

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. RT01-35-005 (and
RT01-35-007)

**COMMENTS OF TRUCKEE DONNER PUBLIC
UTILITY DISTRICT ON STAGE 2 FILING OF
RTO WEST UTILITIES**

On March 29, 2002, the above-captioned utilities (referred to herein as the “RTO West Utilities”) tendered for filing in this docket their “Stage 2 Filing and Request for Declaratory Order Pursuant to Order 2000” relating to the proposed RTO West (“Stage 2 Filing”).¹ Pursuant to the Commission’s notice issued April 17, 2002, the Truckee Donner Public Utility District (“Truckee” or “the District”), having previously intervened in this proceeding, provides its comments on the Stage 2 Filing.

I. BACKGROUND FOR TRUCKEE’S COMMENTS

Truckee is a public utility district of the state of California engaged in the transmission, distribution, sale and delivery of electric power and energy. The District is a transmission-dependent utility located high on the Eastern slope of the Sierra Nevada, within the control area of one of the RTO West Utilities, Sierra Pacific Power Company (“Sierra”). Truckee receives network transmission service under Sierra’s OATT, and

¹ The RTO West Utilities also filed certain corrections to the Stage 2 Filing on April 22, 2002.

purchases its full power and energy requirements from another of the RTO West Utilities, Idaho Power Company. Truckee has rights under its network service agreement to import all of the power necessary to serve its load (including load growth) from sources outside of the Sierra control area.² Truckee's network service agreement qualifies as a "Pre-existing Transmission Agreement" under the RTO West Utilities' proposal.

Truckee's import rights under its network service agreement were gained as part of a settlement between Truckee and Sierra of several proceedings, including a long-standing dispute regarding Truckee's rights to use Sierra's limited import capacity, which was before this Commission in Docket No. ER97-3593-000.³ These rights are extremely valuable to Truckee, particularly because Sierra's control area has long been, and very likely will long continue to be, a load pocket.⁴ These rights were negotiated with the understanding and intention that Truckee's network service agreement — or at least the import rights provided therein — would be grandfathered under ISO- or RTO-type arrangements.⁵ Truckee made a number of concessions and agreements in the settlement

² Truckee's network service agreement and other agreements were filed with and accepted by the Commission in Docket No. ER99-4455-000. *Sierra Pacific Power Co.*, 89 F.E.R.C. ¶ 61,156 (1999). Truckee's network service agreement was placed into effect as of September 15, 1999, and by its terms it will remain in effect through December 31, 2027 unless terminated earlier by the District. In 2001, the parties agreed to certain modifications to the network service agreement, specifying how Truckee's import rights will be allocated as among particular Sierra interfaces. These modifications were filed on November 13, 2001 in Docket No. ER02-317-000, and accepted by the Commission in its letter order dated November 30, 2001 and basket order dated March 13, 2002.

³ The settlement of which the network service agreement was a key component also resolved, *inter alia*, issues relating to the merger of Sierra and Nevada Power and Sierra's then-pending transmission rate case.

⁴ In the proceedings to review the proposed merger of Sierra and Nevada Power Company ("NPC") (Docket No. EC99-1), Truckee submitted a study showing pre-merger HHIs of more than 6000 for both Sierra and NPC. Since the time of the study, little has changed — particularly within Sierra's service territory, demand for transmission imports continues to exceed total import capability, despite certain additions that Sierra has completed.

⁵ The parties negotiated the terms of the network service agreement in mid-1999, against the backdrop of the development of the Mountain West Independent System Administrator ("MWISA") tariff. The MWISA was designed as a single, independent entity to provide service over the transmission facilities of

as a *quid pro quo* for its long-term exemption from any requirement to pay congestion management costs for its use of import capacity as set forth in the network service agreement. Truckee is therefore keenly interested in ensuring that its bargained-for import rights will not be eroded by the advent of RTO West.

Truckee is also more generally interested in seeing that RTO West's formation is consistent with the Commission's bedrock principles of independence, broad regional scope, and strong central authority of RTOs. Truckee welcomes the development of RTO West, and believes that truly independent RTOs of significant scope are to be encouraged. Furthermore, Truckee is pleased that the Stage 2 Filing appears to include provisions that give customers such as the District the option and incentive to convert their existing network service agreements to RTO West service — allowing them to gain regional transmission access for a single non-pancaked transmission rate and allowing RTO West to more easily and uniformly incorporate service to such customers into the operation of the regional grid — while maintaining the quality of service to such customers through preservation of their existing (and in Truckee's case, at least, hard-won) congestion management protections.

