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**E-FILING**

December 7, 2001

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

Re: Avista Corporation, *et.al.*  
FERC Docket No. RT01-15-000, *et. al.*

Dear Mr. Boergers:

Enclosed for filing please find Portland General Electric Company, Nevada Power Company, Sierra Pacific Power Company and The Montana Power Company's Comments On Wholesale Market Activities in FERC Docket Nos. RT01-15-000, RT01-35-000, RT01-85-000, RT02-1-000, and EL02-9-000. Hard copies will be served on all parties on the official service list in these proceedings.

Thank you for your assistance.

Sincerely,

Denise Saunders s/

V. Denise Saunders, P.C.

VDS:bg

cc: Service List

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

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

Avista Corporation	)	Docket No.	RT01-35-000
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	)		

California Independent System Operator Corp.	)	Docket No.	RT01-85-000
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Arizona Public Service Company	)	Docket Nos.	RT02-1-000
El Paso Electric Company	)		EL02-9-000
Public Service Company of New Mexico	)		
Tucson Electric Power Company	)		
WestConnect RTO, LLC	)		

**COMMENTS ON WHOLESALE MARKET ACTIVITIES SUBMITTED BY  
PORTLAND GENERAL ELECTRIC COMPANY,  
NEVADA POWER COMPANY, SIERRA PACIFIC POWER COMPANY,  
THE MONTANA POWER COMPANY**

Portland General Electric Company (“PGE”), Nevada Power Company (“Nevada Power”), Sierra Pacific Power Company (“Sierra Pacific”), The Montana Power Company (“Montana Power”) are filing these comments in response to the Commission’s Notice Inviting Comments on Wholesale Market Activities dated November 20, 2001 (the “November 20 Notice”). PGE, Nevada Power, Sierra Pacific and Montana Power

are transmission owners and Filing Utilities in the proposed formation of a regional transmission organization in the Pacific Northwest (“RTO West”).<sup>1</sup> In addition, PGE, Nevada Power, Sierra Pacific and Montana Power and one other RTO West filing utility<sup>2</sup> have proposed to form an independent transmission company, TransConnect, LLC, that would operate within an RTO in the Western United States.<sup>3</sup>

The Commission has requested comments on how eight specified wholesale activities should be apportioned among separate organizations within an RTO region. As explained further below, PGE, Nevada Power, Sierra Pacific and Montana Power believe that market monitoring activities should be performed by an organization that is independent of RTOs and other market participants. It is PGE, Nevada Power, Sierra Pacific and Montana Power’s belief that all of the other activities listed in the November 20 Notice can be performed by an RTO.

**I.  
Market Monitoring Should be Performed by  
an Organization that is Independent of RTOs**

PGE, Nevada Power, Sierra Pacific and Montana Power believe that in order to effectively monitor and prevent market power abuses and market design flaws, the market monitoring function must be performed by an organization that is independent both of RTOs and market participants. This is a position supported by the majority of participants in the FERC Electricity Market Design and Infrastructure workshop held in October of this year.<sup>4</sup> We believe that the evaluation of the structure of power markets and the policing of market power lies outside the RTO’s province as the operator of a

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<sup>1</sup> See *Avista Corporation, et. al.*, Docket No. RT01-35-000

<sup>2</sup> Avista Corporation

<sup>3</sup> See *Avista Corporation, et. al.*, Docket No. RT01-15-000

<sup>4</sup> See, *Staff Summary of Discussions*, Docket No. RM01-12-000, p. 16.

transmission system. In addition, since part of the market monitoring function is anticipated to include monitoring the performance of the RTO, it is not appropriate or effective to put an RTO in the position of monitoring itself.

