

Preliminary Draft – March 1, 2002 FERC Filing Letter

This preliminary draft represents the proposed filing letter developed by the filing utilities for inclusion in their planned March 1, 2002 filing to FERC. It is a work in progress and is subject to change. The filing utilities are releasing this draft to provide an opportunity for stakeholder review and comment. Interested stakeholders may provide comments and input on this draft at the RRG meetings scheduled for February 11 and 12 or in writing. Comments in writing should be sent via email by February 15 at the latest to Bud Krogh at ekrogh@serv.net and Chris Elliott at christowest@earthlink.net.

Preliminary Draft – March 1, 2002 FERC Filing

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

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

Docket No. RT01-35- ____

**STAGE 2 FILING AND
REQUEST FOR DECLARATORY ORDER
PURSUANT TO ORDER 2000**

A. Introduction

In compliance with Order 2000,¹ and pursuant to Rule 207(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.207(a)(2) (2000), the undersigned parties² (referred to in this filing as the "filing utilities") submit this Stage 2

¹ *Regional Transmission Organizations*, Order No. 2000, 65 Fed. Reg. 809 (Jan. 6, 2000), FERC Stats. & Regs. ¶ 31,089 (1999), *order on reh'g*, Order No. 2000-A, 65 Fed. Reg. 12,088 (Mar. 8, 2000), FERC Stats. & Regs. ¶ 31,092 (2000), *aff'd sub nom. Pub. Util. Dist. No. 1 of Snohomish Cty., WA v. FERC*, Nos. 00-1174, et al. (D.C. Cir. 2001).

² The parties participating in this filing are: Avista Corporation ("Avista"), Bonneville Power Administration ("Bonneville"), Idaho Power Company ("Idaho Power"), the Montana Power Company ("Montana Power"), Nevada Power Company ("Nevada Power"), PacifiCorp, Portland General Electric

Filing and Request for Declaratory Order Pursuant to Order 2000. This filing is intended to provide all remaining information necessary for the Federal Energy Regulatory Commission (the “Commission”) to issue a declaratory order concerning the filing utilities’ proposal to form a regional transmission organization known as “RTO West.”

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B. Executive Summary

[To be developed after body of filing letter is mostly complete.]

C. Nature of Filing

1. Procedural Background

The filing utilities have submitted a number of filings to the Commission in Docket No. RT01-35. “Stage 1” of the filing utilities’ proposal consisted of three filings. On October 16, 2000, the filing utilities submitted an Alternative Filing Pursuant to Order No. 2000. On October 23, 2000, the filing utilities submitted a Supplemental Compliance Filing and Request for Declaratory Order Pursuant to Order 2000 (the “October 23, 2000 Filing”). On December 1, 2000, subsets of the filing utilities separately filed a Concurring Utilities’ Amended Supplemental Compliance Filing and Request for Declaratory Order Pursuant to Order 2000³ and an Amended Supplemental Compliance Filing and Request for Declaratory Order Pursuant to Order 2000.⁴ Together, the foregoing filings (referred to collectively in this filing as the “Stage 1 RTO West Proposal Filings”) made up the initial stage (Stage 1) of the filing utilities’ work to develop a proposal that would comply with the requirements of Order 2000.

On April 26, 2001, the Commission issued an order granting, with modification, the filing utilities’ requests for declaratory orders submitted in the Stage 1 RTO West

³ This filing was submitted by Avista, Bonneville, Idaho Power, Montana Power, PacifiCorp, and Puget.

⁴ This filing was submitted by PGE, Nevada Power, and Sierra Pacific.

Proposal Filings. Order Granting, With Modification, RTO West Petition for Declaratory Order and Granting TransConnect Petition for Declaratory Order, 95 FERC ¶ 61,114 (2001) (the “April 26, 2001 Order”). The April 26, 2001 Order included the Commission’s determination that, subject to minor modifications to the RTO West proposed Bylaws and Transmission Operating Agreement, the Stage 1 proposal elements for RTO West satisfied Order 2000’s required characteristics of independence and scope and regional configuration. 95 FERC at 61,328

The April 26, 2001 Order also addressed a proposal by several of the filing utilities to form TransConnect, LLC and TransConnect Corporate Manager, Inc. (“TransConnect”), an independent transmission company that would own or manage transmission assets. The April 26, 2001 Order found that with minor modifications to its governance, TransConnect would be independent and could share certain functions with RTO West, subject to more detailed proposals concerning that sharing.⁵ *Id.* at 61,338-39, 61,341.

Following the April 26, 2001 Order, numerous parties, including some of the filing utilities, submitted various requests for rehearing and clarification. On May 29, 2001, all of the filing utilities submitted a Petition for Rehearing and Clarification. Also on May 29, 2001, PacifiCorp and Idaho Power submitted a separate Petition for Rehearing and Clarification of the Commission’s Directive Concerning Incentive-Based Rate Recovery on Behalf of Idaho Power Company and PacifiCorp.

⁵ On November 13, 2001, TransConnect made a filing with the Commission in Docket Nos. RT01-15-002 and ER02-323-000 that included, among other things, proposed innovative and incentive rate treatments, and a *pro forma* planning protocol. That filing was protested and is currently pending before the Commission.

On July 12, 2001, the Commission issued another order in Docket No. RT01-35 in response to requests for rehearing and clarification of its April 26, 2001 Order. Order Granting Rehearing in Part and Granting Clarification, in Part, 96 FERC ¶ 61,058 (2001) (the “July 12, 2001 Order”).

The filing utilities made two filings in response to the portions of the Commission’s July 12, 2001 Order addressing their Stage 1 liability proposal: the RTO West Filing Utilities’ Response to July 12, 2001 Order (filed July 25, 2001) and a Motion for Clarification or, in the Alternative, Petition for Rehearing of the RTO West Filing Utilities (filed August 13, 2001).

On September 12, 2001, the Commission responded to the filing utilities’ July 25, 2001 and August 13, 2001 filings with an Order Granting Clarification of Prior Order, 96 FERC ¶ 61,265 (2001). This order clarified that it was premature to require the filing utilities to make a compliance filing in response to the July 12, 2001 Order.

On December 1, 2001, subsets of the filing utilities (together with British Columbia Hydro & Power Authority (“B.C.Hydro”), which joined the RTO West development effort as a filing utility on July 17, 2001) made two separate status report filings to the Commission, in accordance with the terms of the Commission’s April 26, 2001 and July 12, 2001 Orders. Avista, Bonneville, B.C. Hydro, Idaho Power, Montana Power, PacifiCorp, and Puget filed a Status Report Concerning RTO West Development. Nevada Power, PGE, and Sierra Pacific filed a Status Report Concerning the Framework for Formation of a West-Wide RTO and Resolution of Seams Issues. Various members

of the filing utilities also have responded to general Commission issuances by submitting comments filed under Docket No. RT01-35, among others.⁶

2. Sequence of Approvals Needed to Implement RTO West Proposal

With this Stage 2 filing, the filing utilities wish to enable the Commission to make a complete determination as to whether the RTO West proposal fulfills all of the characteristics and functions required for status as a regional transmission organization under Order 2000.

If the Commission approves the RTO West proposal as submitted in this filing (together with the elements of the RTO West proposal previously approved in the April 26, 2001 Order), the filing utilities' next step will be to seek approvals required under state laws and regulations. The filing utilities do not expect that necessary state authorizations will be granted until the Commission has approved the RTO West proposal. The filing utilities urge the Commission to consult with the state regulatory commissions in Idaho, Montana, Nevada, Oregon, Utah, Washington, and Wyoming in responding to this filing.

Once the Commission has given its approval, those filing utilities that must receive state commission approval will promptly pursue the necessary approvals.⁷ At the

⁶ See, e.g., Supplemental Comments of Avista Corporation, PacifiCorp, and Puget Sound Energy, Inc. on Wholesale Market Activities filed December 7, 2001 and Comments on Wholesale Market Activities Submitted by Portland General Electric Company, Sierra Pacific Power Company, Nevada Power Company, and the Montana Power Company filed December 7, 2001. These comments were filed in response to the Commission's Notice Inviting Comments on Wholesale Market Activities, Docket No. RM01-12 (November 20, 2001).

