

**UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION**

Avista Corp., The Bonneville Power Administration, Idaho Power Co., The Montana Power Co., Nevada Power Co., Pacifi Corp, Portland General Electric Co., Puget Sound Energy, Inc., and Sierra Pacific Power Co. )  
Docket No. RT01-35-000  
\_\_\_\_\_)

**PROTEST OF THE INDUSTRIAL CUSTOMERS  
OF NORTHWEST UTILITIES AND THE DIRECT SERVICE INDUSTRIES**

In accordance with Rule 211 of the Federal Energy Regulatory Commission's ("FERC" or "Commission") Rules of Practice and Procedure, 18 C.F.R. § 385.211, the Industrial Customers of Northwest Utilities ("ICNU") and the Direct Service Industries ("DSIs") respectfully submit this Protest to the confirmation and approval of both Portland General Electric Company ("PGE"), Nevada Power Company ("Nevada Power") and Sierra Pacific Power Company's ("Sierra Pacific") Amended Supplemental Filing and Request for Declaratory Order Pursuant to Order No. 2000 ("RTOWest Amended Filing"), and Avista Corporation ("Avista"), the Bonneville Power Administration ("BPA"), Idaho Power Company ("Idaho Power"), The Montana Power Company ("Montana Power"), Pacifi Corp, and Puget Sound Energy, Inc.'s ("PSE") (collectively the "Concurring Utilities") Amended Supplemental Filing and Request for Declaratory Order Pursuant to Order No. 2000 ("Concurring Utilities' RTOWest Amended Filing"). In support of this request, ICNU and the DSIs state as follows:

## I. BACKGROUND

On October 16, 2000, Avista, BPA, Idaho Power, Montana Power, Nevada Power, Pacifi Corp, PGE, PSE and Sierra Pacific (collectively the “Filing Utilities”) submitted an alternative filing describing their efforts to form a Northwest Regional Transmission Organization (“RTOWest”). On October 23, 2000, the Filing Utilities completed their “Stage 1 filing,” which requests that the Commission, on an expedited basis, issue a declaratory order with respect to: 1) the form of RTOWest Articles of Incorporation and RTOWest Bylaws; 2) the scope and configuration of RTOWest; and 3) the form of Agreement Limiting Liability Among RTOWest Participants (“Liability Limitation Agreement”). RTOWest Filing at 93. Three of the Filing Utilities (BPA, Idaho Power and Pacifi Corp) also requested that the Commission issue a declaratory order approving the “concepts as a package embodied” in the Transmission Operating Agreement (“TOA”). Id. \_\_

On November 20, 2000, ICNU and the DSIIs jointly protested the Filing Utilities’ Stage 1 filing (“Joint Protest”). The Joint Protest addressed the following issues: 1) the Filing Utilities request for a declaratory ruling is premature and would require the Commission to base its decision on vague and incomplete information; 2) the RTOWest Bylaws and Governancedo not allow adequate participation by larger retail customers; 3) BPA does not have the legal authority to participate in the RTOWest; 4) the RTO’s attempt to “build in” stranded cost obligations and rights is contrary to FERC Regulations; 5) the RTOWest hinders state retail access; 6) the Company Rate proposal is incomplete; 7) RTOWest should have consistent standards for accepting control of facilities; 8) the RTOWest fails to specify firm transmission rights; 9) the Filing Utilities

do not demonstrate that benefits exceed costs; and 10) the RTOWest Liability Limitation Agreement is overbroad.

On December 1, 2000, the Filing Utilities submitted amendments to their Stage 1 filing. RTOWest Amended Filing; Concurring Utilities' RTOWest Amended Filing. The filings include amended versions of the Form of the Transmission Operating Agreement ("TOA") and Form of Agreement to Suspend Provisions of Pre-Existing Transmission Agreements. The Filing Utilities have extended the date for their expected "Stage 2 filing" to July 17, 2001.

## II. PROTEST

Neither the RTOWest Amended Filing nor the Concurring Utilities' RTOWest Amended Filing includes substantive changes to the four main documents: 1) the form of RTOWest Articles of Incorporation and RTOWest Bylaws; 2) the scope and configuration of RTOWest; 3) the form of Agreement Limiting Liability Among RTOWest Participants ("Liability Limitation Agreement"); and 4) the RTOWest TOA. Therefore, ICNU and the DSI's main concerns have not been addressed, and they renew the areas upon which they oppose the filing as contained in their original Joint Protest.

The only significant change in either of the Amended Filings is that BPA, Idaho Power and Pacifi Corp abandon their request for a declaratory order approving the TOA. BPA, Idaho Power and Pacifi Corp recognize the RTOWest proposal is premature and now request that the Commission provide "preliminary guidance" on the concepts and provisions included in the RTOWest TOA. Concurring Utilities' RTOWest Amended Filing at 23. All of the Utilities seek "preliminary guidance regarding the acceptability of the concepts and specific provisions" of their Stage 1 filing. Concurring Utilities' RTOWest Amended Filing

at 4; RTOWest Amended Filing at 6. The Filing Utilities have yet to propose their “Stage 2 filing,” and the limited information presented by the Filing Utilities is an insufficient foundation on which to base a declaratory ruling by the Commission. ICNU and the DSIIs note that the Filing Utilities recognize the inability of FERCO to issue a declaratory ruling on this basis, and accordingly FERCO has been presented an insufficient basis to provide “preliminary guidance.”

### III. CONCLUSION

WHEREFORE, for the reasons set forth herein, ICNU and the DSIs respectfully request that the Commission:

- (1) Decline to issue a declaratory ruling until the filing is complete;
- (2) Send back the portions of the RTOWest Stage 1 filing described above to the Filing Utilities with instructions to correct legal deficiencies detailed in the DSI and ICNU Joint Protest;
- (3) Require ample opportunity for discovery and a hearing on the Stage 2 filing is made; and
- (4) Order such other relief as the Commission deems appropriate.

DATED this 16<sup>th</sup> day of January 2001.

Respectfully submitted,

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## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day served the foregoing Protest of ICNU and the DSI upon each of the parties on the service list compiled by the Secretary in this proceeding by causing the same to be mailed, postage-prepaid, through the U.S. Mail.

Dated at Portland, Oregon, this 16<sup>th</sup> January, 2001.

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