



Department of Energy
Western Area Power Administration
P.O. Box 281213
Lakewood, CO 80228-8213

ORIGINAL

FILED
OFFICE OF THE SECRETARY
02 MAY 28 PM 4:25
FEDERAL ENERGY
REGULATORY COMMISSION

May 24, 2002

The Honorable Magalie Roman Salas
Office of the Secretary
Federal Energy Regulatory Commission
888 First Street, NE
Washington, DC 20426

Re: Avista Corporation, et al
FERC Docket No. RT10-35-005

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Dear Secretary Salas:

Enclosed for filing with the Commission are an original and 16 copies of the Western Area Power Administration's Motion to Intervene and Comments in this proceeding. Please time stamp the two additional copies and return them to me in the self-addressed stamped envelope. Thank you for your assistance.

Sincerely,

Douglas Harness
Attorney
Office of General Counsel

Enclosures

0205300037.1

FERC Docketed

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

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REGULATORY COMMISSION

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

Docket No. RT01-35-005

**MOTION TO INTERVENE AND
COMMENTS BY THE WESTERN AREA
POWER ADMINISTRATION**

The Western Area Power Administration (Western), a Power Marketing Administration (PMA) in the U.S. Department of Energy (DOE), files its Motion to Intervene pursuant to the Commission's Notice of Filing dated April 9, 2002, and Notice of Extension of Time dated April 17, 2002, and Rule 214 of the Federal Energy Regulatory Commission's Rules and

Regulations (18 C.F.R. § 385.214). The comments contained herein are Western's and do not necessarily reflect the views of the DOE.

I. BACKGROUND

On March 29, 2002, Avista Corporation, Bonneville Power Administration, Idaho Power Company, NorthWestern Energy, L.L.C. (formerly the Montana Power Company), Nevada Power Company, PacifiCorp, Portland General Electric Company, Puget Sound Energy, Inc. and Sierra Pacific Power Company tendered for filing a Stage 2 Filing and Request for Declaratory Order Pursuant to Order 2000.¹ The filing seeks confirmation from the Commission that the proposal of the filing utilities to form a regional transmission organization known as "RTO West" satisfies the Commission's requirements for the formation of an RTO under Order No. 2000.

II. WESTERN HAS AN INTEREST THAT MAY BE DIRECTLY AFFECTED BY THE OUTCOME OF THESE PROCEEDINGS.

Western annually markets and transmits approximately 10,000 megawatts from 55 hydropower plants constructed,

¹ Regional Transmission Organizations, Order No. 2000, 65 Fed. Reg. 809 (January 6, 2000), FERC Stats. and Regs. ¶ 31,089 (1999), order on reh'g, Order No. 2000-A, 65 Fed.

owned, and operated by agencies of the Federal Government including the Bureau of Reclamation, Army Corps of Engineers, and the International Boundary and Water Commission. Western's service area covers 1.3 million square miles in 15 Western states. Western provides power to 643 wholesale customers, including 284 municipalities, 58 cooperatives, 17 public utility and 47 irrigation districts; 50 federal and 55 state agencies; 24 investor-owned utilities and 30 marketers who purchase surplus non-firm power. These entities in turn provide retail electric service to consumers in Arizona, California, Colorado, Iowa, Kansas, Minnesota, Montana, Nebraska, Nevada, New Mexico, North Dakota, South Dakota, Texas, Utah, and Wyoming. Western also operates four control areas within its service territories. Therefore, as a major transmission owner and operator within the western United States, Western will interface with RTO West and will be impacted by its operations.

For the foregoing reasons, Western has a direct and immediate interest in the outcome of this proceeding that cannot be adequately represented by any other party.

Reg. 12,088 (March 8, 2000), FERC Stats. and Regs. ¶ 31,092 (2000).

Accordingly, the Commission should grant Western's motion to intervene in this proceeding.

III. COMMENTS

Western understands that the filing is the culmination of many years of effort to form an RTO in the northwest United States. Therefore, Western supports the filing utilities making this filing in order for the Commission to determine whether RTO West meets or exceeds the Commission's Order No. 2000 RTO requirements.

Western also appreciates the efforts that have been made to create an RTO in which the Bonneville Power Administration (Bonneville), also a PMA in the DOE, can participate. Bonneville, like Western, faces unique challenges in attempting to join an RTO.

