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PUBLIC UTILITIES COMMISSION OF NEVADA

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January 16, 2001

VIA HAND DELIVERY

The Honorable David P. Boergers  
Secretary  
Federal Energy Regulatory Commission  
888 First Street, N.E.  
Washington, DC 20426

Re: Docket No. RT01-35-000

Dear Mr. Boergers:

Enclosed for filing in the above-referenced proceeding is an original and fourteen copies of the "Comments Of The Public Utilities Commission Of Nevada." Also enclosed are two additional copies of the filing which we ask that you stamp and give to the messenger for return to our office.

Thank you for your cooperation.

Sincerely,

*Jeff E. Parker / by KAS*

Jeff E. Parker  
Attorney for the  
Public Utilities Commission of Nevada

Enclosures

cc: Service List

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*AS*  
FROM DOCKETING  
JAN 16 2001

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REGULATORY COMMISSION

UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION

Avista Corporation,	)	
Bonneville Power Administration,	)	
Idaho Power Company	)	Docket Nos. RT01-35-000
The Montana Power Company,	)	
Nevada Power Company,	)	
PacifiCorp,	)	
Portland General Electric Company,	)	
Puget Sound Energy, Inc, and	)	
Sierra Pacific Power Company.	)	

COMMENTS OF THE  
PUBLIC UTILITIES COMMISSION OF NEVADA

Pursuant to Rule 212 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission ("Commission" or "FERC"), 18 C.F.R. § 385.212 (2000), the Public Utilities Commission of Nevada ("PUCN") hereby files Comments in the above-captioned proceeding.

I. INTRODUCTION AND BACKGROUND

On December 15, 2000, the Commission issued a notice regarding an "Amended Supplemental Compliance Filing and Request for Declaratory Order Pursuant to Order 2000" ("Amended Supplemental Compliance Filing") that was filed by Avista Corporation, the Bonneville Power Administration, Idaho Power Company, the Montana Power Company, PacifiCorp, and Puget Sound Energy, Inc. (collectively, the "Concurring Utilities") on December 1, 2000 in Docket No. RT01-35-000. FERC's

notice indicated that the filing amends the "Supplemental Compliance Filing and Request for Declaratory Order Pursuant to Order 2000" that was submitted by the Concurring Utilities, along with Sierra Pacific Power Company ("Sierra Pacific"), Nevada Power Company ("Nevada Power"), and Portland General Electric Company ("PGE")<sup>1</sup> on October 23, 2000 ("October 23 Compliance Filing") regarding their proposal for the formation of a Regional Transmission Organization ("RTO"), "RTO West." The filing includes amended versions of the Form of Transmission Operating Agreement and Form of Agreement to Suspend Provisions of Pre-Existing Transmission Agreements, which were submitted with the October 23 Compliance Filing. The notice further indicated that all motions to intervene and protests should be filed in this proceeding by January 16, 2001.

On November 20, 2000, the PUCN filed a Notice of Intervention and Comments in Docket No. RT01-35-000 pursuant to Rules 214(a)(2) and 212 of the Commission's Rules of Practice and Procedure. The PUCN notes that in addition to the Concurring Utilities December 1 filing, Sierra Pacific and Nevada Power filed Comments in this docket with the Commission on November 20. Also, since they did not join the Concurring Utilities immediate filing, Sierra Pacific, Nevada Power, and PGE filed a separate supplemental filing in this proceeding on December 1. The three filings are described briefly below. Because the PUCN is already a party to this proceeding, the PUCN now files additional comments in this docket.

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<sup>1</sup> Collectively, the Concurring Utilities, Sierra Pacific, Nevada Power, and PGE are the "RTO Applicants."