⁷ Nevada Power, PGE, and Sierra Pacific cannot commit to seek approval from their state commissions until they understand how the Commission's ruling on the Application of TransConnect, LLC for Preliminary Approval of Transmission Rates, Including Innovative Transmission Rate Treatment; Planning and Expansion Protocol; Compliance Filing; and Modified Governance Proposal (filed November 13, 2001) might affect their ability to participate in a regional transmission organization.

same time, Bonneville will seek any necessary authorizations from federal authorities, which may include some form of Congressional review. The filing utilities also intend to submit coordinated filings to amend their current open access transmission tariffs to provide that, after a specified date, all new transmission service will be subject to the right to convert to RTO West service when RTO West begins operation (at the election of either the transmission customer or the transmission provider). The filing utilities expect to submit these filings within 60 days after the Commission's order providing the declaration requested in this filing or the Commission's ruling on the Application of TransConnect, LLC for Preliminary Approval of Transmission Rates, Including Innovative Transmission Rate Treatment; Planning and Expansion Protocol; Compliance Filing; and Modified Governance Proposal (filed November 13, 2001), whichever is later.

If the state commissions from which a filing utility must seek approval for participation in RTO West provide the requested approvals (including but not limited to cost recovery and, as necessary, transfer of control), that filing utility will then begin to prepare any required Section 203 and 205 filings and seek any necessary final approvals from its board of directors.

State, federal, and board approvals may result in all or less than all of the filing utilities proceeding with implementation of RTO West.⁸ The filing utilities believe that Bonneville's participation is central to the viability of RTO West as a regional

⁸ Because of the potential unavailability of liability insurance for service outages and the complexity of exercising termination rights under the RTO West Transmission Operating Agreement (due in large part the congestion management model proposed for RTO West), Avista and possibly other filing utilities may not be able to proceed with RTO West if tariff or legislative limitations of RTO West liability are not adopted.

transmission organization.⁹ Once Bonneville's ability to participate is assured and the other filing utilities have obtained necessary board and governmental approvals, the filing utilities will each then execute (together in a simultaneous "closing" process) an RTO West Transmission Operating Agreement. The filing utilities' present intention is to proceed to implement RTO West so long as at least two additional filing utilities with transmission systems that are contiguous with Bonneville's have received the necessary approvals.

Upon execution of the RTO West Transmission Operating Agreement, those filing utilities that are required to file with the Commission under Sections 203 and 205 of the Federal Power Act will proceed with those filings. The filing utilities also intend to file with the Commission to modify their open access transmission tariffs to provide a one-time opportunity, before RTO West begins commercial operations, for transmission customers to exercise rollover rights with respect to their existing transmission service agreements. The tariff modifications will further provide that rollover rights that are not exercised during the one-time opportunity will be extinguished.¹⁰

With the Section 203 and 205 filing and approval process complete, RTO West will prepare for commercial operations [*as outlined in the implementation plan included as Attachment ___*].

⁹ The October 23, 2000 Filing describes in detail the unique considerations related to Bonneville's participation in RTO West, as well as the provisions in the RTO West Transmission Operating Agreement that have been included to facilitate Bonneville's participation. *See* October 23, 2000 Filing at 46-51.

¹⁰ The October 23, 2000 Filing explained the reasons for requiring a one-time election to exercise rollover rights provided under open access transmission tariffs. *See* October 23, 2000 Filing at 31-33.

3. Summary of Remaining Elements Necessary for Determining Eligibility for Regional Transmission Organization Status Under Order 2000 and Additional Proposal Elements Included in this Filing

As previously noted, the Commission already has issued an order finding that (subject to certain minor modifications), the proposed governance, scope, and regional configuration of RTO West satisfy the first and second characteristics required for regional transmission organizations under Order 2000. This filing therefore addresses the remaining two characteristics and all eight functions for which the RTO West proposal has not yet received a Commission order. The manner in which the RTO West proposal satisfies each of these remaining characteristics and functions is explained below in sections F and G.

In addition to the discussions and materials specific to each of Order 2000's required characteristics and functions, there are documents included in this filing that provide important foundational elements and context for the overall RTO West proposal. These documents include: (1) a revised RTO West Transmission Operating Agreement (the "Transmission Operating Agreement"); (2) a multilateral Insurance, Indemnification, and Limitation of Liability Agreement ("Liability Agreement");¹¹ (3) amended Bylaws for RTO West; (4) an informational draft of a proposed Scheduling Coordinator Agreement; (5) an informational draft of an Agreement to Use Paying Agent;¹² and (6) background for and description of the RTO West pricing model.

These materials are described in more detail in section E below.

¹¹ The Liability Agreement has been revised in accordance with the Commission's directives in its July 12, 2001 Order.

¹² The informational draft of the Agreement to Use Paying Agent is consistent with materials previously included with the October 23, 2000 Filing.

D. Description of Stage 2 Process

The basic elements of the collaborative public process through which the filing utilities have worked to develop the RTO West proposal are described in the October 23, 2000 Filing.¹³ During Stage 2, there has been an evolution of some of these elements as the urgency to prepare and submit a filing to the Commission has increased.

Initially, the vast majority of subject areas that could affect the RTO West proposal were carried out through public work groups (known as “content groups”) and the Regional Representatives Group process. In April 2001, the filing utilities concluded that it made little sense to work simultaneously on a wide range of subject areas when fundamental aspects of the pricing model and congestion management approach for RTO West remained unresolved. With this in view, the filing utilities suspended work in many content areas (such as components of a draft tariff for RTO West) that would more logically follow resolution of core proposal elements. Though still relying heavily on collaborative public meetings, the filing utilities intensified their development work with respect to pricing and congestion management issues, and shifted their emphasis to preparing “straw” proposals for broader stakeholder consideration, rather than attempting to develop approaches from whole cloth within the public meeting process.

In recent months, the filing utilities have dedicated themselves to bringing forward a complete proposal to the Commission by March 1, 2002. There has been significantly less development work in the public arena as the filing utilities shifted their focus from engaging in debate to making decisions. The filing utilities have directed

¹³ See October 23, 2001 Filing at 16-28.

virtually all their attention and resources to developing stable resolutions of the key proposal elements necessary to enable the Commission to determine that the RTO West proposal fulfills the requirements of Order 2000. During this period, as throughout the entire Stage 2 development, the filing utilities made earnest efforts to keep all interested parties apprised of their progress, to provide periodic opportunities for review and comment, and to consider and accommodate constructive comments where possible.

The resulting proposal submitted with this filing is one that the filing utilities believe will meet the needs of the region, the loads served by the transmission facilities to be included in RTO West, and other transmission customers that will use the RTO West system and services. It reflects the participation of a broad range of interested stakeholders and years of exploring many ideas for how best to accomplish the objectives articulated in Order 2000. It is informed by the significant contributions of stakeholders through written materials and input at Regional Representatives Group meetings and content group meetings, and outreach by individual filing utilities to interested parties.

The Stage 2 proposal for RTO West represents the filing utilities' judgment of what, taken in its entirety, constitutes their best proposal for a regional transmission organization that measures up against a number of yardsticks: the requirements of Order 2000; what will be compatible with the physical and operational characteristics of the facilities, loads, and resources within the RTO West service area; what will minimize cost shifts; and what the filing utilities believe will have the best chance of meeting state regulatory requirements and gaining Northwest Congressional Delegation support. These are particularly important in a region with low-cost electricity where some believe that there are limited benefits to formation of a regional transmission organization. This

proposal fulfills the requirements of Order 2000 in a manner that reasonably balances the goals of efficiency and equity, and honors the principles to which the filing utilities agreed at the beginning of Stage 1.¹⁴

E. Detailed Description of Filing Elements Summarized in Section C.3

1. Description of Revised Transmission Operating Agreement

The filing utilities have substantially revised the Transmission Operating Agreement from the draft submitted to the Commission on December 1, 2000 as part of the Concurring Utilities' Amended Supplemental Compliance Filing and Request for Declaratory Order Pursuant to Order 2000. Some revisions carry out Commission instructions from orders responding to Stage 1 RTO West Proposal Filings. The great majority of revisions, however, are necessary to conform the provisions of the Transmission Operating Agreement to the work that has been done during Stage 2. These include major changes to the RTO West congestion management proposal and the RTO West pricing model, further work on indemnification and limitations of liability among RTO West and its Participating Transmission Owners consistent with Commission directives, and refinements to the proposed approaches for RTO West market monitoring and planning and expansion.

