

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Avista Corporation, et al.

Docket No. RT01 -35-005

**MOTION OF PACIFIC GAS AND ELECTRIC COMPANY
FOR LEAVE TO FILE COMMENTS OUT -OF-TIME**

Pursuant to Rule 214(d) of the Federal Energy Regulatory Commission's ("Commission") Rules of Practice and Procedure, 18 C.F.R. §§ 385.214(d)(2001), Pacific Gas and Electric Company (PG&E) hereby requests that it be given leave to file comments out -of-time in this proceeding. Given the relatively early stage of this proceeding, PG&E submits that its comments will not cause any prejudice, delay, or additional burden on any party. Accordingly, PG&E respectfully requests that the Commission grant it leave to submit its comments out -of-time in the above-captioned proceeding.

COMMENTS

Pacific Gas and Electric Company ("PG&E") is very interested in the development of effective, efficient regional transmission organizations ("RTOs") in the Western United States. Whether that is one west-wide RTO or two or three, it has been unambiguously demonstrated that the Western region is integrally interconnected and must be addressed as a whole if reliability and efficiency are to be achieved. The filing made by the proponents of what is being called RTOW est differs in many respects from the model that is currently operating in California. Those differences, while perhaps well intentioned, will create seams issues that must

be worked out if the Western region is to operate in the coordinated way this Commission intends.

1. Executive Summary

This Commission has correctly determined that the electric systems in the Western United States are very much interrelated and must be addressed in a consistent and comprehensive manner if reliability and efficiency are to be achieved. As noted in the April 26, 2001 order approving the Stage 1 filing of RTOWest, 95 FERC ¶ 61,114 (“RTOWest Order”), the events of the summer of 2000 “leave no doubt of the interstate nature of the electric systems in the Western Interconnection.” See RTOWest Order, slip op. at 39 -40. It is therefore no surprise that only when the Commission applied market mitigation measures on a West -wide basis in its June 19, 2001 Order, 95 FERC ¶ 61,418 (“West -Wide Mitigation Order”), did those measures begin having the desired effect. (In that order, the Commission observed that “the West is a single market which is at once inextricably interrelated, yet characterized by important differences.” West -Wide Mitigation Order, slip op. at 2.)

As this Commission is well aware, there are currently three different RTO efforts underway in the Western United States – RTOWest, WestConnect, and the California Independent System Operator Corporation (“California ISO”). Each of these efforts differs in important ways from one another, and none is exactly what the Commission has proposed in the materials released to date in its Standard Market Design docket. PG&E is concerned that three different models are evolving without a clear understanding of how seams issues will be addressed. Before any newly proposed or redesigned market model is approved, the Commission must require that Western parties participate in formal, facilitated proceedings, with FERC - mandated timelines, to resolve all potential intra -regional seams issues.

2. The Commission's Primary Focus Should Be on Developing a Seamless Western Regional Market.

This Commission has correctly recognized that broad, regional solutions are the most likely to provide a successful, long-term structure for energy markets in the United States. And, while the Commission's thinking may have initially been that one West-wide RTO was the most efficient outcome for the Western United States (see, Order Granting, with Modification, RTO West Petition for Declaratory Order and Granting Transconnect Petition for Declaratory Order, 95 FERC ¶61,114 at 61,324 (2001)), whether the Commission ultimately approves one, or the current three RTO approaches, creating seamless Western regional markets should be at the forefront of the Commission's determination. If seams are allowed to exist, inefficiency and the attendant higher costs are almost certain to exist along with them, and there will be a greater risk of gaming behavior by market participants looking to take advantage of differing treatment or pricing across seams.

Two seams issues that have already become apparent in the proposals currently being developed in the West are scheduling timeframes and market mitigation measures. The California ISO's Tariff calls for the scheduling of transactions in the ISO's Day-Ahead and Hour-Ahead markets. Even with the California ISO's recently filed market redesign proposal, there remain differences in scheduling protocols and the possibility of differing scheduling timeframes between the ISO's proposals and those of RTO West and West Connect. These differences may give rise to gaming and, even if effective mitigation measures are put in place to minimize such gaming, there is the possibility that a new form of "phantom congestion" will result. (Phantom congestion is a term that has been used to describe an inefficiency (and attendant congestion costs) that results from certain methods of honoring existing transmission contracts, which

predated the operation of the California ISO and which have different scheduling rights and timeframes than the ISO Tariff and scheduling protocols contemplate.)