***Concurring Utilities' Amended Supplemental Compliance Filing***

In their December 1 filing, the Concurring Utilities state that the documents submitted in the October 23 Compliance Filing were a "Stage 1" filing.<sup>2</sup> The "Stage 2" filing, which will include the remaining materials and information needed to complete the RTO West proposal, will be filed with FERC in the Spring of 2001. The Concurring Utilities explain that the form agreements now before FERC may need to be revised in order to conform to the documents that will be filed in Stage 2 of this docket.<sup>3</sup> The Concurring Utilities request that FERC review the filed agreements and provide preliminary guidance regarding the acceptability of the concepts and specific provisions contained in the form agreements.<sup>4</sup>

***Sierra Pacific's and Nevada Power's Clarifying Comments***

On November 20, Sierra Pacific and Nevada Power filed Comments with the Commission ("Clarifying Comments") in which the Companies outline the following two conditions that they have placed on their participation in RTO West: (1) some method for mitigating anticipated cost shifts; and (2) elimination of the transfer payment obligation on any of the RTO Applicants that ultimately decide to join another RTO instead of RTO West.<sup>5</sup>

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<sup>2</sup> Concurring Utilities' Amended Supplemental Compliance Filing at 2.

<sup>3</sup> Id.

<sup>4</sup> Id. at 4.

<sup>5</sup> Clarifying Comments at 2.

***Sierra Pacific/Nevada Power/PGE Amended Supplemental Compliance Filing***

In their December 1 Amended Supplemental Compliance filing, Sierra Pacific, Nevada Power, and PGE explain their concerns with cost-shifting as a result of the proposed RTO West's lack of an export fee and request that FERC direct the RTO Applicants to consider a financial modeling of export fees.<sup>6</sup>

**II. EXPORT FEES**

As filed, the RTO West proposal (1) does not impose charges for exports out of the RTO West region and (2) excludes the foregone long-term wheeling and long-term firm point-to-point transmission service revenues from the transfer charge component of a participating utility's transmission rate.<sup>7</sup>

The elimination of an export fee would detrimentally affect Sierra Pacific's and Nevada Power's customers located within the State of Nevada. The elimination of export fees precludes the collection of revenues associated with the above-referenced services which have traditionally been used to reduce the overall cost of transmission service charged to the loads of Sierra Pacific and Nevada Power, of which an excess of 90% are Nevada customers.

Currently, Sierra Pacific and Nevada Power have outstanding requests for "12,000 MW of long-term firm point-to-point service from Nevada to California to serve

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<sup>6</sup> Sierra Pacific/Nevada Power/PGE Amended Supplemental Compliance Filing at 7.

<sup>7</sup> The transfer charge rate component is designed to recover both RTO West's operating costs and lost revenues associated with the elimination of short-term wheeling and short-term firm transmission service.

proposed new generation projects that wish to sell into the California market.<sup>8</sup> To the extent that the cost of new facilities built to provide these services are not collected from the transmission customer (e.g., contribution in aid of construction), the ramifications from the elimination of the export fee and the transfer charge exclusion is intensified. If the Companies do not collect the cost of the facilities to provide this service, the majority of the remaining costs would be recovered from its Nevada load.<sup>9</sup>

As set forth in their November 20 Clarifying Comments, Sierra Pacific and Nevada Power have limited sales outside the proposed RTO West region.<sup>10</sup> Also, the Companies state that they will have divested their generation in 2001 – prior to the anticipated RTO West operational date.<sup>11</sup> Consequently, unlike the Concurring Utilities, Sierra Pacific and Nevada Power will not be compensated for the loss of export fees via the potential merchant function savings on transmission costs associated with the delivery of energy to entities located outside the RTO West region such as deliveries to the California market.<sup>12</sup>

While the PUCN understands that the lack of an export fee could encourage the development of generation in the RTO West, the costs of providing such an incentive

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<sup>8</sup> Clarifying Comments at 5.

<sup>9</sup> According to Clarifying Comments, the Companies believe it is unlikely that all of the proposed generation capacity will be built. Id. at 5.

<sup>10</sup> Id. at 4.

<sup>11</sup> Id.

<sup>12</sup> Id.

should not be borne primarily by Nevada ratepayers. Moreover, there is no guarantee that Nevada consumers would benefit directly from the additional generation.

Recovery of lost revenue associated with the lack of an export fee is detrimental to a participating utility's native load customer as it shifts the cost for the export service from the exporting entity to the utility's native load. Like Sierra Pacific and Nevada Power, the PUCN is concerned that the elimination of export fees for deliveries to an area outside the scope of RTO West would create a significant detrimental cost shift to the Companies and their native load in the form of lost revenues. As noted previously, over 90% of Sierra Pacific's and Nevada Power's load is located within the State of Nevada. Nevada consumers, then, would bear a substantial portion of any cost shift associated with lost revenues in the form of higher costs for transmission service than would otherwise be expected.

