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**Michael B. Early**

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May29,2002

**VIA ELECTRONIC FILING**

Hon. Magalie Roman Salas  
Secretary  
Federal Energy Regulatory Commission  
888 First Street, N.E.  
Washington, D.C. 20426

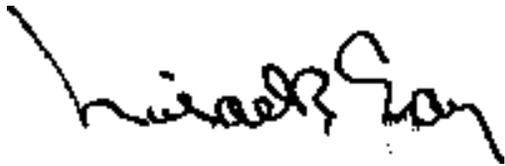
RE: *Avista Corporation*, No. RT01-35-005

Dear Secretary Salas:

On behalf of the Alcoa Inc., Columbia Falls Aluminum Company, LLC, and Golden Northwest Aluminum, Inc. please find enclosed for filing in the above captioned proceedings the *Protest and Comments of Alcoa Inc., Columbia Falls Aluminum Company, LLC, and Golden Northwest Aluminum, Inc. on the Filing Utilities' Stage 2 Filing and Request for Declaratory Order* .

Thank you for your assistance in this matter.

Sincerely,



Michael B. Early  
Counsel for Alcoa Inc. and  
Columbia Falls Aluminum Company, LLC

Enclosure

Cc: ServiceList(withenclosure)

UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION

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Avista Corporation,	)	
Bonneville Power Administration,	)	
Idaho Power Company,	)	
The Montana Power Company,	)	
Nevada Power Company,	)	Docket No. RT01-35-005
Pacifi Corp,	)	
Portland General Electric Company,	)	
Puget Sound Energy, Inc., and	)	
Sierra Pacific Power Company.	)	

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**Protest and Comments of Alcoa Inc.,  
Columbia Falls Aluminum Company, LLC, and  
Golden Northwest Aluminum, Inc.  
on the Filing Utilities' Stage 2 Filing and  
Request for Declaratory Order**

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Alcoa Inc., Columbia Falls Aluminum Company, LLC, and Golden Northwest Aluminum, Inc. („Alcoa“, „CFAC“, and „GNW“ or jointly, „Companies“) protest the Stage 2 Filing and Request for Declaratory Order, submitted to the Federal Energy Regulatory Commission (the Commission) on March 29, 2002, in these dockets by Avista Corporation, Bonneville Power Administration, Idaho Power Company, The Montana Power Company, Nevada Power Company, Pacifi Corp, Portland General Electric Company and Sierra Pacific Power Company (collectively, the „Filing Utilities“). The

Companies file this Protest pursuant to Rule 211 of the Commission's Rules of Practice and Procedure, 18 CFR §§ 385.211, and pursuant to the Commission's Notice of Extension of Time dated April 17, 2002.

The Companies own and operate aluminum smelters that are directly interconnected with the transmission system of the Bonneville Power Administration („BPA“). The Companies are eligible customers under BPA's Open Access Transmission Tariff and each Company has a transmission agreement with BPA. Each Company previously filed a motion to intervene in this docket pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 CFR §§ 385.214.

#### Introduction.

The Filing Utilities seek limited approval from the Commission in this Stage 2 filing. See Request for Declaratory Order at 63-64. The Filing Utilities acknowledge that RTOWest is still a „conceptual proposal“. Id at 6. The Stage 2 filing includes only „descriptions“ of a pricing proposal, a congestion management system, ancillary services approach, market monitoring plan, and planning and expansion process. Id at 5. There is no tariff, or even a proposed tariff, in the Stage 2 filing. The Filing Utilities have not submitted a cost-benefit study.

For purposes of these comments, the Companies will focus on the Filing Utilities' request for approval of „the proposed pricing methodology for the Company Rate Period“. Id at 64. The Filing Utilities have not requested approval of the Transmission Operating Agreement („TOA“). We agree. The TOA is incomplete and approval of the TOA would be premature; the TOA should be approved only when the tariff is also

submitted to the Commission. This will allow the Commission to assure that the rights and protections provided to Transmission Owners in the TOA are consistent with customers' rights and protections in the tariff. Nonetheless, because the TOA includes many pricing elements the Companies will address certain TOA provisions in this protest.

