

**UNITED STATES OF AMERICA
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., and
Sierra Pacific Power Company

Docket No. RT01-35-007

**MOTION TO INTERVENE AND PROTEST OF
PUBLIC INTEREST ORGANIZATIONS**

Pursuant to Rules 211 and 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.211 & 214, the **American Wind Energy Association (AWEA), Renewable Northwest Project (RNP) and Natural Resources Defense Council (NRDC)** (together, "**Public Interest Organizations**" or "**PIOs**") move to intervene in the above-captioned proceeding and protest the "Stage 2 Filing and Request for Declaratory Order Pursuant to Order 2000" filed by Avista Corporation, et al. ("**Filing Utilities**") on March 29, 2002. The following persons are designated to receive service and communications in this proceeding on behalf of the PIOs:

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American Wind Energy Association (AWEA) is a national trade association representing wind generation developers and operators, turbine manufacturers, utilities, financial institutions and others involved in the wind industry. AWEA strongly supports the Commission's efforts to develop Order 2000 compliant RTOs across the country, and it is committed to working with the Commission and other participants to facilitate RTO development in the Northwest. AWEA believes that a properly functioning RTO in the region will not only enhance the operational efficiency of the transmission system but will help assure the development of competitive wholesale markets and greater utilization of wind and other renewable resources.

The **Renewable Northwest Project (RNP)** is a non-profit regional coalition of public interest organizations and energy companies, and its mission is to promote renewable energy development in the Northwest. RNP works in Oregon, Washington, Idaho and Montana to implement renewable energy projects and policies to combat air pollution and global warming emissions produced from electricity generation. Its members and member organizations will be directly affected by the outcome of this proceeding.

Natural Resources Defense Council (NRDC) is a national nonprofit organization with 500,000 members and a staff of lawyers, scientists, and other environmental specialists. NRDC's mission is to safeguard the earth—its people, its plants and animals, and the natural systems on which all life depends. NRDC staff have worked on electric industry restructuring issues in the Northwest for many years, and its members will be directly affected by the outcome of this case.

AWEA, RNP and NRDC representatives have been active participants in RTO West development, representing environmental concerns and renewable interests on the Regional Representatives Group and in several collaborative workgroups. Thus, the participation of these Public Interest Organizations in this case will facilitate Commission understanding of problems related to Applicants' filing that are of greatest concern to the environmental community and renewable energy advocates and of greatest import for the long-term public interest.

PIOs, therefore, respectfully request that the Commission grant their motion to intervene and order the relief requested in the Protest—i.e., that the Commission

- 1) reject without prejudice the proposed finding that, based on the filings made to date, the "concepts" in the draft Transmission Operating Agreement and other agreements not yet finalized are consistent with Order 2000 requirements and are otherwise acceptable to the Commission;
- 2) declare that because RTO West will be a work in progress even after it initiates operations, the Transmission Operating Agreement (TOA) must be limited to the fundamental contractual relationships between the RTO and Filing Utilities and must include a public interest/environmental protection duty for RTO West;
- 3) reject without prejudice the proposed planning process and find that planning for the entire grid in the Northwest must be under the direction of RTO West, include all parts of the grid, and consider all reasonable resource alternatives to maintain and enhance the transmission system at least cost, including demand-side measures and strategically located generation, as well as transmission facilities;
- 4) require that interconnection standards be standardized and fair throughout the region from traditional generation to load resources;
- 5) find that the incentives for holders of Catalogued Transmission Rights to convert to Financial Transmission Options (FTOs) will not be sufficient to allow for a robust, deep and liquid market in transmission rights and, thus, require that they be revised; and
- 6) give guidance to the Filing Utilities and other parties on the other critical issues identified by protesting parties and the "concepts" proposed in the filing's draft documents.

Summary of Protest

While there is much to be applauded in this filing, RTO West (**RTOW**) will only be as strong as its weakest links. In this case, the weakest links could strike right at the heart of what the Commission is trying to achieve--i.e., efficient competitive markets in the Northwest to provide electric power to customers. However, because the RTOW filing is incomplete, it is difficult to assess some of the RTO's potential weaknesses.

In light of the incompleteness of the filing, PIOs are concerned that a declaratory order by the Commission at this time would be premature. At the same time we realize that a Commission ruling is needed to begin the next phase of RTOW development. On balance, we believe that the Commission could declare that this filing and the modules that still need to be completed **appear** to satisfy most characteristics and functions of an RTO, but that a final declaratory order on whether RTO West complies with Order 2000 must be reserved until the proposal is complete. Although we support the development of an RTOW, we have serious concerns about parts of the current proposal and suggest that clear guidance is needed from the Commission to assure that they are properly modified.