To a significant degree, the comments that follow consist of questions and concerns that go to the structure, clarity, and/or completeness of the Stage 2 proposal.⁶

Sierra and Nevada Power Company upon the commencement of retail access in Nevada, until such time as a regional transmission entity of considerably greater scope was developed. *See Mountain West Indep. Sched. Administrator*, 90 F.E.R.C. ¶ 61,067 (2000). Because Nevada repealed its retail access plan in the wake of California's market troubles, the MWISA never came to fruition. The proposed MWISA tariff included congestion management provisions, based on auctioned physical Firm Transmission Rights, that are similar to those proposed by the RTO West Utilities in the instant filing.

⁶ As noted in several instances below, the Stage 2 Filing includes a variety of internal inconsistencies and ambiguities that make the RTO West Utilities' intentions less than clear. It is possible that those who took an active role in the "collaborative process" leading up to this filing understand what is intended. Truckee

While there are certain aspects of the Stage 2 Filing that the Commission should not accept, at least without modification, Truckee generally supports (or at least does not oppose) the basic substance of the filing.

II. TRUCKEE'S COMMENTS ON THE RTO WEST STAGE 2 FILING

A. *Under the Current Proposal, the Incumbent Transmission Owners Would Exercise Too Much Control Over RTO West*

Truckee is concerned that several aspects of the instant filing would, intentionally or not, leave RTO West too beholden to the Participating Transmission Owners (“PTOs”). In order to make the requested finding of independence, the Commission must rectify these deficiencies and ensure that RTO West will have the broad authority and control it needs.

Part of the problem is the packaging of the Stage 2 proposal. It does not include a proposed RTO West tariff. Perhaps as a result, substantive provisions that should be part of the RTO West tariff are instead embodied in the *pro forma* Transmission Operating Agreement (“TOA”), which is included as Attachment A to the filing. These TOA provisions spell out key elements of RTO West’s powers, obligations, and operations, relating to, *inter alia*:

- the types of facilities that RTO West will control (*see* § 6 and Exhibits D, E and N)
- details of the RTO’s provision of transmission services (*see* § 6.7)

— a system of less than 30 MW — cannot justify making the substantial commitment of time and money that would have been necessary to be directly involved in the RTO West collaborative process (although, as a member of Utah Associated Municipal Power Systems (“UAMPS”), which has actively participated in the collaborative process, Truckee has indirectly monitored the progress of the RTO West). In any event, the governing documents for RTO West should be sufficiently clear and consistent to enable an uninvolved reader to discern the RTO’s governing rules and requirements; Truckee’s confusion regarding several aspects of the filing demonstrates that the RTO West Utilities, no matter how well-intentioned they may be, have not yet achieved the necessary degree of clarity.

- congestion management mechanisms (*see* § 7 and Exhibit F)
- treatment of existing contracts (*see* §§ 9.1-9.5 and Exhibits C and F), including:
 - customer rights vis-à-vis transmission owners regarding load growth and Catalogued Transmission Rights (§ 17.3.5),
 - the RTO's duty to other parties to existing contracts upon a transmission owner's withdrawal from the RTO (§ 2.4.2), and
 - the catalogue of existing transmission rights (Exhibit F)
- RTO West's provision of ancillary services (*see* § 10)
- RTO West system maintenance (*see* § 11)
- RTO West's planning and expansion process (*see* §§ 14 and 15)
- RTO West's rate structure and rates (*see* §§ 16 & 17 and Exhibits G-J)
- RTO West business practices (*see* § 18)
- RTO West's dispute resolution process (*see* § 20 and Exhibit P)

While for the most part Truckee does not object to the substance of these provisions, we do object to these provisions being part of the TOA. As long as these provisions are in the TOA, RTO West cannot unilaterally make changes to these essential terms of its control over transmission facilities and provision of transmission service to its customers.⁷ Even if parallel provisions were eventually to be included in the RTO West tariff, if they also remain in the TOA, RTO West would not truly have the independent authority to modify its own tariff, since any tariff changes would create a conflict with the parallel TOA provisions (absent consent of *all* PTOs to the proposed changes). To the extent the Commission approves the substance of the proposed terms,

