motion or resolution. Case law has held that a motion or resolution of a public utility district need not be in any particular form, and that any recorded statement of the commission (written or audio) could be considered such a motion or resolution and, therefore, must be passed by a majority of the whole commission in usual and ordinary course, i.e., at a meeting of the commission called according to law and held in compliance with the Open Public Meetings Act.

Proposed Resolution No. 1269 adopts the following rules and protocol for district commissioners: 1) No recorded statement(s) of the Commission shall be authorized, except with an affirmative vote of a majority of the entire Commission adopted at a regular or special meeting of the Commission held according to law; 2) Only recorded statements satisfying the provisions of Paragraph 1 above shall be on official letterhead of the District *or* recorded in the Minute Books or other public records of the District; 3) Noncompliance with these requirements shall be deemed to constitute a lack of good faith for purposes of the application of RCW 54.16.097 and any District resolution adopted pursuant thereto.

Following discussion, it was agreed that paragraph 1 of proposed Resolution No. 1269 should be revised to provide that no recorded statement(s) of a **Commissioner** or the Commission shall be authorized.... After consideration, the Commissioners were concerned this restricted their ability to communicate with their constituents through letters to the editor, interviews and quotes in news articles. Commissioner Johnson noted his plan to continue to use PUD letterhead until there is a ruling by the Attorney General's Office. It was pointed out that per paragraph 3 of proposed Resolution No. 1269, Commissioners who violate this resolution may not be eligible for indemnification in the event of legal action.

Commissioner Bunch moved, and Commissioner Womack seconded, to adopt Resolution No. 1269 with an amendment to paragraph 1 to provide that no recorded statement(s) of a **Commissioner** or the Commission shall be authorized, except with an affirmative vote of a majority of the entire Commission adopted at a regular or special meeting of the Commission held according to law.

Upon further consideration and to allow for revision of Resolution No. 1269, Commissioner Womack withdrew his second to the motion adopting the resolution and Commissioner Bunch withdrew his motion adopting the resolution. Attorney Howe will revise the Resolution for discussion at the next meeting.

## **9. PURMS Annual Meeting Report:**

Director of Finance Frederick Burke reported on the November 20, 2003 annual meeting of the Public Utility Risk Management Services (PURMS). This self-insurance pool for liability and property insurance is currently made up of 18 members (17 PUDs and NoaNet). Al Littlefield of Skagit PUD was elected to chair PURMS for the upcoming year, and Thurston County PUD and Northern Wasco County PUD were authorized for admittance as new members.

The level of Liability Pool claims has remained quite stable, however, excess coverage premiums are escalating and a 10% increase is anticipated in 2004. The Property Pool had a significant rise in claims last year. With excess coverage premiums doubling over the last two years and a reduction in coverage levels, PURMS has authorized an additional \$250,000 (\$50,000 to the next five assessments) to fund that particular risk.

The Health and Welfare Pool, which Okanogan PUD is not a member of, continues to do well.

**10. Response to Letters Received from BPA Administrator:**

In regards to the BPA/IOU settlement proposal, Commissioner Johnson introduced a motion to direct the District's legal counsel to reply to BPA Administrator Steve Wright with a Resolution including the following language: We at Okanogan County PUD look forward to a fair, long-term settlement between public utilities, investor-owned utilities and the BPA. We share your desire to avoid litigation. We regret that the rejected settlement only provided short-term rate relief while it called for long-term deferral of public utility rights. We are eager to be a party to an effort to seek a long-term settlement of our differences without relinquishing any of the rights provided to public utilities by existing laws. Such an agreement must include elimination of the \$200 million "poison pill" and restoration of public preferences and priorities provided by existing law with attendant regional rate benefits. We agree with the attached response to your recent editorial (signed by 14 PUDs).

Following discussion, it was agreed the Resolution should exclude language that addresses specific detail, i.e. elimination of the \$200 million "poison pill." The Commission will discuss passage of the Resolution at the next meeting.

**11. Public Comment:**

Dave Johnson favored the Resolution adopting rules and protocol for district commissioners.

**12. Meetings:**

Commissioners Bunch and Johnson attended the Public Scoping Meeting in Twisp on November 24, 2003.

The next Okanogan PUD Board meeting is scheduled for 8:30 a.m., December 16, 2003 at the Okanogan PUD Auditorium.

**13. Executive Session – Litigation:**

President Womack recessed the Board into executive session at 11:30 a.m. to discuss litigation.

President Womack reconvened the Board into regular session at 12:15 p.m.

Attorney Howe asked for clarification of his duties with the District and whether it was felt he should devote time to discussing matters with the press. Following discussion, the Commission suggested direct contacts from the press or other entities should be referred to the Manager.

There being no further business to discuss, the meeting adjourned at 12:20 p.m.

David A. Womack, President

ATTEST:

Darrel E. Bunch, Vice-President

Donald W. Johnson, Secretary