### Issues.

#### I. The Commission Must Consider Whether The Benefits Of RTOWest Will Exceed Its Costs .

The Companies agree with the comments of the Public Power Council that the Commission must address the costs and benefits of a proposed RTO. Public Utility District No. 1 of Snohomish County v. FERC, 272 F.3d 609 (D.C. Cr. 2001). The Filing Utilities have not submitted a cost-benefit study. The Filing Utilities have only „undertaken... an effort to quantify the impacts of RTOWest implementation on the region.“ Request for Declaratory Order at 15 n. 12. However, the Filing Utilities state that BPA's participation in RTOWest will depend on „whether a mature cost-benefit study of RTOWest shows net benefits for the region“. Id. at 14 (emphasis added). Without BPA's participation, there is no commitment for RTOWest to go forward. Request for Declaratory Order at 15.

The Companies agree with the comment of the Washington PUDs, et al., that the study, in its current state, is flawed and probably overstates benefits and understates costs. The Companies also agree that the potential for incremental state and local taxes on RTO West present important and unresolved questions. Allocating such taxes to „load stacking service within the taxing authorities boundaries and taking transmission services from

points of delivery on the Electric System of the Participating Transmission Owner whose transmission facilities are subject to such tax “does not solve the problem. TOA at 113. If there are incremental tax costs associated with RTOWest, then these costs must be accounted for in the cost/benefit analysis. Moreover, allocating such taxes just to „loads“ is unfair; transfer payments, exports, and other uses of the facilities subject to the new taxes should also bear this cost.

Until the Filing Utilities are prepared to file and support a reliable cost/benefit study showing net benefits, approval of any pricing methodology would be premature.

II. The Pricing Proposal Should Be Revised Before Resubmitted For Approval In Conjunction With The RTOWest Tariff .

1. Suspension of PTP Contracts that expire within the Company Rate Period should not require a Transfer Payment during the entire Company Rate Period.

Under the pricing proposal, Pre-Existing Transmission Agreements are treated differently depending on whether the agreement is a PTP or NT agreement. An NT customer, if its agreement is suspended, receives RTO transmission service at the Company Rate. A PTP customer, if its agreement is suspended, receives RTO transmission service at a Transfer Charge. The Company Rate is applied to the customer pursuant to the Company Rate Billing Determinants; but the Transfer Charge is based on the pre-RTO PTP transmission demand and the Transmission Owner’s charge and is paid by the PTP customer for the entire Company Rate Period, even if the PTP agreement

would have expired within the Company Rate Period. TOA at 76; Pricing Proposal at 2, 9, 12, and 13. In effect, for a PTP customer to convert to RTOWest service and get any use from RTOWest, it must agree to eight (8) years of PTP charges, at its current transmission demand, whether or not the customer needs or uses this service and without any right (unlike the External Interface Access Fee) to trade or resell these access rights. An NT customer does not acquire a similar obligation in conversion to RTOWest service. The converted NT customer receives service at the Company Rate, i.e., under the billing determinants it pay only for what it uses and, thus, has no need to resell RTOWest services.

This PTP conversion is unreasonable for industrial customers, like the Companies, who hold PTP transmission. For example, under BPA's tariff an industrial customer, like the Companies, may acquire a two-year PTP for 300 MW. While it is committed to buy 300 MW of transmission for two years, it may resell this transmission demand if it is not needed for its operations. Moreover, it has no obligation to buy any transmission beyond the two years. Of course, if the customer does not, "roll-over" the 300 MW, then it risks that another user will occupy the transmission capacity it held (i.e. pay the equivalent of congestion charges for new service).

During the Company Rate Period, the PTP customers should have the same flexibility, for example (again, assuming a two-year PTP as the Pre-Existing Transmission Agreement):

- The customers should be allowed to convert the 2-year PTP into RTOWest service plus FTOs, for a 2-year payment of the Transfer Charge; unused access should

betradableliketheExternalInterfaceAccessFee(„EIAF“).