PGE, Nevada Power, Sierra Pacific and Montana Power do not agree with those who suggest that market monitoring could be performed by a non-profit RTO. A non-profit RTO is in no better position to objectively monitor its own performance than is a for-profit RTO. In addition, to the extent a non-profit RTO participates in the market as a buyer and seller of ancillary services, it has the same incentive to protect its asset and investment interests, as does a for-profit RTO. Finally, if the market monitor is given enforcement authority then the exercise of such enforcement authority could raise conflict of interest concerns if performed by either a non-profit or for-profit RTO. For these reasons, the market monitoring function should be provided by an organization that is independent of the RTO.

It is important that the independence of the market monitor exist both in terms of governance and financing. If a market monitor has any requirement to report to an RTO Board or if the market monitor is financed by the RTO, then its independence and objectivity may be questioned. To be truly effective, the market monitor should be governed by a Board that is independent of the RTO and market participants. It should also be financed in an objective manner – perhaps by the imposition of a fee on all power transactions.

PGE, Nevada Power, Sierra Pacific and Montana Power suggest that it would be most effective both in terms of cost and performance for each of the four regions identified by FERC to have one independent market monitoring organization. This is

particularly true in those regions, such as the West, where there may be more than one RTO providing services over one interconnection.

A majority of the participants at the FERC Workshops stated that market monitoring units should be able to share information directly and freely with the Commission and State Commissions and not be subject to ex parte restrictions.<sup>5</sup> We agree and would, in fact, go even further and support the concept of the market monitor being a function of FERC. At the very least, we believe that this is an area in which FERC, in coordination with the State Commissions and other federal authorities, should continue to play a strong oversight role.

## **II. Other Wholesale Market Activities Should be Provided by RTOs**

If an independent market monitoring organization is in place, then all of the other activities referenced in the Commission's November 20 Notice should be provided by an RTO. In order for an RTO to provide transmission services in a manner that is both efficient and cost effective, it is essential that it have primary responsibility for all of the activities except market monitoring. This is true whether the RTO is for-profit or non-profit. Some have noted that a for-profit entity may have the right incentives to invest in

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congestion-relieving infrastructure.<sup>6</sup> Similarly, we believe that it is possible to structure an efficient planning structure within a non-profit RTO and we note that TransConnect (a for-profit ITC) has proposed to share the planning and expansion activities with RTO West (a non-profit RTO) or another RTO within which it operates.<sup>7</sup> What is important is

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<sup>5</sup> *Id.*

<sup>6</sup> *Id.* at p.6.

<sup>7</sup> *Application of TransConnect, LLC*, Docket RT01-15 at p.22 (11/13/01).

that planning and expansion and the other activities referenced in the November 20 Notice (except market monitoring) should be the responsibility of the RTO, and not some other organization.

### **III. Conclusion**

In conclusion, PGE, Nevada Power, Sierra Pacific and Montana Power believe that market monitoring activities should be performed by an organization that is independent of an RTO, regardless of whether an RTO is for-profit or non-profit. All other activities identified in the Commission's November 20 Notice should be performed by an RTO.

Respectfully Submitted,

PORTLAND GENERAL ELECTRIC  
COMPANY

NEVADA POWER COMPANY  
and SIERRA PACIFIC POWER

By Stephen R. Hawke  
Stephen R. Hawke  
Vice President Delivery System Planning  
& Engineering

By Gary Porter  
Gary Porter  
Executive Director Transmission

THE MONTANA POWER COMPANY

By Ted Williams  
Ted Williams  
Director Transmission Marketing

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## CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Portland General Electric Company, Nevada Power Company, Sierra Pacific Power Company and The Montana Power Company's Comments On Wholesale Market Activities filed in FERC Docket Nos. RT01-15-000, RT01-35-000, RT01-85-000, RT02-1-000, and EL02-9-000, have been served on all parties indicated on the official service list for this docket. Service was effected by placing copies in properly addressed sealed envelopes and depositing the envelopes in the United States Mail with first-class postage prepaid.

Dated this 7<sup>th</sup> day of December, 2001.

**Denise Saunders** \_\_\_\_\_

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