Specifically, in order to transfer operational authority of transmission assets to an RTO, a PMA must be able to continue to satisfy its statutory responsibilities, to comply with all relevant legal authorities, and to fulfill its mission to market and deliver reliable, cost-based hydroelectric power and related services to its customers. Accordingly, a proper balance must be achieved between the independence from Market Participants the Commission will require of an RTO and the level of the

PMA's oversight of the RTO's activities affecting the PMA's transmission facilities needed to legally transfer operational authority over its transmission facilities.²

Many of the provisions in the RTO West filing were apparently crafted to enable Bonneville to participate in RTO West within these legal parameters.³

Among such provisions in Attachment A, the RTO West Transmission Operating Agreement (TOA), are:

Section 2.3.3 - allowing termination of the TOA if state or local taxes are imposed upon RTO West for its use, operation or control of property owned by a federal Participating Transmission Owner.

Section 2.3.4 - providing for termination of the TOA if it allows the Commission to assert authority over a Participating Transmission Owner that otherwise would not exist.

Section 3.1.1 - granting Bonneville sole right, not subject to RTO West Dispute Resolution, to determine

² Delegations of authority by federal agencies to private parties are valid only if the federal agency retains final reviewing authority over the private party. National Park and Conservation Association v. Stanton, 54 F. Supp. 2d 7 (D.D.C. 1999).

³ Western would need similar provisions to participate in an RTO.

what provisions of the TOA Bonneville can legally agree to.

Section 5.3.1 - allowing for new interconnections only if all necessary federal approvals and environmental requirements are achieved.

Section 16.2 - authorizing Bonneville to establish rates, charges and fees as necessary to comply with existing law and any new legislation enacted after the effective date of the TOA.

Section 25.24 - providing that the TOA is not to grant or expand the Commission's jurisdiction over any entities.

Western encourages the Commission to approve these provisions of the RTO West filing and any similar provisions that may be contained in filings of other RTO's with potential federal participants.

In addition, as stated at pages 13 and 14 of the Filing, before Bonneville can execute the TOA, it must complete its public participation process and environmental review process, consult with federal authorities and the Northwest Congressional Delegation, and determine that a mature cost-benefit study of RTO West demonstrates net benefits for the region. Western faces similar requirements in deciding whether to participate in an RTO.

Therefore, Western requests that the Commission accommodate the PMA decision-making process in its RTO West ruling and rulings on filings of other RTO's with potential federal participants by requiring every RTO to conduct an independent benefit-cost analysis and by allowing for adequate review, consultation and approval processes.

Finally, Western's transmission facilities, generating facilities, and/or customers and loads are located in the footprint of the proposed RTO West, WestConnect, California ISO, and Translink service areas. Accordingly, Western will conduct transactions across these proposed RTO boundaries or "seams" and has an interest in the solutions to interface issues discussed in the filing. Western supports the filing letter request that the Commission approve the Steering Group Conference-Committee Model approach that has been established for interregional coordination and encourages the Steering Group to further coordinate its activities with the Western Electricity Coordinating Council's Market Interface Committee as described in the filing.

IV. SERVICE INFORMATION

Pursuant to Rule 203 (18 C.F.R. § 385.203), Western further requests all correspondence, pleadings, and other communications concerning this filing be served upon:

Douglas N. Harness
Office of General Counsel
Western Area Power Administration
P.O. Box 281213
12155 W. Alameda Pkwy
Lakewood, CO 80228-8213
(720) 962-7010

In addition, Western requests an additional copy of any correspondence and orders be sent to:

J. Tyler Carlson, Regional Manager
Western Area Power Administration
Desert Southwest Customer Service Region
P.O. Box 6457
615 South 43rd Avenue
Phoenix, AZ 85005-6457

Joel Bladow, Regional Manager
Western Area Power Administration
Rocky Mountain Customer Service Region
P.O. Box 3700
5555 East Crossroads Boulevard
Loveland, CO 80539-3003

Edmund Chang, Project Manager
Western Area Power Administration
Sierra Nevada Customer Service Region
114 Parkshore Drive
Folsom, CA 95630-4710
(916) 353-4474

Bradley Warren, Manager
Western Area Power Administration
CRSP Management Center

P.O. Box 11606
150 Social Hall Avenue, Suite 300
Salt Lake City, UT 84147-0606
(801) 524-6372

Western requests the inclusion of the foregoing on the official service list and a waiver of Rule 203(b)(3) (18 CFR § 385.203(b)(3)).

V. CONCLUSION AND PRAYER FOR RELIEF

Western has an interest in this proceeding and Western's interest is not adequately represented by any other party.

WHEREFORE, Western requests that the Commission grant its Motion to Intervene in the docket.

Dated this 24th day of May 2002.

Respectfully submitted,



Douglas N. Harness
Office of General Counsel
Western Area Power Administration
(720) 962-7010 (voice)
(720) 962-7009 (fax)
harness@wapa.gov

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Lakewood, Colorado, this 24th day of May 2002.

By 
Rosemarie Rodriguez
Office of General Counsel
Western Area Power Administration
P.O. Box 281213
Lakewood, CO 80228-8213
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