⁷ It may also be more difficult for the Commission itself to order such changes.

the approval must be subject to the condition that these terms be removed from the TOA, so that the PTOs do not have veto power over changes to said terms.⁸

In addition, there are certain provisions that are substantively problematic in that they unduly restrict RTO West's authority. RTO West's independence will be compromised if these provisions are accepted, no matter whether they reside in the TOA or the tariff. As UAMPS explains in Sections I.A and IV of its Comments being filed in this docket,⁹ the TOA gives PTOs too much control over RTO West's:

- rate filings,
- budgets,
- interconnection standards, and
- system planning and expansion.¹⁰

The control that would be held by the PTOs in these areas would exceed even the level the Commission has said *independent* transmission owners may wield within an umbrella RTO. *See Alliant Energy Corp. Services, Inc. et al.*, 99 F.E.R.C. ¶ 61,106 (“*TRANSLink*”); *Alliance Cos., et al.*, 99 F.E.R.C. ¶ 61,105 (“*Alliance*”). The

⁸ Truckee generally agrees with, and refers the Commission to, the more comprehensive discussion of this concern in Section I.B of the Comments being filed in this docket by UAMPS. Truckee also shares UAMPS' concerns regarding the apparent exclusion of customers from the dispute resolution process in the TOA, at least to the extent the TOA contains provisions governing key RTO functions such as those listed above. It would be appropriate to limit participation in resolving disputes that arise under the TOA to the PTOs and RTO West, as the RTO West Utilities have proposed, only if — as UAMPS recommends — the Commission properly restricts the TOA to matters that relate exclusively to the relationship between PTOs and RTO West.

⁹ Truckee agrees with, and refers the Commission to, UAMPS' more comprehensive discussion.

¹⁰ To the extent RTO West is given planning authority, it extends only to those facilities over which it is given functional operating control. *See* Transmittal Letter at 52 n.60. As discussed below, many of the PTOs propose not to transfer to RTO West's functional control many of the facilities that are nonetheless to be included under RTO West's tariff (for pricing and access purposes). *All* of the facilities in RTO West's transmission system — *i.e.*, all of those over which it provides service under its tariff — must be within the RTO's planning and expansion authority.

Commission must therefore require as a condition of approval of the Stage 2 Filing that these provisions be eliminated or modified to ensure the RTO's central authority.

RTO West's independence is also cabined by the fact that it will have full control over only a vaguely defined subset of the "RTO West transmission system." *See* Transmittal Letter at 33-38.¹¹ It is, to say the least, confusing to have four classes of facilities that are to be wholly or partially subject to RTO West's control, pricing, and/or provision of transmission service. The confusion is compounded by the fact that there do not appear to be any enforceable criteria defining which facilities are to be placed in each class, and the RTO West Utilities do not explain how they have decided on the proposed assignments listed in Attachment D to the Stage 2 Filing.

Most importantly, however, the RTO West Utilities have not provided any rationale for allowing the PTOs to retain full or partial operating control, planning authority, and the like over certain classes of facilities, even while RTO West is supposed to be the exclusive provider of transmission service over these facilities under the RTO West tariff. In order to satisfy Order 2000's independence and other requirements (including provision of one-stop shopping), RTO West must have both functional control and pricing authority over *all* of the facilities that make up the transmission system it is to administer under its tariff.¹²

¹¹ We note that Sierra evidently intends to turn over functional control of *all* of its facilities (55 kV and up) to RTO West (*see* pages 48-49 of Attachment D to the filing); the problem here relates to most of the other PTOs' intentions.

¹² Truckee also agrees with, and refers the Commission to, the related discussion of the selectiveness of facilities to be transferred to RTO West's control in Section III of the Comments being filed in this docket by UAMPS.