A clean revised draft of the Transmission Operating Agreement is included in this filing as Attachment _____. In addition, Attachment ___ contains a summary of the key provisions of the Transmission Operating Agreement, as revised during Stage 2.

2. Description of Liability Agreement

In Stage 1, the filing utilities submitted a multiparty liability agreement entitled

¹⁴ See Attachment B to October 23, 2000 Filing, as corrected by December 1, 2000 Errata Filing.

“Agreement Limiting Liability Among RTO West Participants.” Participation in this agreement was then proposed to be required for all RTO West participants. In its July 12, 2001 Order, the Commission directed the filing utilities to revise the liability agreement, such that it would not operate to affect the rights and obligations of any parties other than RTO West and Participating Transmission Owners. Accordingly, the filing utilities have revised the agreement to set forth the business arrangement that the filing utilities are proposing for RTO West and the Participating Transmission Owners.

This could result in a set of rights and responsibilities for transmission owners that are different from those for generation or distribution entities. For this reason, the new proposed Liability Agreement is structured so that any generation or distribution entity that wishes, on a voluntary basis, to enter into the agreement with RTO West and Participating Transmission Owners may do so by signing the agreement.

Because there are currently no tariff limitations of liability such as those proposed by filing utilities in Stage 1 (which the Commission rejected),¹⁵ or those that are a part of the ERCOT tariff and agreement structure (which the Commission is considering in connection with its Rulemaking on Standardizing Generator Interconnection Agreements and Procedures, Docket No. RM02-1), the proposed Liability Agreement requires RTO West to maintain \$300 million of liability insurance and to have each party to the Liability Agreement named as an additional insured on that policy. The filing utilities do not yet have information concerning the cost and availability of this type of insurance.

The Liability Agreement also differs from the Stage 1 filing in that it contains a

¹⁵ The filing utilities continue to believe that this is a significant policy issue and hope that the Commission will reconsider its position in its upcoming Notice of Proposed Rulemaking on Electricity Market Design and Structure, Docket No. RM01-12.

reciprocal indemnity provision for service outage liability between RTO West and other parties to the agreement. This is contained in section 3 of the Liability Agreement and is appropriate in that the Liability Agreement is now mandatory only for RTO West and Participating Transmission Owners. In accordance with the Commission's directives, all references to the RTO West tariff continuity of service provisions have been removed.

3. Description of Amended RTO West Bylaws

The filing utilities have amended the Bylaws for RTO West to comply with the Commission's instructions in its April 26, 2001 Order. 95 FERC at 61,347. The amended Bylaws are included with this filing as Attachment __. The changes responding to the Commission's instructions (which are shown in redline)¹⁶ are in Article IV, section 4.3.1; Article V, section 5.3.2(b)(ii); and Article V, section 5.3.2(d)(ii).

The change to Article IV, section 4.3.1 gives the RTO West Board of Directors the power to waive or reduce, on a non-discriminatory basis, membership fees for legitimate public interest groups that wish to be members of RTO West. The change to Article V, section 5.3.2(b)(ii) eliminates the restriction on certain members of the Transmission-Dependent Utilities Class from voting along with their fellow class members in filling four of the Trustee Selection Committee positions allocated to that class. The change to Article V, section 5.3.2(d)(ii) provides that if there are no members of the Large Retail Customer Class acting as Scheduling Coordinators, all Trustee Selection Committee positions allocated to the Large Retail Customer Class may be elected by representatives of that class that are not Scheduling Coordinators.

¹⁶ The numbering of the Bylaws' sections within each Article has been revised to make it easier to "navigate" within the document. These changes in numbering (and the resulting changes to cross-references within the Bylaws) are not shown in redline because they are not substantive.

Although the Commission did not so direct in its April 26, 2001 Order, the filing utilities also have modified two of the RTO West Bylaws' definitions: the definition of "Affiliate" (in Article I, section 1.1.1) and the definition of "Major Transmitting Utility" (in Article I, section 1.1.23). These changes were made to better accommodate participation in RTO West by Canadian entities.

Following the Stage 1 RTO West Proposal Filings, the filing utilities and other interested stakeholders (participating together in an "RTO West Tariff Integration Group") worked to develop dispute resolution provisions for the RTO West tariff. The filing utilities believe there is significant stakeholder support for these dispute resolution provisions. The filing utilities also believe it is preferable to promote consistency among the provisions governing any disputes involving RTO West and its members or customers.

For these reasons, the filing utilities propose to delete the dispute resolution provisions included with the Bylaws for RTO West as filed on October 23, 2000 and replace them with those included with Attachment __.¹⁷ The substitution of these new dispute resolution provisions necessitated some minor conforming changes in other Bylaws provisions. These are shown in redline in Article V, sections 5.1.3, and 5.14.¹⁸

In addition, to strengthen provisions related to performance and financial accountability, the filing utilities have made minor amendments to Article VIII,

¹⁷ The new dispute resolution provisions are set forth in Exhibit C to the Bylaws. Because the new dispute resolution provisions replace the previous provisions in their entirety, the old text of Exhibit C has not been included. The new text of Exhibit C is shown in underline to flag the fact that there has been a change from the previous draft.

¹⁸ Article V, section 5.14 replaces language that was deleted from Article VII, section 7.5 of the Bylaws.

section 8.11.1, and Article IX, sections 9.2.3, 9.2.4, and 9.3. There are also a number of minor editorial changes throughout the Bylaws to improve style and consistency.

[Note to Draft - Add further text here if changes are made to the Bylaws to modify the Trustee election process, and describe the reason for the changes.]

4. Informational Draft of Proposed Scheduling Coordinator Agreement

At the urging of stakeholders who view the Scheduling Coordinator Agreement as a key document governing their interactions with RTO West, a draft proposed agreement has been included with this filing for informational purposes. See Attachment ____.

The main elements of the draft Scheduling Coordinator Agreement are its technical requirements and credit provisions. The technical requirements are necessary because of the operational duties scheduling coordinators must carry out during real-time dispatch. The credit requirements are essential both to protect the financial viability of RTO West and to limit the risk market participants and customers assume by doing business with RTO West. Because Scheduling Coordinators are the counter-parties to almost all financial and operational aspects of RTO West's activities, the failure of a Scheduling Coordinator can be catastrophic.

As recent events in California demonstrated, a Scheduling Coordinator's failure to deliver energy can leave the system operator with no option but to serve load from imbalance energy. This is problematic from both an operational reliability standpoint and in terms of its financial consequences. Under adverse market conditions, the cost for the system operator to purchase imbalance energy and congestion clearing can be extremely high. If a Scheduling Coordinator has accumulated large bills for imbalance energy and other services, and then fails to pay, RTO West will have to address the shortfall

somehow. Customers should not be subjected to substantial cost shifts in the wake of a Scheduling Coordinator failure.

These risks necessitate a thorough Scheduling Coordinator qualification process with robust credit screens. The attached informational draft Scheduling Coordinator Agreement attempts to strike a fair balance between that supports the legitimate need to protect RTO West, Scheduling Coordinators, and other market participants from unreasonable financial and operational exposure, while avoiding unnecessary obstacles to qualifying as a Scheduling Coordinator. Requirements for Scheduling Coordinators to provide collateral are tied to their “uncovered” positions – deliveries and payments they are obligated to make but for which they have not secured corresponding resources.

[Note to Draft: Need to conform to provisions of Scheduling Coordinator Agreement as drafted.]

Although the filing utilities believe that the technical and credit requirements proposed for Scheduling Coordinators are vitally important, they recognize that RTO West will have the power to review and change these requirements periodically. The attached informational draft Scheduling Coordinator Agreement should provide a reasonable starting point for further work in this area.

5. Informational Draft of Agreement to Use Paying Agent

As explained in the October 23, 2000 Filing, the filing utilities intend to use a paying agent mechanism to manage the receipt and allocation of transmission customers’ payments.¹⁹ The revised informational draft of an Agreement to Use Paying Agent has been updated to recognize the role that Scheduling Coordinators will play in carrying out

¹⁹ See pp. 48-49 and 86-87 and Attachments W and X to October 23, 2000 Filing.

transactions with RTO West. Otherwise the draft is generally consistent with the materials included with the October 23, 2000 Filing.

