

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

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Avista Corporation,)
Bonneville Power Administration,)
Idaho Power Company,)
The Montana Power Company,) Docket No. RT01-35-000
Nevada Power Company,)
PacifiCorp,)
Portland General Electric Company,)
Puget Sound Energy, Inc.,)
Sierra Pacific Power Company)

)
Avista Corporation)
The Montana Power Company)
Nevada Power Company)
Portland General Electric Company) Docket No. RT01-15-000
Puget Sound Energy, Inc.)
Sierra Pacific Power Company)

MOTION TO INTERVENE AND COMMENT OF DUKE ENERGY NORTH AMERICA, LLC AND DUKE ENERGY TRADING AND MARKETING, LLC

Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 214 (2000) Duke Energy North America, LLC ("DENA") and Duke Energy Trading and Marketing, LLC ("DETM") (collectively, the "Duke companies"), hereby move to intervene and comment on the above two filings, which in combination, represent the efforts to date to form a Regional Transmission Organization ("RTO") in the Northwestern United States.¹

¹ The Commission separately noticed both of these proceedings. However, given the interrelationship between the two proceedings and the issues contained therein, DENA believes the Commission should evaluate both dockets together as one complete proposal. Thus, DENA is filing one intervention and protest, applicable to both proceedings.

On October 16, 2000, in Docket No. RT01-15-000, Avista Corporation, The Montana Power Company, Nevada Power Company, Portland General Electric Company, Puget Sound Energy, Inc., and Sierra Pacific Power Company (collectively, the “Applicants”) filed an Order No. 2000² Compliance Filing and Petition for Declaratory Order. Applicants request that the Commission find that if they form an independent transmission company (“ITC”) consistent with the ITC described in the filing, the subject ITC would be considered independent under Order No. 2000 and the ITC would be permitted to share certain functions with the regional transmission organization, *i.e.* RTO West, the Applicants will also seek to join.

On October 23, 2000, in Docket No. RT01-35-000, Avista Corporation, Bonneville Power Administration, Idaho Power Company, The Montana Power Company, Nevada Power Company, PacifiCorp, Portland General Electric Company, Puget Sound Energy, Inc., and Sierra Pacific Power Company (collectively, the “filing utilities”) filed with the Commission a Supplemental Compliance Filing and Request for Declaratory Order Pursuant to Order 2000.³ Their filing, among other things, describes the filing utilities’ proposal to form a regional transmission organization (referred to as “RTO West”) that complies with the requirements of the Commission’s Order 2000. The filing also requests an expedited declaratory order from the Commission that certain aspects of the proposal, including the proposed governance documents and the scope and configuration of RTO West, are in accordance with applicable requirements under Order 2000.

² *Regional Transmission Organizations*, Order No. 2000, FERC Stats. & Regs. ¶ 31,089 (1999), *order on reh’g*, Order No. 2000-A, FERC Stats. & Regs. ¶ 31,092 (2000).

³ *Id.*

MOTION TO INTERVENE

DENA is a limited liability company organized and existing under the laws of the State of Delaware, having its principal place of business at 5400 Westheimer Court, Houston, Texas 77056. DENA owns and/or operates several electric generating facilities that participate in Northwest United States energy markets. Consequently, DENA has a direct and substantial interest in the instant proceeding, which cannot be adequately represented by any other party, and allowing it to actively participate in this proceeding would be in the public interest. Accordingly, DENA's request to intervene should be granted.

DETM is a Delaware limited liability company having its principal place of business at 10777 Westheimer Court, Houston, TX 77042, and is an independent power marketer. As an active marketer in Northwest United States electricity markets, DETM has a direct and substantial interest in the instant proceeding which cannot be adequately represented by any other party, and allowing it to actively participate in this proceeding would be in the public interest. Accordingly, DETM's request to intervene should be granted.

COMMUNICATIONS

All pleadings, correspondence and other communications concerning the captioned dockets should be directed to the following persons, and their names and addresses should be placed on the official service list for this docket:

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COMMENTS

The filing to create RTO West, within which the ITC in Docket No. RT01-15-000 will operate is, by the Applicants' own admission, a work in progress.⁴ The filing utilities intend to submit another filing-- Stage 2-- in spring 2001, containing all the remaining documents and information needed to complete their proposal for RTO West. Until all the remaining documents are filed at FERC, including the requisite tariff, it is difficult for Duke Energy North America to critically evaluate the RTO West proposal. Moreover, the propriety of an ITC operating within RTO West cannot be evaluated until the RTO West proposal has been finalized and the functions that RTO West will perform vis-a-vis the ITC are determined. As such, the Commission should delay ruling on the Applicant's ITC proposal until the RTO West proposal has been finalized and approved.

⁴ TransConnect ITC filing at 3, n.4.

CONCLUSION

WHEREFORE, for the reasons stated above, the Commission should grant the requests by the Duke Companies to intervene, and delay ruling on the merits of the RTO West proposal, including the proposed ITC within RTO West, until all relevant documents for RTO West have been filed with the Commission.

Respectfully submitted,



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Dated: November 20, 2000

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the foregoing Motion to Intervene and Comment by first class mail, postage prepaid, upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Washington, D.C., this 20th day of November, 2000.

A handwritten signature in black ink, appearing to read "Michael J. Rustum", written over a horizontal line.

Michael J. Rustum