- Atthe customer's option,theconvertedagreementcanbeextended year-to-year(providedsuchextensionsarenototherwisedisallowed)during theCompanyRatePeriod.
- Ifnotextended,thecustomerlosesitsFTOs,becomesaNewLoad,andpays forRTOserviceasaNewLoadattheCompanyRate,withbilling determinantsbasedonitsactualusage.

Inaddition,theone-timerolloverright( SeeTOAat23,RequestforDeclaratoryOrderat 16)shouldallowaPTPcustomertoroll-overtoNTserviceand,thus,convertandpaythe CompanyRateduringtheentireCompanyRatePeriod.

2. ManyTOApricingprovisionssshouldbetariffonlyprovisions .

IntheeventofaconflictbetweentheTOAandthetariff,theTOAprovidesthat theTOAcontrols.TOAat113.WhiletheCompanyRateconceptmustbeincludedin theTOAtoassurethatRTOWestdoesnotinitiallyadoptpricingthatimposessignificant cost-shifts( See,PricingProposalat5),certainTOApricingprovisionssshouldnotbe decidedintheTOA,butshouldbelefttothetariff.Forexample:

- Whether a 12CP allocator is appropriate should be left to the tariff. See e.g., TOA at A-9 and A-10. Generally, billing determinants are dealt with in the Pricing Proposal. See Pricing Proposal at 17, 20. These ratedesign questions should be decided in the RTO tariff and/or in each PTO Company Rate proceeding.

Similarly, the concept of Interconnected Loads as a differential allocator than Company Loads, See e.g. TOA at 75A-9, A-10, is best left to the tariff. For example, so-called „TOA costs“, i.e. unanticipated costs not identified and allocated in the pricing proposal, are allocated in the TOA to Interconnected Loads. See TOA § 17.3. Again, there is no reason why users other than „loads“, even so-called Interconnected Loads, should not also bear these costs. For clarity, Interconnected Load must, in any event, include, among other users, only net load and not load separately served behind the meter.

- The allocation of stranded costs should not be addressed in the TOA. TOA § 16.4 would require that stranded costs be recovered from certain „loads.“ It is premature to decide this issue in the TOA, or even in the RTOTariff; rather, this issue should be decided on a case-by-case basis if and when stranded costs arise. In any event, stranded costs should be allocated to more users than just „loads,“ i.e., stranded cost recovery should also allow an adjustment to transfer payments, a recovery in the export fee, etc.
- TOA § 17.6.3 provides for certain costs associated with tax-free bonds to be recovered by RTOWest as „an administrative and general cost item“ and are not assigned to any specific customer class, i.e., these costs are socialized. Like stranded costs, allocation of these costs should be addressed case-by-case as they arise.

### 3. The Filing Utilities have not minimized cost-shifts.

The Filing Utilities claim that their proposal is the „best proposal... that measures up against a number of yardsticks [including]... what will minimize cost shifts...“ Request for Declaratory Order at 18-19. In fact, the Filing Utilities have thrown up their hands. The Stage 1 pricing proposal was abandoned because almost 18% of total transmission costs were associated with short-term transactions for which there was no „assignment“ to any service or rate in the proposal. Pricing Proposal at 4. Stage 2 includes an External Interface Charge to offset this „lost revenue,“ but it captures at best only half. Id. at 7. Thus, significant costs are without a „home“ under the Stage 2 pricing proposal and the Filing Utilities can only say that RTOWest will develop an „appropriate charge“ to make up the shortfall. TOA at I-5.

Specifically, the Stage 2 proposal does not minimize cost-shifts when 9% of total costs have no „home“ and the export charge, because it is an RTO-wide postage stamp rate, will lower transmission access charges for some generators selling out-of-region. A generator should not be offered an export charge that is less than the Company Rate it would pay as a „load“. Charging exports the greater of the postage stamp rate or the „applicable“ Company Rate would reduce the 9% shortfall and, thereby, reduce potential cost-shifts to loads.