Finally, RTO West's independence is compromised by the ability of PTOs to terminate their participation in RTO West on only two years' notice.¹³ RTO West will have an institutional imperative to retain transmission owners within its fold, in order to prevent the emergence of rivals for the RTO services customer base that will fund its infrastructure investments and support its very substantial administrative fees. Consequently, whatever other trappings of independence are built into RTO West's structure, its independence will be diminished by the PTOs' ability to threaten their departure (perhaps to WestConnect) in the event that RTO West makes changes with which the PTOs disagree. So long as PTOs are free to secede, RTO West will be strongly motivated to capitulate to the demands of these market-participant transmission owners.¹⁴

The termination provision would also create obstacles to the development of broad regional power markets that is, after all, the goal underlying Order 2000. Departure of a PTO after only two years could drastically upset the expectations and adversely affect the economics of power-supply arrangements of the transmission customers within the PTO's control area.¹⁵ Furthermore, load-serving entities will be

¹³ Section 2.3.1. of the TOA allows PTOs to terminate their RTO West participation on two years' notice, for any (or no) reason. There are also rights to terminate participation on shorter notice under certain specified circumstances, one of which is that the Commission uses the TOA, RTO West's activities, or the PTO's transactions with RTO West "to assert authority over the generation or power sales activities" of the PTO. Section 2.3.4. It is not clear to Truckee whether this provision is intended to allow RTO West Utilities that are already subject to Commission jurisdiction under Section 205 to terminate their participation under this provision. Nor does Truckee understand how this provision relates to the obligation of RTO West to implement any market-mitigation or other measures that are necessary to retain the utilities' market-based-rate authorizations (*see* Sections 6.7.7, 6.7.9).

¹⁴ Non-transmission-owning stakeholders lack any corresponding negotiating leverage — they cannot take their loads elsewhere — and will therefore get the short end of the resulting deals.

¹⁵ For example, if a network customer within a PTO's control area were to make arrangements for a long-term network resource located within RTO West but outside of the PTO's control area, based on the assumption that it would be able to use such a network resource without incurring pancaked transmission

discouraged from making long-term commitments necessary to support new generation (by construction, or purchase from a competitive supplier) if they are at risk of their host PTO being able to reinstate pancaking of transmission charges for delivery of the generator's output to their loads on short notice.

For these reasons, PTOs should be required to make a long-term (*e.g.* 10-year¹⁶) commitment to RTO West participation, subject only to the ability to withdraw their facilities from RTO West (or otherwise reduce the RTO's scope) if events genuinely beyond their control make continued participation legally untenable. Otherwise, the threat of scope reduction will compromise RTO West's independence and undermine the development of broad regional markets.

If, nonetheless, the Commission is willing to accept the two-year termination provision, it must at least impose conditions to protect customers who have relied on the ability to have long-term regional access without pancaking. As a condition of withdrawal from RTO West, a PTO should have to agree to terms that would allow transmission customers within the PTO's system to be able to continue to receive non-pancaked service over the combined PTO/RTO West region for the remainder of the terms of service agreements entered into prior to the PTO's withdrawal. Furthermore, such protection must extend to customers who convert their existing contracts. Each

charges, the PTO's departure from RTO West after two years would subject the customer to pancaking that it might well have chosen to avoid by selecting another resource within the PTO's control area. Looked at from another perspective, the inability of customers to rely on a long-term commitment by a given PTO to participate in RTO West may well dissuade customers from entering into long-term arrangements to use resources outside of that PTO's control area, thus giving generation located within the PTO's system (most of which is likely owned by the PTO) an unfair advantage.

¹⁶ At the very least, the PTOs should have to commit to remain in RTO West through the duration of the "Company Rate period."

converted customer should be given the option of continuing to receive non-pancaked service over the combined region even after the host PTO departs, instead of having the original contract automatically reinstated (as would happen under Section 2.4.2 of the TOA).¹⁷

B. A Number of Details of the Proposed Treatment of Existing Contracts Should Be Clarified and/or Modified

The District is generally pleased with the RTO West Utilities' proposed provisions intended to preserve the rights of customers under existing transmission contracts, while also providing those customers the option of "converting" their contracts to service under the RTO West tariff. *See* Attachment F. However, in addition to believing that such provisions should be in the RTO West tariff rather than in the TOA, Truckee has a number of questions and concerns regarding certain details of the RTO West's proposal. In particular, Truckee believes it is necessary to have the RTO West Utilities clarify several aspects of the proposed option to convert existing contracts to RTO West service with "CTRs" (rather than "FTOs").

1. The Catalogue of Transmission Rights Belongs In the Tariff, Not In the TOA

As noted above, much of the substance of the proposed TOA should be moved out of the TOA and into RTO West's proposed tariff, in order to ensure the RTO's independence from the PTOs. Placing the catalogue of customers' existing transmission rights in the tariff will allow the RTO West to make changes at appropriate intervals (*e.g.*, to reflect load growth) without undue interference by the PTOs. However, there is an

¹⁷ Truckee also agrees with, and refers the Commission to, the related discussion of the TOA termination provisions in Section VII of the Comments being filed in this docket by UAMPS.

added reason to remove from the TOA the catalogue of transmission rights held by customers under existing contracts — to protect the customers whose rights are to be catalogued.