All commodity markets experience difficulties in their startup phases, and RTOW will be no different. It should now be clear to all that initial operating rules for RTOs will undoubtedly need to be modified as experience in operating the system is gained. It is unlikely that any RTO designed in the abstract will be precisely the best one over the long-term for a region. Continual adjustments will be required. Thus, the Filing Utilities' Transmission Operating Agreement (TOA) must be scrubbed to assure that elements of RTO operations that may need to be revised may be addressed expeditiously. Others will argue to the Commission that such elements of the TOA should be removed or moved to

other modules of the filing. Although we do not address the specifics, we believe that it is critical for the Commission to scrub the TOA for items that unduly protect Filing Utilities at the expense of achieving the goals of a well-functioning RTO. In sum, PIOs believe that TOA provisions that limit critical RTOW operational authority could undermine the RTO's independence and unduly limit the essential functions required by Order 2000.

PIOs also believe that an RTOW public interest duty that, among other things, honors the region's environmental objectives, should be included in the TOA. Because of the power system's massive environmental impacts in the Northwest region, provisions for protecting regional natural resources must be explicit in the TOA.

The planning and expansion approach proposed by the Filing Utilities should be rejected as fundamentally flawed. RTOW should be the planning authority. Making RTO West's role subservient to that of TransConnect or any other utilities would lead to biased and inefficient planning. Such an approach would lack a broad regional perspective, and it would not achieve the level of stakeholder confidence likely to result from independent analyses of resource needs and options by the non-partisan RTO.

In addition, the backstop role to be played by RTOW should not be as limited as proposed; rather, it should provide authority for the RTO to utilize all resources that may be deployed to address system needs at lowest cost to grid users. The Commission must direct this change, and it must also require that just and consistent interconnection rules be implemented in all parts of RTOW.

Finally, PIOs urge the Commission to require that RTOW have stronger incentive mechanisms to assure deep and liquid markets in transmission rights because the proposed treatment of existing customer transmission rights will inhibit the development of efficient

markets to clear congestion and result in sub-optimal decisions regarding generation location and investment in alternative resources. An additional problem of this approach is the increased potential for stranded generation and wires costs as new technologies and non-traditional resources gain market entry over time.

Introductory Comments

The proposal of Filing Utilities confronts the Commission with difficult decisions because the filing is incomplete—many components are only conceptually presented. Much work remains to be done to analyze, draft, and test the proposed Congestion Management and the Ancillary Services models, for example. And, as noted in their transmittal letter, “The Filing Utilities are continuing to work out how RTO West and TransConnect will share planning responsibilities. (Footnote 63, Transmittal Letter.) Nevertheless, the Filing Utilities are asking for a declaratory order from the Commission that the filing, as it looks now and when completed, will satisfy all of the functions and characteristics envisioned by the Commission for an RTO.

Complicating the situation is the fact that Commission decisions will have to be made in the context of a regional leaning that is decidedly against RTO formation. Thus, the Commission will be pressured by many parties to approve minimal changes to the status quo. PIOs believe the Commission should strongly resist this pressure and assure that the region implements a well-functioning, Order 2000 compliant RTO.

PIOs believe that an RTO can facilitate long-term operational improvements to the region’s electricity system. More importantly, however, we believe that an RTO could implement value-based pricing throughout the grid, thereby improving the allocations of scarce resources used to provide power to citizens of the Northwest over the long-term. It

is clear that the regulated utility system has resulted in an imbalance of investment between the supply and demand sides and between renewable and fossil-fired resources. It has also left a legacy of generation and other resources situated great distances from one another, in part, because pricing has failed to incorporate the value of power throughout the grid. We believe that a value-based pricing policy operating throughout the grid would help to achieve a far better balance of investments between renewable and fossil-fired generation and between demand and supply side resources.

On the other hand, it is very clear to us that an RTO in name only could be much worse than the status quo. Thus, the Commission will need to use all of its political and analytical acumen to bring RTO West from the conceptual entity described in this filing to an efficient operator of the transmission grid on behalf of the public weal.

