

ORIGINAL

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

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OFFICE OF THE SECRETARY
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FEDERAL ENERGY
REGULATORY COMMISSION

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

Docket No. RT01-35-000

**MOTION TO INTERVENE AND PROTEST
OF THE
MODESTO IRRIGATION DISTRICT**

The Modesto Irrigation District ("MID"), by and through counsel, Wallace L. Duncan, Richmond F. Allan, Michael Postar, Kathleen L. Mazure, Lisa S. Gast and Sean M. Neal, Duncan, Weinberg, Genzer & Pembroke, P.C., 1615 M Street, NW, Suite 800, Washington, DC 20036, file this Motion to Intervene and Protest ("Motion") in the above-captioned proceeding and state as follows:

I. PRELIMINARY STATEMENT

1. This Motion is filed pursuant to Sections 205 and 206 of the Federal Power Act ("FPA"), 16 U.S.C. §§ 824d, and 824e (1994), to Rules 211, 212 and 214 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission ("FERC" or "Commission"), 18 C.F.R. §§ 385.211, 385.212 and 385.214 (2000), and the Commission's October 20, 2000 and October 24, 2000 Notices of Filing.

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2. The persons to whom correspondence, pleadings, and other papers in relation to this proceeding should be addressed and the persons whose names are to be placed on the Commission's official service list are designated as follows pursuant to Rule 203, 18 C.F.R. § 385.203 (2000):

Roger VanHoy
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It is requested that a copy of all pleadings, correspondence and testimony be sent to the following:

Scott Steffen, Esq.
Assistant General Counsel
Modesto Irrigation District
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II. DESCRIPTION OF THE PARTIES

3. MID is an irrigation district, organized and operated under the laws of the State of California, which undertakes both electric and irrigation operations. As

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regards its electric operations, MID owns and operates facilities for the generation, transmission, distribution, purchase and sale of electric power and energy at wholesale and retail. MID's system is interconnected with Pacific Gas & Electric ("PG&E's") transmission system under the PG&E/MID Interconnection Agreement^{1/} ("IA"). Under the IA, MID has the right to purchase Reserved Transmission Service and other services, including Ancillary Services, from PG&E. The term of the PG&E/MID IA extends until April 1, 2008. MID is a Member of the Transmission Agency of Northern California ("TANC"). MID has a percentage share of TANC's Entitlement to capacity on the California-Oregon Transmission Project ("COTP") and an allocation of TANC's Entitlement of transmission service on the PG&E transmission system under the South of Tesla Principles ("SOTP").^{2/} MID is also a Member of M-S-R Public Power Agency ("M-S-R"), a California joint powers agency.

4. Each of the Avista Corporation, Idaho Power Company, Montana Power Company, Nevada Power Company, PacifiCorp, Portland General Electric Company, Puget Sound Energy, Inc., and Sierra Pacific Power Company (with the Bonneville Power Administration ("BPA"), collectively "Applicants") is a corporation which owns and operates facilities for the generation, transmission, purchase and sale of electric power and energy in interstate commerce and is a "public utility" as that term is defined in Section 201 of the FPA, 16 U.S.C. § 824(e) (1994), and is subject to the jurisdiction of the Commission. BPA is a power marketing administration of the United

^{1/} The MID-PG&E IA is on file with this Commission as Rate Schedule FERC No. 116.

^{2/} PG&E FERC Rate Schedule No. 143.

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States Department of Energy and is not subject to the jurisdiction of the Commission under Part II of the FPA.

III. **BACKGROUND AND MOTION TO INTERVENE**

5. On October 16, 2000, the Applicants filed an "Alternative Filing Pursuant to Order No. 2000," ("Alternative Filing") wherein the Applicants stated that they would submit a complete filing on October 23, 2000.

6. On October 23, 2000, the Applicants filed a "Supplemental Compliance Filing and Request for Declaratory Order Pursuant to Order 2000" ("Supplemental Compliance Filing") wherein the Applicants submitted their proposal to form a regional transmission organization ("RTO") to be known as "RTO West." RTO West proposes to operate as an RTO in all or a portion of the states of Washington, Oregon, Idaho, Montana, Nevada and California. The Applicants' submittal seeks a declaratory order respecting certain aspects of its Compliance Filing. See Applicants' Supplemental Compliance Filing at 1-10.