6. Description of Pricing Model

Designing a workable pricing model for the recovery of embedded system costs has been one of the most significant challenges of the RTO West development process. The filing utilities' efforts have focused on three central objectives in pricing RTO West's non-discriminatory open transmission access: (1) avoiding substantial price increases and cost shifting among loads; (2) eliminating pancaked rates for use of the RTO West transmission system; and (3) promoting economic efficiency by minimizing volumetric, transaction-based charges.

During Stage 1 and Stage 2, the filing utilities have, in conjunction with the RTO West collaborative process, considered and analyzed many different options for how best to design a proposal consistent with their key objectives.²⁰ None have proven to be perfect solutions. Each approach failed to fully achieve at least one important objective. This reflects the difficulty of developing new pricing methodology in an already low-cost region.

Two major factors have compounded this difficulty: the significant differences among the filing utilities with respect to their current costs of transmission service, and the large proportion of embedded system costs that are recovered through short-term and non-firm transmission service. Currently, there is a spread of several multiples between the highest and lowest transmission costs paid by different filing utilities' loads. This

²⁰ Many of the alternatives that were considered are described in general terms in Attachment ____.

means that a cost averaging approach would lead to substantial transmission cost increases for some parties. Furthermore, to the extent a new pricing methodology eliminates revenues from “pancaked” charges filing utilities receive for transmission service to each other and third parties (for long-term, short-term, and non-firm service), it creates the risk of substantial cost shifts among the loads served by the filing utilities.

Recovering revenues that are currently collected through short-term and non-firm use of the filing utilities’ transmission systems has proven to be the most formidable aspect of pricing development. In 2000, these uses accounted for almost 18% of the filing utilities’ total cost recovery for transmission facilities. It was this, in fact, that in large part caused the filing utilities’ to conclude, after submitting the Stage 1 RTO West Proposal Filings, that the Stage 1 pricing proposal was not workable.²¹

The proposal that the filing utilities have included with this filing is the approach that they believe strikes the most fair and workable balance among the options they have explored during Stage 2. A complete description of this proposal is set forth in section B of Attachment ___.

The key features of the pricing proposal are: (1) “Company Rates” for load service (consistent with the Stage 1 proposal); (2) payments for service under existing long-term transmission agreements (which become transfer payments if an agreement is converted to RTO West service); (3) a “Transmission Reservation Fee,” which is the mechanism that assures all users (including those that historically relied on short-term

²¹ The Stage 1 pricing proposal is described on pp. 34-41 of the October 23, 2000 Filing. In Stage 1, revenues the filing utilities received for transmission services to each other (long-term, short-term, and non-firm) were to be recovered through a system of transfer payments. While the Stage 2 pricing proposal still provides for transfer payments related to long-term transmission service, transfer payments were not an adequate mechanism for addressing short-term and non-firm revenues.

and non-firm service) are required to contribute to recovery of the embedded costs of the RTO West transmission system; and (4) a “Grid Management Charge,” which is the method by which RTO West will collect specified start-up and operating costs. The description of the Stage 2 pricing proposal also includes an initial approach for dealing with real power losses (described in section ___ of Attachment _).

The Transmission Reservation Fee is the aspect of the Stage 2 pricing proposal that is significantly different from what was proposed in Stage 1. The Transmission Reservation Fee applies to transmission service that is not covered by existing long-term transmission agreements or existing load service obligations. Users pay a fee for the right to schedule on the RTO West transmission grid. The Transmission Reservation Fee will not apply in cases where existing loads are using the same points on system as they do today. Those uses will contribute to embedded costs through the Company Rate, as is the case today. The Transmission Reservation Fee revenues are generally allocated among the filing utilities to recover revenues previously received through short-term and non-firm uses.²²

The filing utilities’ Stage 2 proposal attempts to ensure that all users of the RTO West transmission system pay a fair share of its embedded costs. It reduces the risk that embedded cost responsibility will shift from those who used short-term services in the past to loads and those whole relied on long-term service. Cost shifting among filing utilities’ loads could create significant obstacles to some filing utilities’ participation in

²² Revenues from Transmission Reservation Fees charged to new loads and some load growth are allocated first to the filing utility to whose system the load is interconnected.

RTO West, and might make the RTO West proposal less likely to meet state regulatory requirements.

The initial pricing proposal will endure for the Company Rate Period (defined in the Transmission Operation Agreement to end on December 14, 2011). After that, RTO West has the authority, subject to the terms of Order 2000 and other applicable laws and regulations, to propose whatever rate structure it determines will best meet the Commission's rules and regulations and the needs of the region. The Commission has previously approved transitional rate structures for regional transmission organizations that were necessary to resolve cost-shifting problems²³ and should do so with respect to the RTO West pricing proposal as well.

F. RTO West's Fulfillment of Four RTO Characteristics

1. Independence

In its April 26, 2001 Order, the Commission granted the filing utilities' request for a declaratory order finding that the proposed governance structure of RTO West satisfies the independence characteristic of a regional transmission organization as set forth in 18 C.F.R. § 35.34(j)(1).²⁴ The Commission granted this request subject to a requirement to modify certain provisions of the RTO West Bylaws and the RTO West Transmission Operation Agreement.²⁵

²³ See, e.g., Order on Compliance Filing and Providing Further Guidance, Denying Requests for Rehearing, and Rejecting and Alternative Governance Structure, Docket Nos. ER99-3144-003, et al., 94 FERC ¶ 61,070, issued January 24, 2001 (Alliance).

²⁴ 95 FERC at 61,347.

²⁵ *Id.*

As described in sections E.1 and E.3 above, the filing utilities have made the modifications to the Transmission Operating Agreement and the RTO West Bylaws as the Commission directed.

The Transmission Operating Agreement and Bylaws for RTO West as amended and included with this filing at Attachments ___ and ___ are consistent with a fully independent regional transmission organization. The Bylaws require that no RTO West Trustee or employee have a financial interest in any market participant (as that term is defined in 18 C.F.R. § 35.34(b)(2)). The RTO West decision making process is independent of control by any market participant or class of participants. With the exception of permitted filings for performance-based and incentive-oriented rates, RTO West also will have the independent and exclusive authority to propose, under Section 205 of the Federal Power Act, the rates, terms, and conditions of transmission service provided over the facilities it operates (consistent with its obligations under the RTO West Transmission Operating Agreement to provide agreed-upon cost recovery to Participating Transmission Owners).²⁶ The Commission should therefore confirm its determination, issued in its April 26, 2001 Order, that the proposed governance structure and authority of RTO West complies with the independence requirements of 18 C.F.R. § 35.34(j)(1).

²⁶ The transitional rate structure based on “Company Rates” as provided in the Transmission Operating Agreement is similar to other proposals designed to manage cost shifts that the Commission has approved. *See, e.g.*, Order on Compliance Filing and Providing Further Guidance, Denying Requests for Rehearing, and Rejecting and Alternative Governance Structure, Docket Nos. ER99-3144-003, et al., 94 FERC ¶ 61,070, issued January 24, 2001 (Alliance).

2. Scope and Regional Configuration

In its April 26, 2001 Order, the Commission found that the RTO West proposal satisfied the scope and regional configuration characteristic of a regional transmission organization under Order 2000.²⁷ The filing utilities do not propose to amend the approved regional scope and configuration of RTO West, but, as detailed in the Status Report Concerning RTO West Development (filed December 1, 2001 by Avista, Bonneville, B.C. Hydro, Idaho, Montana, PacifiCorp, and Puget), they been working with Canadian entities to develop the framework for seamless integration of wholesale transmission services in RTO West and in British Columbia and Alberta, Canada while respecting Canadian sovereignty and appropriate regulatory oversight of Canadian facilities.²⁸

a. Canadian Participation

Section 4 of the Transmission Operating Agreement includes a range of Canadian participation provisions that are designed to be flexible. They will enable RTO West to accommodate participation by B.C. Hydro and Alberta, as well as other Canadian transmission owners and operators, on a number of bases.

The province of British Columbia is currently studying the restructuring of the energy sector in British Columbia. Given this development, the basis upon which British Columbia may be able to participate in RTO West is undergoing review. The filing utilities are working actively with B.C. Hydro and Alberta to accommodate their

²⁷ 95 FERC at 61,328.