A major goal of PIOs in the Northwest is to have central station renewables and demand side measures, including distributed renewables, contribute along with myriad other resources to an economically efficient, broad, and deep market-based electric system in the region. We believe that if we achieve this goal, the Northwest will continue to have abundant and reasonably priced electric power in the years ahead. To advance this goal PIOs have dedicated a substantial amount of resources to the RTO West collaborative process, and we are pleased to report that issues related to renewable resources and demand-side measures have received serious attention by the Filing Utilities and other parties. We, therefore, intend to continue the cooperative work with other parties to make sure that RTO West becomes a reality. Although we support the efforts of the Filing Utilities and others who worked through the public process to get us to where we are today, we have specific concerns with a few elements of the filing. We believe that with

appropriate changes, as indicated below, RTO West can be a premier RTO in the country and our goal can be achieved.

To assure that workable markets develop in the Northwest, changes are needed in several proposed concepts in the RTO West proposal. While utilities have been relatively efficient in the delivery of power to loads within the current infrastructure, ratepayer risks related to the infrastructure have not always been well managed; nor have innovative ways to serve load been encouraged. *In our opinion, addressing these two fundamental issues is the main reason for restructuring the electric industry.* If RTO West is created without removing market barriers throughout the grid, a great deal of pain will have been incurred in the near term without any assurance of receiving reasonable benefits in the long-term. We would incur great costs to achieve marginal efficiency improvements in the operation of the grid, while leaving behind the huge benefits that innovation and competitive markets could bring.

PIOs believe the RTO West proposal, as filed, will neither remove the strong barriers to efficient market development nor reduce the constraints that have made it historically difficult for renewables, demand side measures, and other innovative resources to help serve loads efficiently. We have fought market imperfections for years, pursuing programmatic solutions to fix market flaws, and utility regulators have often imposed programmatic, second-best solutions, that were both more expensive than they needed to be and less effective than they could have been. PIOs urge that this route be avoided in RTO West by fixing the problems now and letting efficient markets work.

PIOs' specific concerns about the filing reflect the strong desire to have efficient markets operating throughout the *entire* electric system in the Northwest, from generators

through loads. Portions of the current filing, we believe, will thwart development of these markets. Because we believe renewable and demand-side resources will compete well if conditions are ripe for efficient markets to develop, we identify problems in the filing that threaten market development—problems that can be fixed now to avoid risks, costs and conflicts in the future.

The Cost-Benefit analysis of RTO West has become a critical point of leverage for those in the region who are opposed to an RTO. We believe that the prominence given to this analysis is out of proportion to its ultimate importance. PIOs believe that an RTO could ultimately lead to more economical provision of power services to citizens of the Northwest. The Cost-Benefit analysis does not reflect the true promises of a well-functioning RTO but focuses only on the RTO's operational benefits. Although these prospective benefits might be large enough to offset startup and operating costs of the RTO, the major benefits of a well-functioning RTO should lie in the more efficient use of capital by the industry over the long-term. The electric industry has a capacity factor of less than 50%, and 25% or more of the capacity is used only 5% of the time or less. Least-cost planning of transmission coupled with prices that reflect the true value of power throughout the grid, including at the retail level, will lead to a more efficient use of capital.

Finally, PIOs applaud the open public process within which Filing Utilities developed their joint filing, and we support the formation of an Order 2000 compliant RTO West. There is a great deal in the Filing Utilities' proposal that we can support, including the RTO governance structure and its geographical scope and its contiguous configuration. In addition, we conceptually support many of the yet to be completed concepts reflected in the documents which accompany the filing, and we are hopeful that the details to be added

will be consistent with the promise previewed in the filing.

Although PIO comments focus mainly on the drawbacks of the filing, we believe there has been tremendous progress on the RTO West proposal. Indeed, the working relationships created by the collaborative process provide promise that, with Commission assistance and direction, the deficiencies in the current filing will be modified to all parties' satisfaction. Thus, we urge that the Commission order changes in the RTO West proposal that will enhance RTO operational independence, redesign the planning and expansion approach, provide fair and uniform interconnection standards throughout the RTO, and enhance the incentives for markets in transmission rights. While Commission authority does not cover the entire electrical system in the Northwest, Commission decisions will dramatically affect the ability of markets to develop throughout the system. In the RTO West proposal there are many elements under the Commission's jurisdiction that can be changed to facilitate efficient markets. Because an overly long transition period to achieve such markets would be both risky and costly to the Northwest, PIOs urge the Commission to order these changes immediately.

