Electric Power Supply Association
Advocating the power of competition

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May 29, 2002

VIA EMAIL

The Honorable Magalie Roman Salas
Secretary
Office of the Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, D.C. 20426

Re: Docket No. RT01-35-005

Dear Secretary Salas:

Enclosed please find one electronic filing in the above referenced proceeding.

Respectfully submitted,

/S/
Jacqueline Gallagher
Policy/Research Coordinator

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Avista Corporation, Bonneville Power Administration, Idaho Power Company, NorthWestern Energy, L.L.C., Nevada Power Company, PacifiCorp, Portland General Electric Company, Puget Sound Energy, Inc., Sierra Pacific Power Company	)	Docket No. RT01-35-005

COMMENTS OF THE
ELECTRIC POWER SUPPLY ASSOCIATION
ON THE RTO WEST STAGE 2 FILING

The Electric Power Supply Association (EPSA) hereby files comments in the above-captioned proceeding in response to the "Stage 2 Filing and Request for Declaratory Order Pursuant to Order No. 2000" (RTO West Stage 2 Filing or Stage 2 Filing) made on March 29, 2002, by 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 Power Company (collectively, the Filing Utilities). The Stage 2 Filing represents the efforts of the Filing Utilities to form a Regional Transmission Organization (RTO) in the Northwestern United States (hereinafter RTO West).

EPSA is the national trade association representing competitive power suppliers, including independent power producers, merchant generators and power

marketers. These suppliers, who account for more than a third of the nation's installed generating capacity, provide reliable and competitively priced electricity from environmentally responsible facilities serving global power markets. EPSA seeks to bring the benefits of competition to all power customers.[1]

EPSA supports the progress that RTO West has made and believes that the current proposal goes a long way toward the development of a fully competitive market in the Northwest. This is a good start for RTO West development; it is imperative that the plan continues to move forward to achieve full RTO operations. However, there are flaws in the Stage 2 Filing that could result in a discriminatory and disjointed market in the Northwest, inhibiting the development of a unified regional market for the Western Interconnection. These inadequacies are described in detail in the comments of the Northwest IPPs/Marketers Group ("IPP/Marketers") that are being contemporaneously filed in this docket. EPSA supports the recommendations and conclusions of the IPP/Marketers. As a national trade association, however, EPSA's comments address broader policy concerns with the independence, authority and design of the RTO West proposal. EPSA also addresses the need for FERC direction in achieving timely resolutions of seams issues between the RTO West and the other two emerging ISOs in the Western Interconnection.

I. OVERVIEW

The RTO West Stage 2 Filing takes many important steps toward the formation of a workable RTO, which is critical to the development of a robust

[1] The comments contained in this filing represent the position of EPSA as an organization, but not necessarily the view of any particular member with respect to any issue.

competitive wholesale power market. EPSA encourages the Commission to review the Stage 2 Filing expeditiously, incorporating the modifications suggested herein in a Commission order conditionally approving RTO West. Though there are flaws in the Stage 2 Filing, it is imperative that RTO development genuinely get underway; significant benefits to consumers are lost every day due to ongoing delays in RTO proceedings.

Certain factors, as outlined in Order No. 2000[2] and the Commission's Standard Market Design efforts (the Working Paper and the Options Paper),[3] are critical to the formation of a viable RTO. Such integral factors missing from the RTO West Stage 2 Filing include:

- complete independence of the RTO;
- non-discriminatory and comparable access for all users; and,
- provisions for interregional coordination and seams issues solutions within the Western Interconnection.

While there are other flaws in the Stage 2 Filing, these three fundamental flaws permeate the proposal due to their overarching importance to a well-functioning RTO model. In fact, without independence and comparability, the resulting regional entity is instead a bifurcated market in which efficiency and competition are severely hampered.

Further, due to the lack of numerous key documents, the Commission and stakeholders cannot properly assess the RTO West proposal. Such documents include

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[2] *Regional Transmission Organizations*, Order No. 2000, Fed. Reg. 809 (January 6, 2000), FERC Stats. & Regs. 31,089 (1999), *order on reh'g*, Order No. 2000-A, 65 Fed. Reg. 12,088 (March 8, 2000), FERC Stats. & Regs. 31,092 (2000) ("Order No. 2000").

[3] *See generally* Docket No. RM01-12-000.

the RTO's open access transmission tariff (Tariff), Generation Interconnection Agreement, Load Integration Agreement, Scheduling Coordinator Agreement and Credit Policy. In addition, the Transmission Operating Agreement (TOA) included in the Stage 2 Filing includes terms that should be located in the RTO West Tariff, making the TOA a barrier to transparency and fairness. And because the terms of the TOA require that all parties must agree to any changes, the Filing Utilities can exert undue control over the process, terms and conditions of the RTO vis-à-vis a de facto veto power. It is essential that RTO West seat its independent Board immediately to ensure that meaningful stakeholder input is considered in any further deliberations, decisions or document development. It is the Board, with a meaningful stakeholder process open to all power market participants and independent from the transmission owners, which should be charged with developing and implementing the RTO. Seating the Board can occur while other aspects of RTO West are being modified, and EPSA believes its creation is an important first step.