²⁸ Status Report Concerning RTO West Development at 5-8.

participation and expect to propose specific provisions when the necessary details have been worked out.

b. Facilities To Be Included in RTO West

RTO West will have the authority to provide transmission service across virtually all of the transmission facilities that are owned by the filing utilities.²⁹ Under the Transmission Operating Agreement, RTO West will have operational control over all Participating Transmission Owner transmission facilities that: (1) affect the transmission system's transfer capability; and (2) are necessary for RTO West to carry out its congestion management function.³⁰

In its April 26, 2001 Order, the Commission emphasized that "most or all of the transmission facilities in a region should be operated by the RTO, as well as those necessary for operational control and management of constrained paths, regardless of the voltage."³¹ 95 FERC at 61, _____. The facilities that the Transmission Operating Agreement requires to be included in RTO West satisfy this test. They constitute ____ % of all filing utilities' total transmission line miles.

Section 6.1.3 of the Transmission Operating Agreement also permits Participating Transmission Owners to turn over to RTO West, for purposes of transmission access and

²⁹ Various filing utilities have completed (or expect to complete before RTO West operations) state and federal filings on classification of transmission and distribution facilities. The facilities to be included in RTO West encompass the vast majority of those facilities that will, after the completion of these filings, be classified as transmission.

³⁰ See the definition of "RTO West Controlled Transmission Facilities" as set forth in Exhibit A to the Transmission Operating Agreement.

³¹ The Commission also noted that "[s]ome of these facilities may currently operate as higher voltage distribution lines while others may be a lower voltage radial line that is considered essential for wholesale transmission service." 95 FERC at 61, _____.

cost recovery, additional transmission facilities beyond to those for which inclusion is mandatory. RTO West will have the authority to provide transmission service across these facilities in accordance with the terms and rates of the RTO West tariff. A list of all transmission facilities that each filing utility intends to turn over to RTO West (both those that are required and those that are elective) is included as Attachment ___ to this filing. These combined facilities represent ___ % of all transmission line miles owned by the filing utilities.³²

In addition to its ability to provide transmission service over all of the transmission facilities that are identified in Attachment ___, RTO West will have the authority to provide service to any RTO West transmission customer across any part of a filing utility's electric system (including distribution facilities) that is used for wholesale deliveries that also cross RTO West transmission system.³³ This is intended to facilitate true "one-stop shopping" for transmission customers that use the RTO West transmission system, and in particular to allay concerns of those customers (such as customers served

³² Included in the transmission facilities are certain distribution facilities that serve dual functions. These distribution facilities are used primarily to provide retail load service, with a secondary purpose of providing, and supporting the provision of, wholesale services. Puget has distribution facilities that fall into this category because these facilities have been classified by the Washington Utilities and Transportation Commission as distribution. Despite this classification, these facilities have an effect on the total transmission capability of the RTO West system. Because of their effect, Puget recognizes RTO West's need to exercise limited operational control over them. RTO West will have limited operational control over these facilities and will be able to provide transmission service across them. These facilities will not be subject to RTO West tariff pricing or RTO West's ultimate authority with respect to planning and expansion (which otherwise applies to all facilities subject RTO West's operational control). They will, however, be subject to RTO West planning authority for reliability purposes. These certain distribution facilities are addressed in section 6.1.2.1 of the Transmission Operating Agreement.

³³ See section 6.5 of the Transmission Operating Agreement. Transmission service that extends beyond the boundaries of the RTO West transmission system will be subject to any lawfully imposed additional charges.

by General Transfer Agreements between Bonneville and other filing utilities) with wholesale loads or generators connected to filing utilities' distribution systems.

The transmission facilities identified in Attachment __ and the provisions of the Transmission Operating Agreement are consistent with the Commission's guidance in the April 26, 2001 Order and fully support appropriate scope and configuration for RTO West. The Commission should therefore confirm its determination, issued in its April 26, 2001 Order, that the proposed scope and regional configuration of RTO West comply with the scope and regional configuration requirements of 18 C.F.R. § 35.34(j)(2).

3. Operational Authority

The Transmission Operating Agreement gives RTO West operational authority and the right to provide transmission services over of all the facilities placed under its control.³⁴ Section 6.7.6 of the Transmission Operating Agreement requires RTO West to use all reasonable efforts to cause interconnected loads and generators to respond as needed in system emergencies and to incorporate into its tariff appropriate penalties and incentives to encourage compliance. The Transmission Operating Agreement also provides, at section 6.10, that RTO West will perform all security coordination functions (directly or by contract) related to its transmission system. As explained in the October 23, 2000 Filing, an independent non-profit corporation known as Pacific Northwest Security Coordinator ("PNSC") now provides security coordination services to most of the control areas that will be encompassed by RTO West.³⁵ In fact, PNSC is currently the security coordinator for every filing utility except Nevada Power. PNSC

³⁴ See Transmission Operating Agreement at sections 6.1.1, 6.4.1, and 6.6.

³⁵ October 23, 2000 Filing at 63-65.

also serves a number of additional control areas in the northwestern United States, as well as the control area within Alberta, Canada. Not all of these control areas are expected to be part of RTO West when RTO West begins commercial operations.

The control area operators PNSC now serves value the integration of security coordination across a broad, operationally coherent area. Enabling RTO West to work through PNSC to provide security coordination services will allow this integration to continue. This is the approach the filing utilities anticipate that RTO West will take, at least initially.

Through the provisions of the Transmission Operating Agreement and anticipated arrangements with PNSC, RTO West will have the operational authority required under Order 2000. The Commission should therefore find that the RTO West proposal complies with the operational authority requirements of 18 C.F.R. § 35.34(j)(3).

4. Short-Term Reliability

As provided in section 6.6 of the Transmission Operating Agreement, RTO West will operate a single control area that will encompass all of the control areas previously operated by RTO West's Participating Transmission Owners. As the control area operator, RTO West will have exclusive authority for receiving, confirming, and implementing all interchange schedules (in addition to its exclusive authority to receive, confirm, and implement schedules within the RTO West transmission system).

Section 6.10 of the Transmission Operating Agreement provides (and Generation Integration Agreements applicable to generators connected to the transmission facilities will provide) that RTO West has the authority to take actions necessary to maintain the reliability, security, and stability of the RTO West transmission system.

RTO West will have the authority to approve or disapprove scheduled outage requests for the facilities over which it has operational control.³⁶ RTO West will also have the authority to report to the Commission if it determines that any reliability standards established by the Western Systems Coordinating Council (or its expected successor, the Western Electricity Coordinating Council) hinder its ability to provide reliable, non-discriminatory, and efficiently priced transmission services.³⁷ The Commission should find that the proposed authority of RTO West to maintain the short-term reliability of the transmission facilities it will operate satisfies the operational authority characteristic of a regional transmission organization as set forth in 18 C.F.R. § 35.34(j)(4).

G. RTO West's Fulfillment of Eight RTO Functions

1. Tariff Administration and Design

RTO West will have the authority to design and administer its tariff as Order 2000 requires. Section 6.4.1 of the Transmission Operating Agreement provides that RTO West has the exclusive right and obligation to provide transmission service across the RTO West transmission system. Section 6.7.1 of the Transmission Operating Agreement provides that RTO West will maintain a tariff governing its transmission services and will have the exclusive authority to administer that tariff. In addition, other than during the Company Rate Period specified in the Transmission Operating Agreement (during

³⁶ See section 6.8.5 of the Transmission Operating Agreement.

³⁷ There is nothing in the Transmission Operating Agreement that specifically addresses this topic. However, RTO West has an obligation under section 6.7.8 to comply with all regulations applicable to the provision of transmission services. This would include reporting to the Commission as required under 18 C.F.R 35.34(j)(4)(iv).

which time the RTO West rate design must be in accordance with the terms of the Transmission Operating Agreement), RTO West will have the authority (subject to fulfilling revenue requirement obligations to Participating Transmission Owners) to determine the rate design for its tariff.³⁸

The Commission has previously approved, for other proposed regional transmission organizations, the use of a transitional rate structure to avoid unwarranted cost shifting.³⁹ The RTO West pricing proposal described in Attachment ___ is necessary, given regional characteristics, to avoid significant and unacceptable cost shifting. The pricing proposal is transitional, consistent with the Commission's previously granted approval. The Commission should find that the proposed administration and design of RTO West's tariff satisfy the tariff administration and design function of a regional transmission organization as set forth in 18 C.F.R. § 35.34(k)(1).