7. On October 20, 2000, the Commission issued its Notice of Filing as to the Alternative Filing in the above-captioned Docket, establishing November 20, 2000, as the date on which motions to intervene and protests are due. On October 24, 2000, the Commission issued its Notice of Filing as to the Supplemental Compliance Filing in the above-captioned docket, establishing November 20, 2000, as the date on which motions to intervene and protests are due. MID's Motion is timely filed in accordance with those Notices.

8. MID may purchase and/or sell power in the geographic regions encompassed by RTO West. Additionally, RTO West shares an interface with the control

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area of the California Independent System Operator Corporation within which MID currently operates. MID thus has an interest in this proceeding.

9. For these reasons, MID's participation in this proceeding is necessary and appropriate to the administration of the FPA, and will be in the public interest. MID's interests will be directly affected by the outcome of this proceeding and will not be adequately represented by any other party. MID, therefore, requests that the Commission grant its intervention and its status as a party to this proceeding for all purposes.

IV. **PROTEST**

10. MID adopts the position of M-S-R as reflected in its Protest submitted in this proceeding. That Protest urges that any action the Commission may take on the Applicants' request for declaratory order be limited to a preliminary and non-final basis.

11. Further, MID wishes to point out that the Commission and Commission Staff are proceeding with their investigations of matters concerning the California electricity markets under an analytical framework that addresses the problems of the bulk electricity markets of the West as a whole. In its November 1, 2000, Order,^{3/} the Commission noted that "California is physically integrated into an extensive interstate transmission grid and has therefore been part of a western electricity market for a long time."^{4/} The Commission explained that a substantial factor contributing to the current

^{3/} San Diego Gas & Elec. Co. v. Sellers of Energy and Ancillary Services Into Markets Operated by the California Independent System Operator and the California Power Exchange, Docket Nos. EL00-95-000, EL00-98-000, EL00-107-000, ER00-3461-000, ER00-3673-000 (consolidated), 93 FERC ¶ 61,121 (2000) ("November 1 Order").

^{4/} Id., slip op. at 35.

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troubles in the California electricity markets has been the view that California operates as a separate marketplace, isolated from other areas of the West: "The problems being confronted in California can, in many ways, be traced to the continued balkanization of the Western grid and the absence of a true RTO with regional scope."²

12. The Commission Staff Report⁴ accompanying the November 1 Order similarly listed the risks of analyzing the California markets in isolation from other parts of the West. Commission Staff identified one of the drawbacks of applying price caps to only California: "Applying price caps just to California could balkanize the western wholesale market and cause power to be exported from California to other states without a cap, causing continued shortages and high prices in California."⁷ Commission Staff also noted as one of the drawbacks to its proposal to require all in-California thermal generation capacity to bid into the California forward markets that out-of-state generation would be treated differently, having the effect of balkanizing the wholesale market.⁸ Thus, given that the Applicants' proposal affects a large portion of the Western United States, MID requests that the Commission analyze the Western electricity markets as substantially integrated whole.

² Id.

⁴ Staff Report to the Federal Energy Regulatory Commission on Western Markets and the Causes of the Summer 2000 Price Abnormalities, Part I of Staff Report on U.S. Bulk Power Markets, Nov. 1, 2000 ("Staff Report").

⁷ Staff Report at 6-13.

⁸ Id. at 6-8.

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V. RESERVATION OF RIGHTS

13. MID reserves the right to posit and address any additional issues which they or others may identify or raise herein which are developed before or after discovery or during the course of any hearing which may be conducted in this proceeding.

VI. CONCLUSION

WHEREFORE, for the foregoing reasons, MID respectfully requests that the Commission grant the following relief:

1. Grant MID's Motion to Intervene and order that MID be allowed to participate fully as a party to these proceedings;
2. Undertake any action on the Applicants' request for declaratory order on a preliminary and non-final basis, as reflected in the Protest submitted by M-S-R in this proceeding;
3. Acknowledge in an order addressing the Applicants' Alternative Filing and Supplemental Compliance Filing that the Commission is reviewing the Applicants' Alternative Filing and Supplemental Compliance Filing under the analytical framework of one Western market, and

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4. Grant such other relief as the Commission may deem necessary and appropriate.

Dated: November 20, 2000

Respectfully submitted,



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Attorneys for the
Modesto Irrigation District

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding by U.S. mail. Dated at Washington, D.C., this 20th day of November, 2000.



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