While some may like to think that the Commission could take a hands-off approach to resolving the inevitable seams issues that will arise from more than one RTO in the West, recent experience strongly suggests (in fact, it compels the conclusion) that a voluntary approach will not work. For example, a subgroup of the Western Market Interface Committee (currently a committee of the Western Electricity Coordinating Council), has been active for over two years. This committee has met frequently, engaged in thoughtful discussion and identified a number of substantive seams issues. In some cases, the committee's activities have helped to resolve issues concerning scheduling practices, tagging protocols, outage coordination and phaseshifter operations. However, despite good efforts by this and other committees addressing RTO and ISO seams issues, progress in resolving substantive seams issues concerning the core elements of the commercial trading model has been slow. Congestion management practices, transmission services, transmission hedging products, trading hub definitions, exporting reciprocity arrangements and a number of substantial seams issues have yet to be effectively addressed. Accordingly, attention must be given to how the RTOWest proposal fits in with the Commission's Standard Market Design framework as outlined in RM01-12-000 and with the California ISO's existing and proposed market design.

To ensure adequate coordination and consistency, PG&E urges the Commission to order an expedited process to resolve all potential seams issues, whether through a facilitated consensus building process or by Commission ordered mediation/settlement and, failing resolution in that way, a subsequent Commission order directing a result. AFERC-facilitated process is needed because now is the time when the fundamental building blocks of Western

RTOs are being defined or redesigned. Implementation of the various designs will be difficult, cost millions of dollars and will take several years to complete. Once new market structures, trading hubs and scheduling and settlements system designs are created, it will be much more difficult and more expensive for the Commission and market participants to implement changes to resolve seams issues. By acting soon, the Commission may be able to resolve certain seams issues before they become significant challenges and, as a result, save time, money and effort relative to a ny attempt to resolve these issues at a later date.

3. Any RTO West that Does Not Include the Bonneville Power Administration as a Member Will Not Be a Truly Regional Organization.

The Bonneville Power Administration (“BPA”) owns and controls a significant share of the transmission facilities that are geographically located in the area to be controlled by the proposed RTO West. If BPA is not going to be a full member of RTO West, making the same commitments and participating on the same basis as the other transmission owning entities that would join, RTO West will not be able to achieve many of the efficiencies and reliability functions that this Commission hopes to promote through its RTO initiative.

In PG&E’s experience with the California ISO structure, the lack of participation by municipal utilities and the Western Area Power Administration (“WAPA”) has been a very real hindrance to the efficient operation of the interconnected systems in California. This incomplete participation by many transmission owners has caused the ISO’s Control Area to be referred to by some as “Swiss cheese,” with the “holes” in the cheese being the non-participating municipal entities and WAPA. This unfortunate reality has given rise to numerous dockets at the Commission, has caused the “phantom congestion” problem referred to above, and has rendered the California ISO’s administration of the California Control Area far more complicated and less

efficient than it would be with more complete participation. These problems would be dwarfed by BPA's failure to participate in RTOWest.

While PG&E recognizes that this Commission may lack the authority at present to order BPA to participate in RTOWest (or any other RTO), PG&E believes that the Department of Energy can, and should, direct BPA to do so. If this Commission is committed to the development of meaningful, broad, efficient regional organizations, it should do everything it can to ensure that maximum participation is achieved. That includes doing whatever it can within the Department of Energy to ensure that BPA joins whatever RTO is ultimately approved in its area, and participates on the same basis as other members. Surely an entity of the Federal government should lead the way in carrying out this Commission's stated goal. (For the same reason, PG&E believes that WAPA should be directed by the Department of Energy to join the California ISO, or an appropriate successor RTO, on the same terms as other RTO members.)¹

4. Reciprocity Requirements Alone Are Not Sufficient To Solve Seams Issues.

This Commission's landmark Order 888 used reciprocity as a means of addressing participation in the Commission's "open access transmission" model. The Commission's logic was simple and compelling. If an entity wished to benefit from open, non-discriminatory access to the transmission facilities of others, that entity would have to agree to provide comparable access to its facilities on comparable terms.