2. Congestion Management

The proposal for RTO West's congestion management system (which is described in detail in Attachment ___) represents almost two years of intensive work. It has been carefully crafted to fully comply with the Commission's requirements under Order 2000

³⁸ To the extent the Commission has authorized some participants in RTO West to propose innovative or incentive rate treatments directly to the Commission based on a finding of independence, those participants may propose rates based on such rate treatments. The resulting rates will be reflected in the RTO West tariff, and are intended to be consistent with the transitional rate structure proposed for the Company Rate Period.

³⁹ *See, e.g.*, Order on Compliance Filing and Providing Further Guidance, Denying Requests for Rehearing, and Rejecting an Alternative Governance Structure, Docket Nos. ER99-3144-003, et al., 94 FERC ¶ 61,070, issued January 24, 2001 (Alliance).

while honoring bedrock principles that are necessary to make the proposal fair and operationally workable.

The congestion management proposal provides for a market-based system of managing congestion that will function from the beginning of RTO West commercial operations. It relies on a voluntary bidding process open to generators and dispatchable loads. RTO West will use these bids to compute locational prices⁴⁰ and manage congestion based on security-constrained, least-cost redispatch. This will provide RTO West transmission customers with efficient price signals that show the consequences of their transmission usage decisions.

The RTO West congestion management proposal accommodates broad participation by all market participants because RTO West will accept all schedule requests (subject to a requirement that schedules must be balanced and all schedules, taken together, must be physically feasible within existing system constraints after implementing available redispatch). In addition, the RTO West congestion management proposal will allocate scarce transmission capacity to those that value it most. Those that wish to hedge against potential congestion charges will be able to purchase flexible financial instruments known as “Financial Transmission Options.”

The RTO West congestion management proposal also enables Participating Transmission Owners to continue to honor the terms of their pre-existing transmission agreements and load service obligations. It avoids asking Participating Transmission

⁴⁰ The filing utilities have not used the term “locational marginal pricing” here to avoid potential confusion. Locational prices under the RTO West congestion management proposal will be marginal, in that they will reflect the lowest bid price for the next increment of energy delivered to a particular location, but those bid prices will not necessarily correspond to marginal production costs for the energy supplier. This issue is explained further in section C.1 of Attachment ____.

Owners to make the untenable choice between failing to comply with their pre-existing obligations or facing severe additional cost risk to meet those obligations. Likewise, contract customers that have negotiated and paid for the use of the system are not forced to relinquish or renegotiate those rights. Rather, RTO West is given the means to effectively manage use of the transmission system, including for pre-existing claims. Parties that wish to convert their old contract service into the broader, more flexible service under the RTO West transmission service tariff will have the option to do so.

The RTO West congestion management proposal strikes a fair and workable balance by providing a uniform basis for managing congestion and accommodating new uses without imposing unreasonable risk and expense on existing users. The Commission should find that the proposed congestion management system for RTO West satisfies the congestion management function of a regional transmission organization as set forth in 18 C.F.R. § 35.34(k)(2).

3. Parallel Path Flow

The Stage 1 RTO West Proposal Filings included discussion of expected methods by which RTO West would manage parallel path flows inside and outside its sphere of operations. These methods centered on the then-proposed system of physical flowpath, zonal-based congestion management model along with continued participation in existing programs within the Western Interconnection, such as the WSCC Unscheduled Flow Mitigation Plan and path rating methodology.

It is still the filing utilities' expectation that programs previously developed through the WSCC membership process will continue. In addition to these, however,

during the Stage 2 RTO West development process there have been several positive changes and advancements regarding parallel path flows.

The filing utilities now propose for RTO West to use a financial, security-constrained, locational-pricing congestion management and scheduling model. This model will require transactions to be scheduled between injection and withdrawal locations instead of over physical flow paths. RTO West's feasibility and adequacy testing for congestion management will model the actual flows resulting from these injection/withdrawal-based schedules across the entire network (as limited by security-constrained Total Transmission Capability on various links within the network). The flow distribution factors linking injection and withdrawal points on the RTO West system will be calculated using a full Western Interconnection physical system network representation including the effects of phase shifter operation. This flow analysis and related scheduling practices will essentially eliminate parallel path flows created within the RTO West system (because schedules are accounted for by their resulting actual flows).

To minimize market design and scheduling discontinuities among neighboring regional transmission organizations in the West (which might, among other things, otherwise result in additional parallel path flows), representatives of RTO West, the California ISO, and WestConnect have identified principles for a Western Market Vision.⁴¹ These representatives, working through the Seams Steering Group – Western Interconnection (the “Steering Group”) have begun negotiations to implement this vision

⁴¹ See Exhibit A to Status Report Concerning RTO West Development, filed December 1, 2001 by Avista, Bonneville, B.C. Hydro, Idaho, Montana, PacifiCorp, and Puget.

for creating seamless markets in the Western Interconnection. As this work brings core market design features and scheduling components into alignment, it will reduce parallel path flow effects and facilitate trading and scheduling across all three of the regional transmission organizations currently proposed for the West.

Furthermore, as part of its recent market design reform, the California ISO currently proposes a nodal pricing approach for congestion management. This should align and reduce seams issues with RTO West's proposed market design. This by itself will reduce parallel path flow issues between the California ISO and RTO West.

As described in the December 1, 2001 Status Report Concerning RTO West Development,⁴² the Common Systems Interface Committee (under the auspices of the Steering Group) is working to develop joint systems and protocols to match scheduling practices at the seams between the three developing regional transmission organizations in the West. In addition, the Seams Task Force of the Western Market Interface Committee has recently completed an initial report to the Steering Group. This report recommends options for coordinated phase shifter operation, outage coordination, scheduling protocols, and other core market design and coordination elements that need to be common in the Western Interconnection to further reduce or eliminate parallel path flows among regional transmission organizations in the West.

The combination of existing approaches and new efforts to build on their foundation provides RTO West with strong, effective tools to manage parallel path flows within its own system and with adjoining systems. Accordingly, the Commission should

⁴² The status report was filed by Avista, Bonneville, B.C. Hydro, Idaho, Montana, PacifiCorp, and Puget.

find that the proposed procedures by which RTO West will address parallel path flows satisfy the parallel path flow function of a regional transmission organization as set forth in 18 C.F.R. § 35.34(k)(3).

4. Ancillary Services

The proposed structure under which RTO West will provide for ancillary services is described in Attachment ___. The RTO West ancillary services structure has been designed to complement and integrate smoothly with the RTO West congestion management system and to build on the bilateral market that already exists within parts of RTO West's area for many ancillary services. RTO West will promote, to the extent feasible, a fully competitive market for the procurement of ancillary services.⁴³ To ensure that all transmission customers have access to a real-time balancing market, the ancillary services proposal contemplates that RTO West will, at least initially, operate a real-time balancing market.

As required by Order 2000, RTO West will serve as the provider of last resort for all ancillary services required under Order 888 and subsequent orders. It will provide all market participants (through their Scheduling Coordinators) a range of options that allow them to meet their ancillary service obligations and to manage their ancillary services price risk. These options will include the ability to self-supply (or to contract with third-party providers), and will enable generation, imports, exports, and demand-side resources to fully participate in the self-supply of ancillary services and in RTO West's competitive

⁴³ Section 10.3.2 of the Transmission Operating Agreement contains provisions designed to ensure that RTO West will have sufficient availability of needed ancillary services (or, more precisely, Interconnected Operations Services, which are the tools that enable RTO West to provide ancillary services) even if a workably competitive market takes time to develop.

ancillary services procurement process. RTO West will have the authority to determine the minimum required amounts of ancillary services, as well as required locations, and will require that all participants in the ancillary services procurement process be subject to RTO West's direct or indirect operational control.⁴⁴

Through its range of tools to manage the supply and deployment of ancillary service resources – competitive procurement, self-provision, access to a real-time balancing market, and appropriate operational control with respect to ancillary service providers – RTO West will provide for the reliability needs of the RTO West transmission system and its transmission customers. The Commission should find that the proposed structure for provision of ancillary services within RTO West, as well as RTO West's role as provider of last resort, satisfy the ancillary services function of a regional transmission organization as set forth in 18 C.F.R. § 35.34(k)(4).