Putting the catalogue in the tariff rather than in the TOA is necessary to give an existing customer the opportunity to protest when the catalogue is filed, if it disagrees with the manner in which the catalogue spells out its existing transmission rights.¹⁸ Of course, as UAMPS suggests (*see* Section V of its Comments filed in this docket), customers also should be included in the cataloguing process from the outset. Bringing the directly affected customers into the process from its inception is only fair, and ought to minimize the number of disputes the Commission would have to resolve.

2. The “CTR Election” Option to Convert to RTO West Service Should Be Clarified

The RTO West Utilities’ current Congestion Management Proposal (Attachment F to the Stage 2 Filing) includes several options for an existing transmission customer. The customer may elect not to convert its existing service, but rather continue to take service from the PTO under the terms of the original contract, or convert its existing service to take service directly from RTO West. If the customer chooses to convert to RTO West service, it will receive (at the customer’s election) either catalogued transmission rights (“CTRs”) or financial transmission options (“FTOs”). FTOs have certain benefits that CTRs do not, but CTRs will be a more appropriate means of

¹⁸ As noted in footnote 8, *supra*, customers are excluded from participating in the dispute resolution process under the TOA. Thus, if the catalogue is part of the TOA, an affected customer would have no opportunity to get the terms of the TOA changed to reflect what the customer believes to be an accurate representation of its existing rights.

preserving existing rights for current network customers, whose rights are a function of load rather than fixed reservations. *See* Attachment F at 16 and Appendix B at 5-6.

Those basics seem clear enough from Attachment F. However, questions quickly emerge as an interested reader begins to try to understand the finer points of the proposal. One aspect of the proposal that remains somewhat ambiguous is whether a customer that elects the CTR conversion approach will be able to get non-pancaked regional service under the terms and pricing of the RTO West tariff. We believe this to be the case, although the filing does not clearly and consistently establish that threshold principle,¹⁹ and the Commission should therefore require the RTO West Utilities to clarify this point in a compliance filing.

Assuming that is the nature of the current proposal, Truckee views it as a promising new opportunity for customers to gain benefits of RTO developments without sacrificing their existing hard-fought protections against congestion management, while the region benefits by having more of the regional load served under uniform terms and conditions. Nonetheless, the proposal is not fully developed — certain key details need to be fleshed out, clarified or added.

¹⁹ Part of the problem may be that the concept of CTR conversion appears to be one that was developed relatively late in the preparation of the Stage 2 Filing. Although this option is fairly well explained at pages 19-23 of Attachment F and Appendix B to Attachment F, its existence does not seem to have been worked into other parts of the filing. For example, even Appendix A to Attachment F (the glossary of terms used in the Congestion Management Proposal) apparently needs to be modified to reflect the availability of the CTR conversion option — *see* definitions of Catalogued Transmission Right, Cataloguing (both of which refer exclusively to the *PTO* using CTRs to schedule service with the RTO), Contract Customer, and Conversion (which assumes that a converting customer's existing rights will necessarily be translated to FTOs). In addition, certain provisions of the Pricing Proposal seem to assume that conversion will necessarily be to FTOs (*e.g.*, Attachment E1 at 6, 9 n.12). Further, the Congestion Management Proposal seems to indicate that a customer electing CTR conversion would take service directly under the RTO West tariff (*see* Attachment F at 4) and thus presumably pay the Transmission Use Service charge (*e.g.*, in Truckee's case, Sierra's "Company Rate"), yet the Pricing Proposal (Attachment E1 at 11) suggests that the converting customer might instead pay the rate under the existing contract (in Truckee's case, the old rate under the Sierra OATT).