PROTEST

Because the RTO West (**RTOW**) filing is not yet complete, the major concerns of PIOs are focused on problems with the documents as presented, which, with FERC's direction, we assume will be completed and modified appropriately. Although PIOs share concerns focused by other parties, we will limit our comments to four significant areas: RTO independence, the planning and expansion proposal, the treatment of interconnection standards in the RTOW and TransConnect filings, and the need for changes to enhance the incentives to develop deep and liquid markets in FTOs.

PIOs support much of what is proposed in the RTOW filing as congruent with Order 2000 requirements. However, to assure that the final proposal merits FERC approval, our comments focus on the changes necessary to achieve the Commissions' goals and to foster a robust and healthy electricity system in the Northwest.

I. Provisions In The Draft "Transmission Operating Agreement" That Could Compromise RTO Independence Must Be Modified, And An Explicit Public Interest/Environmental Protection Duty Must Be Added.

PIOs are concerned that the Transmission Operating Agreement (TOA) contains provisions that could compromise the structural independence of the RTO. We also believe it is critical that RTOW be given a clear mandate to act in the public interest, which includes due consideration of the environmental impacts of its actions.

A. TOA provisions which limit critical RTO operational authority could undermine RTOW independence and too narrowly circumscribe essential RTOW functions required by Order 2000.

Public Interest Organizations believe that too many details have been placed in the TOA that should be left to the RTOW tariff. Because the TOA cannot be changed without the consent of the Executing Transmission Owners (ETOs) and cannot be enforced by affected third parties, it is appropriate for the TOA to include only provisions that are critical to protecting ETO investments and provisions on RTO authority to compel ETO performance of the duties necessary to implement the RTO's essential functions. RTO policy details that do not impinge on those fundamental arrangements should be left to the RTOW--i.e., they should be subject to RTOW change, along with other tariff provisions, in response to changing market needs.

The Commission has explicitly noted a similar concern in a recent order in Docket EL00-95-000, et al. dealing with the California Markets: "The California experience has

highlighted the dangers of hard-wiring a market design that is inflexible and cannot adapt to needed changes." *Market Order Proposing Remedies for California Wholesale Electric*s, 93 FERC ¶61,121, November 1, 2000, p. 20. The proposed TOA contains many instances of similar "micromanaging" that should not be locked into place. Such an approach is contrary to the Commission's open architecture directives.

The initial operating rules for RTOs will undoubtedly need to be modified as experience is gained. Because it is unlikely that an RTO designed in the abstract will be precisely the best one over the long-term for a region, many adjustments will likely be required. While others will argue to the Commission that specific elements of the TOA should be removed or moved to other modules of the filing, PIOs simply urge that the Commission scrub the TOA for items that provide competitive benefits to the Filing Utilities at the expense of achieving the goals of a well-functioning RTO and provisions that unduly limit RTO authority to modify its policies and procedures.

Other PIO concerns related to RTO independence are the apparent limits on transmission facilities to be under RTOW control and the degree of transmission owner involvement in key grid operations and planning functions. Thus, we urge that the Commission direct the Filing Utilities to make modifications to the TOA necessary to assure that RTO West has operational, as well as structural, independence.

B. The TOA should contain a provision that requires RTOW to act in the public interest and give due consideration to the impacts of its policies and actions on the region's environmental goals.

PIOs believe that certain environmental objectives must be honored by RTOW and, thus, deserve a provision in the TOA that requires RTO consideration of the impacts of its policies on them. We believe that RTO West should be given a strong and explicit public

interest duty. Thus, we propose the following addition to RTOW purposes: "RTO West shall act in the public interest to assure an efficient and reliable transmission system at minimum long term cost to customers and shall give due consideration to the impacts of its actions on the region's environmental goals and society at large."

.II. The Planning And Expansion Approach In The RTO West Proposal, Including The Suggested Interconnection Procedure, Is Fundamentally Flawed And Should Be Rejected.

Because the electricity system is one big machine that includes interacting generators, transmission and distribution systems, and loads, the failure to recognize the interconnectedness of the system in a least-cost planning framework would thwart the achievement of economically efficient allocations of resources in the supply and use of electricity. The RTOW, therefore, should be *the* least-cost planning agency for the transmission system in the Northwest.