The California experience has shown, however, that for some entities, other factors are causing them not to participate in the California ISO market structure (e.g. concerns about non-private use of facilities constructed using tax-exempt debt financing, assertions that Federal

¹In a recently released report, the Department of Energy recommended that it "review federal laws that may prevent [Power Marketing Administrations] from full participation in RTOs, direct them to participate in the creation of RTOs, and take actions to facilitate their joining RTOs". US Department of Energy, National Transmission Grid Study at 29 (May 2002).

regulations make participation difficult/impossible, differences in the terms, conditions and rates of service available under existing contracts that are reviewed as preferable to ISO service). For these entities, the reciprocity requirement has not been a sufficient motivating factor to get them to join the California ISO – and it is not likely to be sufficient in the immediate future. If the Commission wants more complete participation in RTOWest, a result that will certainly enhance efficiency, something more than the Order 888 reciprocity requirement will be needed.

Moreover, some seams issues simply are not addressed by the reciprocity requirement. For example, market mitigation measures, which are not spelled out with specificity in the California ISO Tariff for the current RTOWest filing, have been shown to be effective only when they are applied throughout the West. As all participants in the California energy markets saw in 2000 and early 2001, practices like “megawatt laundering” can and will occur if mitigation is attempted only in one RTO/ISO area. Unless compatible mitigation measures are applied across the RTOs in the region, they cannot hope to be effective.

5. RTOWest Governance and Participation Rules Should Be Designed To Permit Any Qualified Entity To Participate.

This Commission must attempt to eliminate barriers to participation in RTOs. Any governance or participation rules that are likely to inhibit full participation by transmission owning entities in a region should be scrutinized carefully. If the proposed structure would advantage original or current members over entities that may join in the future, that unequal treatment would almost certainly be a disincentive to any potential new participant's joining. While some differences may be justified by the circumstances surrounding the creation and early operation of a new market structure, those differences should be phased out as quickly as is reasonable and all participants should be on an equal footing.

Any rule that allows an existing member to prohibit participation by a prospective new member based on vague or subjective criteria should also be viewed with great skepticism. If the Commission's goal is to have as complete participation as possible, it should not be left to individual entities to defeat that goal through the exercise of what essentially represents a veto right under a Commission -approved tariff.

6. The Commission Should Facilitate the Process of Addressing Seams and Participation Issues Presented by the RTOWest Proposal.

As discussed above, PG&E urge the Commission to institute a formal, facilitated process for the expeditious resolution of seams issues and other structural differences among the RTOWest proposal, the California ISO's current structure (as it is proposed to be amended through the ISO's recent MDO2 filing), and the proposal that West Connect is developing for the Pacific Southwest. Without requiring such a process, significantly different structures will be developed and the proponents of each of those structures will become financially (and perhaps emotionally) invested in their structure, making the resolution of seams issues significantly more difficult.

Before approving the RTOWest structure, which differs in potentially significant ways from the California ISO structure, West Connect's proposal, and the Commission's Standard Market Design approach to date, the Commission must do everything possible to ensure that market participants determine whether a more consistent approach can be found. PG&E will participate actively in any such efforts.

7. Conclusion

PG&E is committed to working with the Western RTO/ISO entities to reduce and manage inter-regional seams issues to improve reliability and lower costs. PG&E believes the Commission's active role in this endeavor can make a meaningful difference, and PG&E urges the Commission to proceed expeditiously in this important effort.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that I have on this day caused to be served by First Class U.S. Mail, a copy of the foregoing document upon all parties designated on the official service list in this proceeding in accordance with the requirements of Rule 2010 of the Commission's Rules of Practice and Procedure and the following:

Gary M. Cohen
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Dated at San Francisco, California, this 3rd day of June, 2002.

/s/Vilma E. Lacayo
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