For example, the Congestion Management Proposal states that a converting customer's CTRs will identify the injection and withdrawal points that will give rise to credits related to the customer's transactions actually scheduled between those injection and withdrawal points. *See* Attachment F at 21.²⁰ However, it is not clear how the injection points, in particular, would be defined for a customer in Truckee's situation. Truckee's network resource is its requirements purchase agreement with Idaho Power, which is served out of Idaho Power's system resources. If Truckee opted to convert to RTO West service with CTRs, would the injection points be the Points of Receipt on *Sierra's* system over which the Idaho resources are currently imported into the Sierra control area? Or would the CTRs recognize the artificiality of this border once RTO West service begins, and instead define the injection points as the points where the power for Truckee is injected into the RTO West system (*i.e.*, the busbar of Idaho Power's generation)?

Other drafting problems and questions regarding details of the Stage 2 Filing regarding conversion or maintenance of existing contracts (or congestion management more generally) include the following:

- Although we assume it to be the intent, the Congestion Management Proposal nowhere expressly states that a customer converting to RTO West service with CTRs would enter into a service agreement under the RTO West tariff to be effective during the suspension of the underlying contract with the PTO.

²⁰ The Congestion Management Proposal (Attachment F at 10) states that *all* buses on the vaguely defined RTO West *controlled* facilities will initially be considered injection points and withdrawal points, with RTO West having the option at some future point to aggregate them into nodes or hubs. The Pricing Proposal (Attachment E1 at 8) somewhat inconsistently indicates that these terms "refer to locations on the RTO West Controlled Transmission Facilities where nodal prices will be calculated by the congestion management system. Locations where energy is received or delivered are called Points of Receipt and Points of Delivery; they will be aggregated to Injection and Withdrawal Points for RTO West scheduling, operations, and congestion management."

- It is not clear whether a converting customer's total payments are to be capped at what it would have paid under its original agreement. That appears to be the implication of the statement in the Congestion Management Proposal (Attachment F at 17) that "the RTO West pricing model's 'Transmission Reservation Fee' or 'TRF' does not operate to expose a party to new charges resulting from conversion if could have avoided by choosing not to convert." Yet, we see no references in the Pricing Proposal (Attachment E1) to a "TRF," nor do we see language in the proposal that would clearly cap the Contract Customer's charges at the same level as its existing contract.
 - Appendix B to the Congestion Management Proposal also states (at 3) that once a Contract Customer has converted to RTO West service, it cannot revert to its existing contractual arrangements (*i.e.*, direct service from the PTO) without the PTO's agreement. We assume this passage is intended to apply only to the context of the PTO remaining in RTO West, and is not meant to restrict the Contract Customer's rights in the event that RTO West is dissolved or the PTO terminates its participation in RTO West.²¹
 - The Transmittal Letter (at 14) states that the RTO West Utilities intend to make changes to their individual OATTs to provide that "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)." Any such change to the OATTs should reflect that this conversion option will be available to both existing customers (such as Truckee) and new customers.
3. Converting Customers' Ability to Obtain Non-Pancaked Regional Service Should Not Be Delayed Pending Disputes Over CTRs or FTOs

Finally, the proposal regarding conversion of contracts has one major flaw. The Congestion Management Proposal states that the Contract Customer and the PTO must reach agreement on the CTRs that will apply to the customer's converted service, and that any disagreements must be resolved through the RTO West dispute resolution process before the contract can be converted. *See* Appendix B to Attachment F at 1 & n.1, 3. This arrangement would apparently allow the PTO to significantly delay the

²¹ As noted above, in the latter event, the customer should have the option to either revert to its prior arrangements with the PTO or remain an RTO West customer with non-pancaked regional access.

Contract Customer's ability to begin taking non-pancaked regional service under the RTO West tariff, and thus gain a competitive advantage over the customer.

A customer that wishes to convert to CTRs (or FTOs) should have the option to request RTO West to file an unexecuted service agreement (and, if necessary, an unexecuted suspension agreement) so that the customer can begin taking regional service even while pending disputes over the CTR (or FTO) conversion get resolved.²² Inasmuch as the CTRs (and FTOs) are purely financial instruments, RTO West ought to be able to retroactively adjust the customer's congestion management credits if the ultimate CTR allocation turns out differently than what RTO West originally filed in the unexecuted conversion agreements.

C. The RTO West Utilities' Proposed Rate Formula Is Not Sufficiently Supported for the Commission to Take Any Action

The Stage 2 Filing is approximately three inches thick, with many pages double-sided. Out of all the material submitted, only about eight pages (Attachment E1 at 17-24) are devoted to a description of the formula the RTO West Utilities propose to use to calculate the zonal rates for RTO West service.²³ Discussions of pricing throughout the rest of the Pricing Proposal (Attachment E1 at 1-16) and elsewhere in the Stage 2 Filing

²² While theoretically it is possible that customers converting to FTOs could be delayed, the prospect is significantly less likely because FTO conversions will be more straightforward, as the Stage 2 Filing recognizes. See Attachment F at 16 and Appendix B.