The connection of this filing to the TransConnect filing is very important. The TransConnect filing grants special planning privileges to TransConnect, and these special privileges are inappropriate. TransConnect is a for-profit transmission entity and, as such, would have competing incentives. Upholding its fiduciary responsibilities to its corporate shareholders would, at times, directly conflict with adopting least-cost system plans that might dictate non-transmission solutions.

A. The Commission should reject Filing Utilities' planning and expansion proposal as inconsistent with Order 2000 and fundamentally flawed.

While it is unclear how system planning will evolve under the RTOW proposal, it appears that the ETOs, especially those in TransConnect, have given themselves strong planning authority, limited the competition for expanding their systems, and maintained

significant control over interconnections to wires other than RTOW Controlled Transmission Facilities. Leaving any important part of the system out of the regional planning framework, however, runs the risk that only "second-best" solutions will be possible. Deviations from what is best will add costs to the system and decrease its efficiency.

Although PIOs do not believe RTOW should implement regional least-cost plans, the RTO is the only entity with enough information to determine if market failures are causing inefficient allocation of resources. It will be the only institution able to produce credible *comprehensive* plans for the region's grid—plans that help market participants, regulators, and the public understand system needs and the options for addressing them efficiently. After several years of efficient pricing in the region, the planning role of the RTO may be less important, but at the outset it is critical. Thus, the Commission should order changes in the RTOW filing to assure that the bifurcated planning proposed will not result in system investments that are unnecessarily costly or regionally inefficient.

Of course, in moving from the status quo to an efficient system, some people will be economically disadvantaged, and they may argue that change should not take place. This argument should be rejected and compensation to the disadvantaged, if necessary, should be taken from the total gains that accrue to an efficient outcome.

B. The backstop approach granted to the RTO should be revised to allow RTOW access to all resources that can be deployed to yield the lowest-costs to users of the grid.

Filing Utilities have explicitly recognized that the RTO should adopt strategies to protect itself against market power in the hands of generators. For example, RTOW is authorized to create markets for imbalance energy and other ancillary services on the

demand side. PIOs applaud that decision. However, the Filing Utilities have not given RTOW the same authority to consider demand-side options with respect to transmission needs.

Although PIOs hope that the rules and regulations guiding RTOW's operations will assure that market-based solutions provide economically-efficient power production and delivery, the Filing Utilities have anticipated, rightly we believe, that market barriers could exist and that the RTO should have backstop authority to step in where it is needed. If efficient markets fail to materialize in spite of all our best efforts, the RTO should try its best to simulate what markets would have done. This requires that the RTO not only engage in comprehensive planning but also be authorized to implement actions that will assure a least-cost approach to resolving problems. Demand-side resources, strategically placed generators, and other options should be considered equally with wires solutions in RTO West's planning and backstop "acquisition" strategies.

The Filing Utilities' plan establishes four purposes for which RTOW may use its backstop authority to "fix" transmission problems that have not been alleviated through market mechanisms: 1) to maintain standards of transmission adequacy, 2) to alleviate chronic significant congestion, 3) to replace congestion management resources, and 4) to restore total transmission transfer capability. Of the four, the RTO is authorized to "acquire" demand-side resources only to maintain standards of transmission adequacy. In all other cases, the RTO is limited to causing transmission resources to be constructed, even though demand-side options may be lower in cost. The inconsistency of this approach is significant and indefensible. Thus, the Commission should insist that RTOW backstop authority include providing for the lowest-cost solutions, with environmental costs

considered, regardless of purpose of the system solution.

C. The Commission should require the adoption of reasonable and uniform interconnection standards for all portions of RTOW.

Although demand side measures (including conservation and distributed resources, both active and passive, many of which are renewable) can offer cost-effective market solutions to meeting system needs, outdated and unnecessary interconnection standards are effectively used to hinder the customer use of these resources. Transmission entities must not be permitted to inhibit interconnection of these resources, and reasonable interconnection standards must also be required at the distribution level. As was clear from evidentiary hearings in California on interconnections for distributed generation, not all utilities are inclined to help resolve interconnection problems faced by developers at distribution voltages, even though benefits during peak load periods, measured in energy and T&D capacity savings, may be enormous. (See *Rulemaking into Distributed Generation*, R. 99-10-025, October 21, 1999.)

PIOs believe interconnection standards must be fair and consistent across RTOW's geographic area if the benefits of demand-side and distributed resources are to be realized. We also believe that interconnection standards should be designed to encourage non-traditional customer resources to serve system needs.