4. Can the RTOWest rate lawfully include costs which the  
FPA does not allow ?

RTOWest is fully FERC jurisdictional under the Federal Power Act (FPA). RTOWest has the exclusive right to offer and charge for services over RTOWest facilities. Nonetheless, TOA § 17.5 provides that RTOWest charges, if necessary to meet the

revenue requirement claimed by non-jurisdictional utilities, may include costs precluded by the FPA ( e.g. across-subsidy of its generation function). It is no cure to a statutory prohibition to allocate payment of such costs to the „loads“ of the non-jurisdictional utility imposing these costs; moreover, such an allocation would be discriminatory as pre-RTO customers other than „loads“ would pay such charges, e.g., transfer payments, exports out of the non-jurisdictional service territory, or any through schedule.

As a condition of participation in an RTO, non-jurisdictional utilities must limit their revenue requirement that it expects RTOWest to recover through FERC-jurisdictional charges to costs allowable under the FPA.

### III. Congestion Management Charges Must Not Provide An Opportunity For Generators To Exploit The System .

#### 1. Are RTOWest congestion charges FERC jurisdictional ?

Under the Stage 2 proposal, congestion charges are based on voluntary, market-bid prices. Request for Declaratory Order at 42 and 51. BPA contends that its bids are not FERC jurisdictional. Id. at 12 n8. BPA's assertion raises a question: Does FERC view the RTOWest congestion management proposal like the California ISO spot market in which charges, even by normally non-jurisdictional entities, are subject to refund or other rate regulation? If so, could FERC require, under the RTOWest proposal or pursuant to market monitoring under the proposal, that bids be cost-based and meet FPA standards, even bids by BPA or other non-jurisdictional seller? If not, what control does FERC exercise over these costs through the market monitoring system?

2. Congestion Management Assets must be maintained company-by-company.

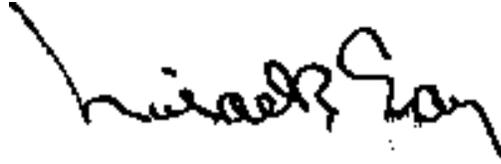
Each Executing Transmission Owner (ETO) must provide congestion Management Assets sufficient for RTOWest to meet the obligations imposed on RTOWest by the ETO. Under TOA §6.2.1 these Assets must be increased by the ETO if the Assets (plus the capability of the ETO's transmission facilities) provided by the ETO (1) have decreased from the RTOWest service commencement date and (2) are no longer sufficient to allow RTOWest to meet all outstanding Transmission Service obligations. This has two problems: (1) The obligations imposed by the ETO on RTOWest could increase over time, e.g. a load growth obligation. Thus, the ETO's obligation to update its assets should not depend on a decrease in its assets. (2), Transmission Service obligations "means all RTOWest obligations, not just obligations imposed by the ETO. Thus, this standard could allow one ETO to lean on another ETO's assets provided the total was sufficient.

Conclusion.

WHEREFORE, the Companies' request that the Commission decline to approve the Filing Utilities' pricing proposal and direct the Filing Utilities, if they desire to proceed with RTOWest, to modify the pricing proposal consistent with these comments and refile such proposal only in conjunction with a complete and revised TOA, a complete RTOWest tariff, and a mature cost-benefit study. Approval of any portion of RTOWest should be conditioned upon such later filing and any modifications the Commission may order pursuant to that filing.

May29,2002

Respectfullysubmitted,

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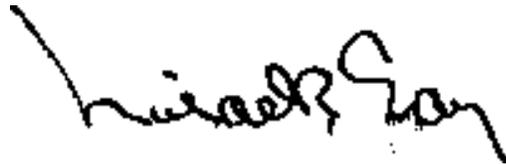
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CERTIFICATE OF SERVICE

I hereby certify that I have served by mail a copy of the foregoing document on all persons designated on the official service list in this proceeding.

Dated this 29<sup>th</sup> day of May, 2002

A handwritten signature in black ink, appearing to read "Michael B. Early". The signature is written in a cursive, somewhat stylized font.

Michael B. Early

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