²³ At least they have presented a proposed formula for calculating the base rates; the Stage 2 Filing states (Attachment E1 at 24) that the Grid Management Charge will also be a formula rate, but it does not provide the proposed formula. Truckee notes that the charge is projected to be "on the order of \$.50/MWh" (Attachment E1 at 7) — a level more than three times higher than the cap on Midwest ISO's charges for administrative costs (including capital and startup costs). The RTO West Utilities provide no explanation (much less justification) for such a high charge. We also note that the Pricing Proposal (at 16) implies that RTO West will directly bill non-converting customers for the Grid Management Charge. The PTO, not the customer, should be billed for any Grid Management Charges associated with non-converted service; in turn, the contract between the PTO and the customer will determine whether the PTO can pass the charges on to the customer.

relate to the general principles and motivations that were debated among the participants. While certain “illustrative” calculations (and a rather technical “narrative” regarding how they were developed) are provided in Attachment E2 (as corrected), the RTO West Utilities have not provided any testimony supporting or even providing an understandable explanation of the proposed formula. The filing does not even indicate how often, if at all, rates will be updated using this formula.

The Commission should simply disregard this aspect of the filing, and make no substantive rulings on the proposed formula. The RTO West Utilities simply have not supplied the Commission (and intervenors) with sufficient information about the proposed rate formula for it to be fully understood, much less approved. It is not at all clear to Truckee, for example, whether the proposed formula would result in a form of cost-shifting. The RTO West Utilities are greatly concerned about the potential for cost-shifting among transmission owners,²⁴ but Truckee is concerned that their proposed formula may introduce a different type of cost-shifting, *i.e.*, disproportionately saddling a given transmission owner’s load-based customers with higher rates to make up for ostensibly “lost” revenues that used to be received from other users of the system.

In addition, the Stage 2 Filing does not address (and Truckee cannot discern) how the proposed RTO West rate formula relates to the TransConnect rate proposal that was filed in November and awaits Commission action in Docket No. RT01-15. That proposal was made by a subset of the TransConnect participants, including Sierra. It is not clear to

²⁴ The concern regarding cost-shifting among transmission owners, of course, assumes the perspective of those who currently enjoy relatively low transmission rates. Truckee, being a transmission customer of Sierra, has a very different perspective — it would likely see its transmission charges *decrease* if RTO West utilized a single region-wide postage-stamp rate rather than the zonal license-plate rates.

Truckee how, if at all, its Sierra zonal rates would be affected by the RTO West proposal if, despite its numerous deficiencies,²⁵ the pending TransConnect rate proposal were accepted by the Commission.

Although generally lacking in sufficient details or explanation, the RTO West Utilities' Pricing Proposal does have at least one feature that Truckee can readily identify as being plainly unjustified.²⁶ The RTO West Utilities note that they are proposing to use a two-year *prospective* test year for all participants because Bonneville Power Administration currently sets its rates in this manner. Transmittal Letter at 28 n.28, Attachment E1 at 17. It is neither necessary nor appropriate to follow this approach. The TRANSLink utilities faced a similar situation, but instead they have proposed a separate formula for developing annual transmission revenue requirements ("ATRR") to be used only by transmission owners that currently develop their rates on a "cash basis" (in TRANSLink's case, this is likely just to be the Nebraska Public Power District, or "NPPD").²⁷

²⁵ See, e.g., Truckee's December 13, 2001 Protest in Docket Nos. RT01-15-002 and ER02-323-000.

²⁶ In addition, there also some pricing-related statements in the filing that are simply perplexing. For example, the Pricing Proposal appears to indicate in certain places (e.g., Attachment E1 at 15, 16) that there will not be any new service paying the Company Rate — it will be paid only by existing customers. This is not explained, and appears inconsistent with other statements in the filing. Truckee also does not know what is meant by the statement (Attachment E1 at 19) that "The PTO does not establish a rate for service to new loads." The RTO West Utilities also state (Transmittal Letter at 29 n.29) that external interface charges will apply to schedules having withdrawal points at "the external interface points of the facilities of RTO West and an Independent Operator as described in Section 4 of the Transmission Operating Agreement." It is not clear to Truckee whether the proposal is to have external interface charges apply any time a transaction crosses a border between an Independent Operator and the rest of RTO West, or just if the transaction exits the combined RTO West/Independent Operator system. If the latter, the language seems unnecessary, because the Independent Operator's system would simply be part of the RTO West system.