For many PIOs, fair and consistent interconnection requirements are paramount because without them it is unlikely that RTOW will achieve the benefits associated with non-traditional resource alternatives. PIOs, therefore, oppose the following language in Section 20.7.2 of the RTO West Transmission Operating Agreement: "The arbitrator shall be further instructed that there is no requirement for the interconnection agreement terms of

the various Participating Transmission Owners to be uniform among the various Participating Transmission Owners, so long as the proposed interconnection agreement terms meet the above standards.”

Finally, PIOs believe that in order for interconnection standards to be reasonable they must differentiate between large and small projects. Interconnection requirements for distributed generation and relatively small renewable capacity additions with little potential for large system impacts should not be required to undertake all of the procedural and technical steps necessary for large projects with significant impacts on the grid. Thus, PIOs urge the Commission to direct the Filing Utilities to differentiate reasonably in the interconnection standards for RTOW between the very small generators with minimal impacts and larger facilities, in order to make interconnection of small units much easier and less costly. Directing standardized interconnection requirements that make it easier for small generators to participate in the wholesale marketplace should greatly enhance consumer benefits in the Northwest. However, in providing direction, the Commission should assure that these benefits are not be gained at the expense of reduced air quality or other environmental damage, and, therefore, it should direct that RTOW interconnection standards include a requirement that small generators have appropriate environmental permits.

III. Stronger Incentive Mechanisms Are Needed To Assure Deep And Liquid Markets In Transmission Rights.

Although vertically integrated utilities in the Northwest already deliver power relatively efficiently, they do not manage ratepayers' risks adequately; nor do they stimulate innovative ways to supply customers' needs. The massive efforts to restructure the electric

industry and create RTOW should assure more than marginal improvements in the efficiency of grid operations. The major benefits of restructuring will come from better management of risks and greater innovation over the long term, each driven by better pricing signals throughout the grid. These benefits have come to industries with efficient, competitive markets.

Critical to the success of any RTO are mechanisms that require or incentives that encourage holders of transmission rights and others to engage in market activity to gain or maintain transmission rights and to discover the value of transmission rights. The market activity to gain access to and discover the value of transmission rights, in PIOs' view, would create the metric against which to measure non-transmission alternatives to meeting system needs and addressing congestion, such as conservation, distributed generation, load management, and location of generators, as well as transmission facilities. Without such a metric, innovative market alternatives to serving loads will be inhibited. Thus, the goal of achieving efficient markets for the trading of transmission rights should receive significant attention.

Achieving this goal has been a subject of debate throughout RTOW Phase I and continues through today. Some participants in the process have raised valid concerns, fearing that a pure market for transmission rights could jeopardize their ability to serve the loads for which they are responsible. In particular, some feared that very small, publicly owned utilities would not have the expertise to compete adequately in such a market. Thus, a concerted effort is required to create a mechanism that protects loads while requiring them, at a minimum, to address the value of their transmission rights and competing alternatives. This filing does not contain such a mechanism and, therefore, does not

provide the impetus for markets in transmission rights to flourish.

The Commission has spoken on the importance of market design and accurate price signals in its order to correct flaws in the California electric system: "The current congestion management system is fundamentally flawed and needs to be overhauled or replaced. This market redesign is crucial for providing transmission schedules that are based on physical reality and accurate price signals for the siting of new generation."

Market Order Proposing Remedies for California Wholesale Electrics, Ibid., p. 35.

A. The Filing Utilities' proposed treatment of transmission rights for existing customers will inhibit the development of efficient markets to clear congestion and will assure sub-optimal decisions regarding generation location, transmission upgrades, and investments in renewables, end-use conservation and load management.

PIOs strongly believe that the RTO West policies should encourage the development of efficient markets throughout the Northwest, but this filing's treatment of transmission rights will inhibit market development. Specifically, the treatment of Financial Transmission Options (FTOs) proposed in the RTOW filing will substantially inhibit, if not prevent, the development of efficient markets for transmission capacity. Under the RTOW proposal, after allocating Catalogued Transmission Rights (CTRs) to serve the existing contracts and obligations, it appears that few (if any) CTRs will be converted to FTOs.

Under the Filing Utilities' proposal, holders of CTRs are "encouraged to convert" because they cannot receive congestion credits for CTR rights that are not scheduled. But this "encouragement" may be relatively meaningless because most transmission dependent utilities in the Northwest have made it abundantly clear that they are not interested in putting their CTRs at risk in a market setting. Further, the encouragement to convert CTRs is reduced by giving CTR holders credit for early "lockdown" of their respective schedules, as

well as by the fact that capacity not being used to serve loads has value. Thus, it is difficult to see how deep, liquid markets for clearing transmission congestion will be able to evolve.