Also, as has been reiterated in numerous Western RTO proceedings, the Western Interconnection functions as one regional market, and as such, the RTOs contained within that market must acknowledge the interregional nature of their service. This requires efforts be made now to solve potential seams issues, coordinate interregional business and trading practices, and develop a region-wide market monitoring function. Should any single RTO progress too far in its development, the potential for barriers to interregional trading increase exponentially. To protect against this outcome, the Commission should require that coordination among the Western RTOs is ongoing, seams issues are addressed, a definitive timeframe for West-wide

RTO development is developed, and one independent regional market monitoring function is established.

A. The Stage 2 Filing Includes Provisions That Are Vital to a Functional RTO

While there are flaws in the RTO West proposal, the Stage 2 Filing does include features that are essential elements for creating an RTO. Of great importance is the inclusion of the Bonneville Power Administration (BPA) and British Columbia Hydro and Power Authority in the RTO. BPA alone owns and operates over 70 percent of RTO West's proposed transmission system, and inclusion of these two power administrations confers RTO West with the scope and configuration requirements outlined in Order No. 2000.

The proposal also properly utilizes market-based solutions to various operational issues, such as the use of a financial rights congestion model rather than a physical rights model, and market-based ancillary services provisions. This framework allows for the use of market-based mechanisms to manage congestion, to make long-term transmission investment decisions, and to utilize both transmission and non-transmission solutions to system problems and the planning process. However, the use of both physical and financial rights imparts a lack of clarity to the proposal and should be addressed in proposal revisions. Other important provisions of the Stage 2 Filing that EPSA supports are the use of load-based access fees to recover the majority of fixed transmission system costs and the move toward eliminating rate pancaking.

Structurally, RTO West has proposed bylaws that correctly set forth an independent and workable governance structure, including a Board Advisory Committee that will provide input from all RTO members to the Board of Trustees. Further, the

RTO will operate through a single control area with a single OASIS site for its system. And very importantly, RTO West is in a dialogue with the other Western RTOs to work toward solving potential seams issues in the Western Interconnection. This effort is of vital importance to the development of a united, seamless regional market for the entire Western Interconnection.

B. RTO West Must Establish A Balanced Organization That Ensures Non-Discriminatory Access to All Market Participants, Not Just Filing Utilities

What is missing from the RTO West Stage 2 Filing is true balance among the stakeholders. This problem is caused by two primary issues – the lack of an independent Board to ensure adequate and fair governance, and the inclusion of a TOA that allows the Participating Transmission Owners (PTOs) undue control over the development and operation of the RTO. This TOA results in the creation of a bifurcated market in the Northwest in which the Filing Utilities and their affiliated generation and market functions operate under one set of rules, and other transmission system customers operate under another.

The purpose of an RTO's TOA is to set up the relationship between the Filing Utilities and the RTO for the transfer, operation and maintenance of the transmission facilities. Because the TOA is a contract between the Filing Utilities and RTO West, it requires that all parties to the contract must agree on any changes to the agreement. While this may be a reasonable approach for the relationship between the RTO and the transmission-owning counter party, it is of great concern in this case because the TOA improperly contains terms and provisions that should be included in the Tariff or other market operations documents. Their inclusion in the TOA indicates that they could

supercede terms or provisions included in other RTO documents and thus result in de facto veto power for each Filing Utility over many aspects of the development and operations of the RTO. For example, the TOA covers issues such as transmission service rates, transmission planning, congestion management and transmission rights. If these terms are allowed to remain in the TOA, the Filing Utilities will exert undue control over the TOA, compromising the independence and operational authority of RTO West.

The concern over the impact of TOA and RTO West independence is worsened by the lack of specific key documents filed with the Stage 2 Filing, as mentioned above. Without these documents, parties are unable to make a full assessment of the proposal. Such missing documents include an RTO West Tariff, Generation Interconnection Agreement, Load Integration Agreement, Scheduling Coordinator Agreement and Credit Policy. These documents, including a revised TOA, must be developed immediately in an open stakeholder process, thus eradicating the unfair competitive advantage currently assigned to the Filing Utilities in the current TOA contract.

In tandem with the development of operational documents, a crucial method for protecting the interests of all market participants is to seat an independent Board of Trustees with a Board Advisory Committee as soon as possible. This will enable the RTO to establish a fair, transparent, efficient and competitive market developed free of actual or perceived discrimination by the public utilities against other market participants, which is a central policy goal of Order No. 2000.[4] The oversight of the

[4] Order No. 2000 at 31,017.

Board would have protected against the unbalanced development of the TOA, for instance, and such Board should oversee future modifications to the TOA. This component of the RTO West development is vital enough to warrant that the Commission mandate a date certain for seating of the Board. With the oversight of an independent Board and the development of the specified documents in an open stakeholder process, RTO West should be able to create a truly independent organization.