5. OASIS, Total Transmission Capability, Available Transmission Capability

As required by Order 2000, RTO West will maintain and administer its own OASIS site and will be responsible for calculation of Total Transmission Capability and Available Transmission Capability.⁴⁵ Also, as explained in the December 1, 2001 Status Report Concerning RTO West Development, RTO West has been working through the

⁴⁴ RTO West will have the authority to require those parties that wish to bid to provide Interconnected Operations Services to agree that the resources they bid will be subject to RTO West's direct or indirect operational control (for the period of delivery) if the bid is accepted.

⁴⁵ See section 6.7.5 of the Transmission Operating Agreement. It should be noted, however, that in a financially based, accept-all-schedules system of congestion management, the notion of Available Transmission Capability does not operate as it does under the Commission's Pro Forma Open Access Transmission Tariff. Those that wish to request transmission service from RTO West need not identify, or be constrained by, posted Available Transmission Capability. Instead, they will evaluate the financial consequences of scheduling their desired transactions based on the availability of congestion hedges and the projected charges for any congestion clearing needed to implement their schedules.

Steering Group to define and discuss implementing the Western Market Vision. The Western Market Vision contemplates that in the future there could be a single point of access for OASIS sites of all the regional transmission organizations in the West.

Whether on a stand-alone basis (at least initially), or in coordination with neighboring regional transmission organizations, RTO West will provide the OASIS information and access market participants require. It will also determine, independently and on an on-going basis, the physical transfer capabilities of its transmission system. It will assess anticipated use of physical capacity based on the outstanding congestion rights that may be exercised, and then determine how much remaining capacity is available to support the issuance of additional rights. RTO West will make this information available to all market participants on a non-discriminatory basis. The Commission should find that the proposed authority of RTO West to administer a single OASIS site and to independently calculate Total Transmission Capability and Available Transmission Capability satisfies the OASIS and Total Transmission Capability and Available Transmission Capability function of a regional transmission organization as set forth in 18 C.F.R. § 35.34(k)(5).

6. Market Monitoring

In Stage 1 the filing utilities proposed objective monitoring of RTO West markets to identify design flaws, potential market power abuses, and opportunities for efficiency improvements, and to propose appropriate responsive action. The market monitor was to report on these matters to the RTO West Board and the Commission, although in instances where anomalous market performance required further study, the RTO West

Board was to determine when the results of the study should be reported to the Commission.

The filing utilities' approach to market monitoring has evolved considerably since the Stage 1 RTO West Proposal Filings. As described in the December 1, 2001 Status Report Concerning RTO West Development, representatives of RTO West, California ISO, and WestConnect are working together to develop a seamless West-wide market. The filing utilities believe that a single West-wide market monitoring entity is a key component of achieving a seamless western market. A market monitoring work group, formed under the auspices of the Steering Group and composed of Steering Group representatives as well as transmission customers, transmission owners, public power entities, and state public utility commissions, is working on a recommendation for a West-wide market monitoring entity.

As negotiations for a single West-wide market monitoring entity are still underway, the filing utilities propose the RTO West market monitoring plan contained in Attachment ___ to fulfill Order 2000 market monitoring requirements. This proposal builds on the Stage 1 market monitoring approach. The filing utilities have strengthened the Stage 1 approach regarding the independence of the market monitoring unit. They have done so by (1) calling for the creation of a not-for-profit corporation with an independent board to implement the market monitoring plan, and (2) providing for a direct reporting relationship between the market monitoring unit and the Commission, the details of which will be developed by the Commission and the market monitoring unit.

The RTO West market monitoring unit will monitor and report on: (1) the performance and efficiency of RTO West markets and services (including any

impediments to competition and economic efficiency); (2) the conduct of market participants, transmission owners and RTO West; (3) the effect of the operation and use of the transmission system on competitive conditions in the region; and (4) the adequacy and effectiveness of any market design, rule, procedure or action that affects market competitiveness or efficiency.

The market monitoring unit will have access to all information acquired and maintained by RTO West in its regular course of business (subject to RTO West's requirements for treatment of confidential information), and will develop indices and screens to review these data and other information collected through implementation of the market monitoring plan. Should the market monitoring unit detect market performance that is inconsistent with a competitive market, the market monitoring unit will perform further analysis to determine the cause of the performance and will report its findings, as appropriate, to the Commission and the RTO West Board. The market monitoring unit will coordinate with the RTO West staff to develop market design and rule changes and recommend them to the RTO West Board and the Commission. Consistent with the market monitoring plan, the market monitoring unit will also respond to requests from entities, including complaints regarding RTO West's compliance with its tariff.

The RTO West market monitoring unit will not have enforcement authority, although it will monitor compliance with any Commission-imposed or RTO West-developed and Commission-approved mitigation measures. Because the market monitoring unit will report directly to the Commission, the Commission will receive

information relevant to its own mitigation or enforcement responsibilities on a timely basis.

The RTO West proposal meets the market monitoring requirements set forth in 18 C.F.R. § 35.34(k)(6), and the Commission should find that the proposed market monitoring plan satisfies the market monitoring function of a regional transmission organization.

7. Planning and Expansion

RTO West will have ultimate authority to plan for the operational security and long-range adequacy of the transmission facilities over which RTO West exercises operational control.⁴⁶

RTO West will carry out its planning responsibilities through an inclusive public process that encourages and supports market-based expansion decisions and provides for coordination with appropriate state authorities. RTO West will be able to arrange for transmission expansions, additions, and upgrades required to provide efficient, reliable, and non-discriminatory transmission service.

The RTO West planning and expansion framework will not alter the existing relationship of the Participating Transmission Owners with siting authorities, except that it assumes that RTO West will participate, in some capacity, in siting and approval decisions. The RTO West planning framework will be sufficiently flexible to accommodate any changes necessitated by state regulatory commissions entering into

⁴⁶ This would include all those facilities defined as “RTO West Controlled Transmission Facilities” under the Transmission Operating Agreement. RTO West’s planning process will take a broad view of its entire transmission system, however, not just those facilities under its operational control. RTO West will also make information readily available to the marketplace concerning the use of and conditions affecting all the facilities over which it provides transmission service.

multi-state agreements and to coordinate with regional transmission associations' programs and activities.

Attachment __ identifies the filing utilities' goals and objectives for the planning process and RTO West's minimum responsibilities. These responsibilities include developing and publishing information about the RTO West system, the use of the system, and the prices paid for those uses. RTO West planning staff will identify where there are problems with respect to transmission adequacy, and will also identify facilities that are experiencing chronic significant congestion. RTO West's planning process will be designed to result in market decisions about the need for system expansion that are rational and economically sound, taking into account non-transmission alternatives

RTO West will develop and present conceptual proposals to deal with current and projected congestion, including least-cost solutions (which may rely on non-transmission alternatives). RTO West will solicit interest in its own proposals as well as projects proposed by third parties (including Participating Transmission Owners) and will facilitate participation by interested parties. RTO West will also have the authority to assure that the facilities over which it exercises operational control are sufficient to meet its transmission adequacy standards.

Participating Transmission Owners will be able to propose both transmission adequacy and congestion relief projects subject to RTO West's authority.⁴⁷ Any project sponsor may build a project (other than for transmission adequacy), subject to RTO West's confirmation that: (1) the project sponsor has appropriately mitigated negative

⁴⁷ A Participating Transmission Owner's transmission adequacy project cannot go forward until RTO West has approved the project. RTO West may not unreasonably withhold its approval.

impacts on system transfer capability and reliability; (2) the project sponsor offered interested parties an opportunity to participate in and modify the project so as to increase its transfer capability and reliability benefits; and (3) all applicable interconnection and integration requirements are met.

The filing utilities' planning proposal strikes an appropriate balance among several important goals.⁴⁸ It recognizes the need for open, coordinated regional planning and the Commission's objective to encourage market-motivated actions for congestion relief. At the same time, it acknowledges and provides appropriate safeguards to deal with the inherent difficulties of transmission expansion and the significant consequences of inadequate transmission. The Commission should therefore find that the RTO West proposal satisfies the planning function of a regional transmission organization as set forth in 18 C.F.R. § 35.34(k)(7).