Knowing the value of transmission rights is important. When the value of FTOs is known and end-users are faced with paying prices consistent with their values, non-transmission solutions to reduce congestion will be examined, and some may be attainable at lower cost than buying FTOs or planning new transmission. Investments in non-transmission options—which cannot be fully anticipated but could include on-site renewable generating units, end-use efficiency, and demand management—will reduce congestion and lower overall transmission costs. In addition, investments in alternative resources such as renewables that lower congestion costs should help to mitigate concerns about the intermittent nature of wind and solar resources.

Intermittent renewable resources are adversely affected in at least two crucial ways by a lack of liquidity in markets for transmission rights. First, while these resources (e.g., wind facilities) have extremely low operating costs, the availability of their "fuel" cannot always be known in advance. When the wind is blowing, wind units (or scheduling coordinators with wind resources in their portfolios) are well positioned to bid for transmission capacity because of their low variable operating costs. Thus, it is important that markets for transmission capacity be sufficiently liquid to allow scheduling coordinators to arrange for transmission capacity when renewable resources are running. The ability to buy transmission capacity before hand and to sell it near real time if the fuel is not available, or to buy transmission capacity close to real time when the fuel is known to be available, is extremely important to wind and other renewable resources. This requires deep and liquid markets for transmission capacity. Without these markets, the owners and advocates of

renewable resources would be faced with unknowable congestion management charges and, as a result, have to push once again for programmatic, non-market solutions to allow renewables to compete. It is not in the public interest to go over that ground again, given the opportunity to fix the problem structurally at the outset, and it is not in the interest of the Northwest to squander opportunities to foster renewable resources. Without efficient markets for FTOs in a constrained system, however, a significant opportunity would, in fact, be lost. The Commission, therefore, should require changes that will ensure deep and liquid markets in transmission rights.

B. Failing to develop efficient markets now will increase the potential for additional stranded costs in wires and generators in the future.

While it is crucial for the development of efficient markets that users of electricity understand and face the price of delivered power, the transition to such pricing is likely to take a long time. In the meantime, relying solely on traditional new generating capacity and T&D, instead of including the broad array of options, to supply peak loads may lead to additional stranded investments when the “unconventional” resources enter the market. Thus, it is ill advised to postpone implementation of well-designed RTO policies and mechanisms to move from a system that charges average prices and hides real prices to one that allows discovery of prices and brings innovation to bear in the provision of electricity services. The Commission should not permit this to happen in the Northwest.

REQUESTED RELIEF

For all of the reasons noted above, Public Interest Organizations respectfully seek an order that:

- 1) rejects without prejudice the proposed finding that, based on the filings made to date, the "concepts" in the draft Transmission Operating Agreement and other

agreements not yet finalized are consistent with Order 2000 requirements and are otherwise acceptable to the Commission;

2) declares that because RTO West will be a work in progress even after it initiates operations, the Transmission Operating Agreement (TOA) must be limited to the fundamental contractual relationships between the RTO and Filing Utilities and must include a public interest/environmental protection duty for RTO West;

3) rejects without prejudice the proposed planning process and finds that planning for the entire grid in the Northwest must be under the direction of RTO West, include all parts of the grid, and consider all reasonable resource options to maintain and enhance the transmission system at least cost, including demand-side measures and strategically located generation, as well as transmission facilities;

4) requires that interconnection standards be standardized and fair throughout the region from traditional generation to load resources;

5) finds that the incentives for holders of Catalogued Transmission Rights to convert to Financial Transmission Options will not be sufficient to allow for a robust, deep and liquid market in transmission rights and, thus, requires that they be revised; and

6) gives guidance to the Filing Utilities and other parties on the other critical issues identified by protesting parties and the "concepts" proposed in the filing's draft documents.

Respectfully submitted on behalf of PIOs this 29th day of May, 20002,

/S/

Terry R. Black, Attorney
Phone: 703/836-9547

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing MOTION TO INTERVENE AND PROTEST OF PUBLIC INTEREST ORGANIZATIONS upon each person designated on the official service lists complied by the Secretary of the Commission in these proceedings.

Dated this 29th day of May, 2002



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