C. As Further Protection Against A Bifurcated Market, All Service Should Convert to RTO Service

As EPSA has pointed out in several other instances, an RTO must have operational control and authority sufficient to enable it to provide non-discriminatory transmission access. This includes the conversion of existing transmission service to RTO transmission service. The RTO West Stage 2 Filing proposes voluntary conversion of all existing contracts, and specifies three tiers of transmission service for congestion management: Catalogued Transmission Rights (CTRs) for non-converted rights;[5] Financial Transmission Options (FTOs) for converted contracts and other available capacity; and service without financial hedges to be subject to congestion charges. Further, given the RTO West setup with different classes of facilities (some under RTO control and some under transmission owner control), rate pancaking may in fact result. This tiered model allows for different levels of service to different market participants, including the separation of Filing Utilities' load service obligations from RTO West service. This special treatment of native load, and the premise of tiered

[5] Attachment A, Section 8.3.

service in general, is inconsistent with the goals of Order No. 2000 and the Commission's evolving Standard Market Design. The Commission must require that the load service obligations of the Filing Utilities be converted to RTO Service.

D. Interregional Coordination, Seams Issues and Region-Wide Market Monitoring Must Be Addressed Now By the Western RTOs

As is the case with all three proposed RTOs in the Western Interconnection, it is of vital importance that RTO West develops in a manner that allows for a seamless regional market in the West. While the RTO West filing discusses the policy-level Seams Steering Group (SSG, composed of representatives of RTO West, California ISO and WestConnect)[6] as the appropriate mechanism for interregional coordination, EPSA believes that the resolution of seams issues calls for more enforceable and timely progress. The Commission must take clear and decisive action to ensure that RTO development in the West ultimately supports a seamless market of sufficient scope and configuration to support efficient and non-discriminatory power trading and maintain system reliability.

As the western RTOs progress, each must develop market structures that are consistent with the Commission's Standard Market Design initiatives and ensure that seams issues are not created or exacerbated by allowing each RTO to develop inconsistent and incompatible systems and procedures. To see the benefits of robust competition and attract the necessary investment in new generation for the West, there must be a seamless, regional trading and transmission market throughout the Western Interconnection.

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[6] Stage 2 Filing at 56.

To this end, the Commission should establish a timeframe for West-wide RTO integration before the individual RTOs progress too far in the development of their own market designs, to ensure that they are not at odds with each other and the Commission's Standard Market Design efforts. FERC must ensure that the western RTOs develop market designs that enable seamless transactions across the West and avoid disruptions. As experience has taught us in the East, even minor variations in market design and function can cause large disruptions to seamless trading and create roadblocks to interregional trading. Once RTO West, WestConnect and CAISO expend resources and money on the development of software, the potential problems between them will be magnified and increasingly difficult to correct. Hence, the Commission must act now to require specific developmental phases for a seamless Western regional market.

Additionally, it is imperative that an independent regional market monitoring function be put in place from the outset of RTO operations. It is undisputed that a single market for wholesale power exists in the Western Interconnection. A West-wide market monitor is the only proper way to review the activities of all market participants (and RTOs) within this single market and identify necessary rule changes, assess market performance, and administer any FERC-approved market mitigation. While RTO West has filed its own market monitoring plan and a list of "consensus areas" on a single West-wide market monitor, the proposal is not clear on the interrelationship of the RTO West monitoring proposal and a West-wide proposal. EPSA believes that the development of a Western regional market requires a single market monitoring function overseeing all activities within the region. This is consistent with the Commission

Standard Market Design efforts; all three Western RTOs should be required to participate in a single regional market monitoring plan with a definitive developmental timeline.

Commission direction is necessary because the SSG, which has taken on the task of resolving seams issues and creating the West-wide market monitor, is an ad-hoc, non-policy setting committee of the three RTOs. Further, the SSG meets behind closed doors and does not allow for stakeholder input. Without a direct order from FERC to produce a West-wide seams resolution and market monitoring plan, there can be no expectation of a real solution of seams issues in time for the commencement of RTO West operations.

II. CONCLUSION

WHEREFORE, EPSA respectfully recommends that the Commission conditionally approve the RTO West Stage 2 Filing because it is an important step in the development of a fully competitive and efficient market in the Northwest. Specifically, the Commission should approve the filing on the condition that RTO West address independence, comparability and interregional issues as outlined in this filing and that of the Northwest IPPs/Marketers Group. Due to the regional nature of the Western Interconnection market, it is imperative that RTOs within that region take similar approaches to RTO development and address seams issues at the outset. This includes the development of one regional market monitoring function, the timely seating of an independent Board of Trustees, and the establishment of non-discriminatory RTO service for all market participants. Moreover, the Commission should direct that RTO

West file all remaining documents as listed herein due to their importance in any assessment of the RTO West proposal.

May 29, 2002

Respectfully submitted,

/S/_____

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CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the foregoing document by first class United States mail, postage prepaid, upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Washington, D.C. this 29th day of May, 2002.

/S/_____
Julie Simon