²⁷ Although the TRANSLink proposal is based on NPPD using its 2002 projected budget data to develop its 2003 ATRR under this cash-basis formula, this was a one-time arrangement driven by certain anomalies in NPPD's actual costs versus budget in 2000, the test year that all other TRANSLink participants proposed to use to develop their ATRRs (under a traditional rate-of-return formula). Furthermore, NPPD's ATRR

As it did in *TRANSLink* (slip op. at 28), the Commission should defer any action on the RTO West Pricing Proposal. The Commission should require those who filed the TransConnect rate proposal to consult with the other RTO West Utilities and present a coordinated rate proposal, fully supported by testimony and adequate explanation, that will allow prospective RTO West customers both within and outside of the TransConnect area to determine the likely effects of the rate proposal. At the very least, the rate proposal of each group should clearly state how it relates to the other.

D. The Proposed Planning Roles of RTO West and TransConnect Are Unclear

As a general matter, the relationship between RTO West and TransConnect does not appear to have been thought through by the parties; in any event, the relationship is not well-defined in the Stage 2 Filing. Perhaps the most glaring example relates to the two entities' respective roles in planning and expansion of the regional transmission system. The RTO West Utilities' Transmittal Letter (at 55 n.63) frankly admits that "[t]here are differences between the RTO West planning approach and the TransConnect pro forma protocol" and states that the filing utilities continue to try to work out the manner in which RTO West and TransConnect will share planning authority.

Truckee suspects that the Commission's recent *TRANSLink* and *Alliance* decisions will assist the filing utilities in this endeavor. Rather than trying to sort out and resolve the differences now, the Commission should simply require both the RTO West

based on the 2002 budget data is subject to adjustment at the end of the year to reflect differences between actual and budgeted amounts. For 2004 and all subsequent years, NPPD's ATRR is to be based on historical data (*i.e.*, the ATRR each year is based on the prior year's actual costs).

Utilities and the TransConnect applicants to submit revised filings that reflect further discussion in light of the *TRANSLink* and *Alliance* orders.

Further, the Commission should require RTO West to develop general provisions regarding its proposed sharing of functions with any independent transmission companies that may seek to form and participate in RTO West, similar to the Midwest ISO's Appendix I. The Stage 2 Filing includes a place-holder for something along these lines: Exhibit O to the TOA (Attachment A to the filing), which is currently blank.²⁸ The Commission should instruct RTO West to develop a set of terms to be included in its tariff (*not* in the TOA) that would govern the relationship between RTO West and any independent transmission companies, taking into account the Commission's decisions in *Alliance* and *TRANSLink*.

III. CONCLUSION

For the foregoing reasons, the Commission should (1) require that key provisions regarding RTO West's responsibilities and rights be removed from the TOA and placed instead in the RTO West tariff, (2) require other modifications to the proposal to ensure that RTO West has sufficient control over the regional transmission system and sufficient independence from the PTOs, (3) require clarification of a number of details of, and require certain modifications to, the Congestion Management Proposal's treatment of existing contracts, particularly the option to convert to RTO West service with CTRs, (4) defer any substantive rulings on the RTO West Pricing Proposal until it is

²⁸ It is also not clear whether, once it is filled in, Exhibit O would govern RTO West's relationship with TransConnect, since it is supposed to define the allocation of functions between RTO West and an "Independent Operator," which is defined as an organization that includes one or more Canadian participants.

satisfactorily explained and supported, and (5) require RTO West to clarify its proposed relationship with TransConnect generally and in particular with respect to regional planning and expansion authority.

Respectfully submitted,

\s\ Margaret A. McGoldrick

Robert C. McDiarmid

Lisa G. Dowden

Margaret A. McGoldrick

Attorneys for Truckee Donner Public
Utility District

Law Offices of:
Spiegel & McDiarmid
1350 New York Avenue, NW
Suite 1100
Washington, DC 20005-4798
(202) 879-4000

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