### **III. FINANCIAL MODELING REQUEST**

In their December 1 Amended Supplemental Compliance filing, Sierra Pacific, Nevada Power, and PGE ask for a financial modeling of export fees. Specifically, the Companies request that FERC direct the RTO West participating utilities "... to include in their financial modeling of transfers charges analyses of export fees so that the effect of such fees can be fully understood during the development of the Stage 2 filing."<sup>13</sup> With a financial modeling of export fees, the RTO West Applicants will be able to assess the impacts of imposing or eliminating the export fees.

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<sup>13</sup> Sierra Pacific/Nevada Power/PGE Amended Supplemental Compliance Filing at 7.

However, the Concurring Utilities oppose this financial modeling request and have requested that the Commission disallow it. Instead, the Concurring Utilities state that they are "prepared to work together, along with Sierra, Nevada Power, and PGE, to negotiate Transfer Charges and allocations of Firm Transmission Rights that will make the RTO West pricing proposal work. If these negotiations fail to reach satisfactory resolutions, then the Concurring Utilities would be prepared to consider alternatives, including export charges, if necessary to address particular problems."<sup>14</sup>

It is the PUCN's understanding that to date, the participating utilities have been unable to reach an agreement on this issue. The PUCN believes that the request made by Sierra Pacific, Nevada Power, and PGE for financial modeling of export fees is a reasonable one as it is difficult to understand how negotiations could occur without knowledge of the probable financial impact. The PUCN therefore joins Sierra Pacific, Nevada Power, and PGE in asking that FERC require financial modeling of export fees. The resulting information will be particularly important as parties to this proceeding assess the anticipated Stage 2 filing.

#### **IV. DISTRIBUTION CLASSIFICATION**

As set forth in the Concurring Utilities' December 1 Amended Supplemental Compliance filing, RTO West's "controlled transmission facilities" are defined as:

[A]ll Transmission Facilities that have a material impact on (1) Total Transfer Capability of a Flow Path, (2) the ability to transfer electric power and energy

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<sup>14</sup> Concurring Utilities' Amended Supplemental Compliance Filing at 5.

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within a Congestion Zone or (3) the ability to transfer electric power between RTO West and adjacent Control Areas.<sup>15</sup>

The PUCN notes that under certain circumstances, facilities classified as distribution by a state or federal order may meet RTO West's "controlled transmission facilities" definition. In such instances, the distribution utility must coordinate its planning process with that of RTO West and be willing to make necessary upgrades, assuming appropriate cost sharing arrangement can be reached, to maintain the transmission system capacity or make system improvements to increase transmission capacity.

The RTO West Transmission Operating Agreement is unclear as to the effect of non-compliance by the distribution utility with the Agreement's criteria. However, it appears that regardless of any existing state or federal order, control of the distribution facilities will likely be shifted to the RTO West.

As currently drafted, this distribution facilities provision has been identified to only apply to Puget Sound Energy.<sup>16</sup> In order to mitigate potential future application to the State of Nevada without this Commission's input, the PUCN requests clarification that this provision is, in fact, only applicable to Puget Sound Energy. In the alternative, the PUCN asks that, prior to the application of this provision to another participating entity, the RTO West be directed to consult with the appropriate state commission.

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<sup>15</sup> Id. at p. 10 of Exhibit A to Attachment A.

<sup>16</sup> Id. at Attachment A § 5.1.2.1.

**WHEREFORE**, the PUCN requests that FERC take notice of the PUCN's Comments  
in this proceeding.

Respectfully submitted,

Jeff E. Parker / by KAD

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General Counsel  
David Noble, Esq.  
Office of the General Counsel  
Public Utilities Commission of Nevada  
1150 East William Street  
Carson City, NV 89701

Attorneys for the  
Public Utilities Commission of Nevada

January 16, 2001

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**CERTIFICATE OF SERVICE**

I hereby certify that on this 16th day of January 2001, I have served these "Comments of the Public Utilities Commission of Nevada" upon each person designated on the official service list for this proceeding compiled by the Secretary of the Federal Energy Regulatory Commission.

Jeff E. Parker / by KAD  
Jeff E. Parker