8. Interregional Coordination

The status report materials the filing utilities submitted to the Commission on December 1, 2001 included a description of Stage 2 work related to seams resolutions. There are two main anchor points for this work (both what has been done and what will be done in the future): the Western Market Vision⁴⁹ and the Steering Group.⁵⁰ The

⁴⁸ In its April 26, 2001 Order, the Commission acknowledged the independent nature of TransConnect, stated that there could be a sharing of planning responsibilities between RTO West and TransConnect, and asked for more specifics regarding the nature of the sharing. The Commission directed the RTO West applicants and the TransConnect applicants to explain in their Stage 2 filing how RTO West and TransConnect will share planning responsibilities. On November 13, 2001, the TransConnect parties filed a proposed pro forma planning protocol with the Commission. Some of the filing utilities protested the TransConnect filing. There are differences between the RTO West planning approach and the TransConnect pro forma protocol. The filing utilities are continuing to work on how RTO West and TransConnect will share planning responsibilities.

⁴⁹ See Exhibit A to Status Report Concerning RTO West Development, filed December 1, 2001 by Avista, Bonneville, B.C. Hydro, Idaho, Montana, PacifiCorp, and Puget.

Steering Group, which is composed of representatives of the RTO West filing utilities, the California ISO, and WestConnect, is responsible for policy level implementation of the Western Market Vision. These representatives have worked diligently in recent months to coordinate their activities, flesh out important details, and move forward on the basis of the Western Market Vision.

For example, the Steering Group has begun work on a seams agreement.

Although it has not yet created a draft agreement, it has identified key elements to be included. [*Describe these elements or refer to an attachment.*]. In addition, the Steering Group has identified a structure for organizing seams work within the Western Interconnection, including how to integrate Steering Group activities with those of the Western Market Interface Committee (“WMIC”) and the WMIC Seams Task Force.⁵¹ This structure was included in the materials filed with the Commission on the December 1, 2001 describing the Western Market Vision.⁵² This structure includes opportunities for interested stakeholders (including representatives of state and provincial agencies and regulatory commissions) to participate actively, both through work groups

⁵⁰ Although PGE, Nevada Power, and Sierra Pacific did not sign the December 1, 2001 filing that included the Western Market Vision, they are continuing to work with the other filing utilities on interregional coordination issues.

⁵¹ WMIC is currently a coordinated effort of several organizations, including the Western Systems Coordinating Council, the Western Regional Transmission Association, the Southwest Regional Transmission Association, the Northwest Regional Transmission Association, the California ISO, and the Committee for Regional Electric Power Cooperation. As soon as the Western Electricity Coordination Council has formed, WMIC will become a standing committee within that organization.

⁵² See Attachment A (included as part of Exhibit B) to the Status Report Concerning RTO West Development, filed December 1, 2001 by Avista, Bonneville, B.C. Hydro, Idaho, Montana, PacifiCorp, and Puget

formed under the auspices of the Steering Group and through the WMIC process. The Steering Group has also begun work to develop a Website.

Through the efforts of the Common Systems Interface Committee (created through the Steering Group's activities), there has been substantial work related to establishing a common OASIS and scheduling points; possible sharing of backup control centers; common communications and data sharing protocols; and a coordinated implementation schedule for hardware and software systems. The Steering Group has also conducted pricing reciprocity discussions and has sponsored significant work to develop a proposal for a common market monitoring unit for RTO West, the California ISO, and WestConnect. Steering Group members have also begun to explore the possible formation of a West-wide transmission planning expansion group within Steering Group framework.

In coordination with WMIC, the Steering Group has supported work to develop possible core elements of a seamless western market, prepare a report on coordinated phase shifter operation, and explore methods for coordinating outages on transmission facilities for maintenance on a multi-system basis.

The Commission should find that the current and proposed activities and practices related to interregional coordination for RTO West satisfy the interregional coordination function of a regional transmission organization as set forth in 18 C.F.R. § 35.34(k)(8).

H. Efforts to Include Participation by Public Entities

The October 23, 2001 Filing describes the filing utilities' efforts to design RTO West (and draft the Transmission Operating Agreement) so as to facilitate participation by public entities.⁵³ The work carried out during Stage 2 has been consistent with these previous efforts.

I. Remaining Steps and Projected Timetable for RTO West Implementation

[To be completed.]

J. Request for Commission Action

The materials submitted in this filing, together with those elements of the Stage 1 RTO West Proposal Filings with respect to which the Commission has already issued a declaratory order, address all required functions and characteristics of a regional transmission organization as specified in Order 2000. On the basis these materials and pursuant to the sequence of approvals described in section C.2 of this filing, the filing utilities respectfully request that the Commission:

1. confirm its previous determination that the proposed governance structure of RTO West satisfies the independence characteristic of a regional transmission organization as set forth in 18 C.F.R. § 35.34(j)(1), and that the amendments to the RTO West Bylaws described in this filing do not alter that determination;
2. confirm its previous determination that the proposed scope and regional configuration of RTO West satisfy the scope and regional configuration characteristic of a regional transmission organization as set forth in 18 C.F.R. § 35.34(j)(2);
3. issue a declaratory order finding that:
 - a. the proposed authority of RTO West to operate the transmission facilities of the filing utilities and to provide security coordination with

⁵³ See October 23, 2000 FERC Filing at 54-55.

- respect to those facilities satisfies the operational authority characteristic of a regional transmission organization as set forth in 18 C.F.R. § 35.34(j)(3);
- b. the proposed authority of RTO West to maintain the short-term reliability of the transmission facilities it will operate satisfies the operational authority characteristic of a regional transmission organization as set forth in 18 C.F.R. § 35.34(j)(4);
 - c. the proposed administration and design of RTO West's tariff satisfy the tariff administration and design function of a regional transmission organization as set forth in 18 C.F.R. § 35.34(k)(1);
 - d. the proposed congestion management system for RTO West satisfies the congestion management function of a regional transmission organization as set forth in 18 C.F.R. § 35.34(k)(2);
 - e. the proposed procedures by which RTO West will address parallel path flows satisfy the parallel path flow function of a regional transmission organization as set forth in 18 C.F.R. § 35.34(k)(3);
 - f. the proposed structure for provision of ancillary services within RTO West, as well as RTO West's role as provider of last resort, satisfy the ancillary services function of a regional transmission organization as set forth in 18 C.F.R. § 35.34(k)(4);
 - g. the proposed authority of RTO West to administer a single OASIS site and to independently calculate TTC and ATC satisfies the OASIS and Total Transmission Capability and Available Transmission Capability function of a regional transmission organization as set forth in 18 C.F.R. § 35.34(k)(5);
 - h. the market monitoring proposal for RTO West satisfies the market monitoring function of a regional transmission organization as set forth in 18 C.F.R. § 35.34(k)(6);
 - i. the planning and expansion proposal for RTO West satisfies the planning and expansion function of a regional transmission organization as set forth in 18 C.F.R. § 35.34(k)(7); and
 - j. the current and proposed activities and practices related to interregional coordination for RTO West satisfy the interregional coordination function of a regional transmission organization as set forth in 18 C.F.R. § 35.34(k)(8).

SIGNATURES

DATED the 28th day of February, 2002

AVISTA CORPORATION

By: Randall O. Cloward
Director, Transmission Operations

BONNEVILLE POWER
ADMINISTRATION

By: Mark W. Maher
Senior Vice President
Transmission Business Line

IDAHO POWER COMPANY

By: Jim Baggs
General Manager, Grid Operations
and Planning

THE MONTANA POWER COMPANY

By: Ted D. Williams
Director, Transmission Marketing

PACIFICORP

By: John Carr
Managing Director, Major Projects

PORTLAND GENERAL ELECTRIC

By: Stephen R. Hawke
Vice President System Planning
and Engineering

PUGET SOUND ENERGY, INC.

By: Wayman L. Robinett
Director Wholesale Transmission

NEVADA POWER COMPANY and
SIERRA PACIFIC POWER COMPANY

By: Mark Backus
Assistant General Counsel

K. List of Attachments

Revised RTO West Transmission Operating Agreement

Summary of Key Provisions of RTO West Transmission Operating Agreement

Insurance, Indemnification, and Limitation of Liability Agreement

Amended Redlined Draft Bylaws of RTO West

Lists of Proposed RTO West Transmission Facilities

Description of RTO West Pricing Proposal

Description of RTO West Congestion Management Proposal

Description of RTO West Ancillary Services Proposal

Description of RTO West Market Monitoring Proposal

Description of RTO West Planning and Expansion Proposal

Informational Draft of Scheduling Coordinator Agreement

Informational Draft of Paying Agent Agreement