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STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL
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FEDERAL ENERGY
REGULATORY COMMISSION

November 17, 2000

VIA FED EX

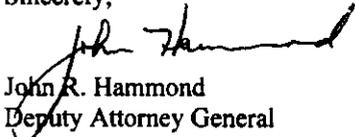
David P. Boergers
Secretary
Federal Energy Regulatory Commission
888 First Street, NE
Washington, DC 20426

Re: RTO West, Docket No. RTO1-35-000;
Transconnect, LLC, RTO1-15-000.

Dear Mr. Secretary:

Enclosed for filing is an original and 14 copies of the Idaho Public Utilities Commission's comments in the above referenced dockets. Please date stamp one copy and return it in the enclosed, self addressed stamped envelope.

Sincerely,


John R. Hammond
Deputy Attorney General

Enclosures

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Contracts & Administrative Law Division, Idaho Public Utilities Commission
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UNITED STATES OF AMERICA
 FEDERAL ENERGY REGULATORY COMMISSION

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 FEDERAL ENERGY
 REGULATORY
 COMMISSION

Avista Corporation,)
 Bonneville Power Administration,)
 Idaho Power Company,)
 Montana Power Company,)
 Nevada Power Company,)
 PacificCorp,)
 Portland General Electric Company,)
 Puget Sound Energy, Inc.,)
 Sierra Pacific Power Company,)

Docket No. RTO1-35-000
 COMMENTS OF THE IDAHO
 PUBLIC UTILITIES
 COMMISSION.

Avista Corporation,)
 Montana Power Company,)
 Nevada Power Company,)
 Portland General Electric,)
 Puget Sound Energy,)
 Sierra Pacific Power,)

Docket No. RTO1-15-000

COMES NOW the Idaho Public Utilities Commission (hereinafter "IPUC"), by and through its Attorney of record, John R. Hammond, Deputy Attorney General, in response to the Federal Energy Regulatory Commission's (hereinafter "Commission") Notice of Filing. These comments are filed pursuant to the Commission's Rules of Practice and Procedure. See 18 C.F.R § 385.211. This filing should not be construed as a motion to intervene pursuant to 18 C.F.R § 385.214.

BACKGROUND

Pursuant to the formation of Regional Transmission Organizations, as directed by the Commission, public utilities had until October 16, 2000 to make compliance filings pursuant to 18 C.F.R § 35.24(c) and the Commission's Order No. 2000 (hereinafter "FERC Order No. 2000.") See Regional Transmission Organizations, Order No. 2000,

65 Fed. Reg. 809 (January 6, 2000), FERC Stats. & Reg. ¶ 31,089 (1999), order on reh'g, order No. 2000A, 65 Fed. Reg. 12,088 (March 8, 2000), FERC Stats. & Regs. ¶ 31,092 (2000).

IPUC received the Commission's Notice of Filing documenting the filings of a large number of utilities on or around the end of October 2000. This Notice required any person desiring to be heard in response to these filings to file a motion to intervene, comments, or protest with the Commission on or before November 20, 2000. The IPUC has chosen to file comments regarding the RTO process rather than the substance of the RTO West or Transconnect LLC, filings which most directly affect this State.

COMMISSION COMMENTS

The IPUC supports the purpose of FERC Order No. 2000, that is to mitigate inefficiencies inherent in the current transmission system and to prevent undue discrimination or anti-competitive practices by transmission owners. Despite, this support the IPUC still must participate in regulating, independent of the Commission, the formation of RTOs. Critically, this involves the transfer of regulated utilities' assets. The Idaho Legislature set the statutory requirements in the Idaho Code for the transfer or control of assets of regulated electric utilities.¹ See Idaho Code § 61-328. Section 61-328 states:

(1) No electric public utility or electrical corporation as defined in chapter 1, title 61, Idaho Code, owning, controlling or operating any property located in this state which is used in the generation, transmission, distribution or supply of electric power and energy to the public or any portion thereof, shall merge, sell, lease, assign or transfer, directly or indirectly, in any manner whatsoever, any such property or interest therein, or the operation, management or control thereof, or any certificate

¹ Although these comments focus on § 61-328, IPUC may also have additional authority to regulate the operations of RTOs. For example see §§ 61-301, 61-501, 61-520.

of convenience and necessity or franchise covering the same, except when authorized to do so by order of the public utilities commission.

(2) The electric public utility or electrical corporation shall file a verified application setting forth such facts as the commission shall prescribe or require. The commission shall issue a public notice and shall conduct a public hearing upon the application.

(3) Before authorizing the transaction, the public utilities commission shall find:

(a) That the *transaction is consistent with the public interest;*

(b) That the *cost of and rates for supplying service will not be increased by reason of such transaction;* and

(c) That the applicant for such acquisition or transfer has the bona fide intent and financial ability to operate and maintain said property in the public service

The applicant shall bear the burden of showing that standards listed above have been satisfied.

(4) The commission shall have power to issue said authorization and order as prayed for, or to refuse to issue the same, or to issue such authorization and order with respect only to a part of the property involved. The commission shall include in any authorization or order the conditions required by the director of the department of water resources under section 42-1701(6), Idaho Code. *The commission may attach to its authorization and order such other terms and conditions as in its judgment the public convenience and necessity may require.*

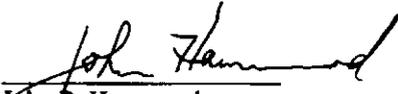
Idaho Code § 61-328 (emphasis added).

Under sections 3(a) and (b), the IPUC must find that the transaction is in the public interest and will not raise the rates for supplying service. In addition, the applicant utility bears the burden of proof in showing that these standards have been met. Any property transferred in violation of this authority shall escheat to the State of Idaho. See Idaho Code § 61-329. These standards may be different from those that could be applied by the Commission in its consideration of the RTO West filing.

The process before the Idaho Public Utilities Commission will be set in motion upon application by regulated utilities for authorization of the transfer of transmission assets (Transconnect filing) or the transfer of operational control of transmission assets (RTO West filing) from the utility to a system operator. Such applications will probably

not be filed until after the utilities define the final form and strategies to be used in carrying out their RTO functions. Accordingly, it is premature for IPUC to comment now on matters that are still under careful consideration by participants in the process.² Until that final form is in place, IPUC cannot begin to examine the ultimate question whether authorizing the transfer of ownership or control of utility assets to an RTO is consistent with the public interest in Idaho. Finally, the IPUC must consider the filings that will be made in the future objectively. Therefore, it is not appropriate to submit substantive comments at this time.

DATED this 17 day of November 2000.


John R. Hammond
Deputy Attorney General
Idaho Public Utilities Commission
472 W. Washington
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(208)-334-0357

² While the benefits of an RTO in particular, or effective wholesale competition in general, may have been taken as given, or already satisfactorily developed at the federal level, such a showing has not yet been made at the state level. Finalization of details for the treatment of issues like allocation of firm transmission rights (FTRs), export fees, and congestion management are controversial and will remain under development for some time before being filed with the Commission. Such details must be worked out completely before a member of RTO West can make an effective filing before IPUC to show that standards set by the Idaho Legislature can be met.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE THIS 17TH DAY OF NOVEMBER 2000, SERVED THE FOREGOING **IDAHO PUBLIC UTILITY COMMISSION COMMENTS**, IN DOCKET NOS. RTO1-35-000 AND RTO1-15-000, BY MAILING A COPY THEREOF, POSTAGE PREPAID, TO THE FOLLOWING:

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Secretary