

**UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION**

PacifiCorp

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Docket ER05-674-000

**MOTION TO INTERVENE OF  
UTAH ASSOCIATED MUNICIPAL POWER SYSTEMS**

On March 2, 2005, PacifiCorp tendered for filing with the Commission a Joint Operating Agreement (“JOA”) between PacifiCorp and Utah Associated Municipal Power Systems (“UAMPS”). PacifiCorp requests a waiver of the Commission’s prior notice requirements and seeks an effective date for the JOA of February 18, 2005 – the date the JOA was executed and the effective date of the agreement under its stated terms (unless the Commission requires a different date). *See* JOA § 2.01.

Pursuant to Rule 214 of the Commission’s Rules of Practice and Procedure, 18 C.F.R. § 385.214, UAMPS hereby moves to intervene in this proceeding. All communications and correspondence relating to this proceeding should be addressed to:

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**UAMPS’ Interest in this Proceeding.** As explained more fully below, UAMPS has a clear interest in this proceeding (1) as the counter-party to the JOA submitted by PacifiCorp and

(2) as a transmission customer of PacifiCorp whose interests will be directly affected by the JOA. No other persons can adequately represent those interests.

(a) UAMPS is a Utah interlocal association and political subdivision of the State of Utah, consisting of 48 municipal and other public power systems in six western states, that provides power pooling and related electric services to its members. A number of UAMPS' members are located in southwestern Utah in and around the City of St. George, which is one of the fastest growing areas of the country. UAMPS owns transmission facilities in southwestern Utah to serve its loads in that area.<sup>1</sup>

PacifiCorp also serves loads in southwestern Utah from transmission facilities that it owns and that are roughly parallel to the UAMPS facilities.<sup>2</sup> Though physically parallel, the PacifiCorp and UAMPS systems are not operated in parallel. Rather, the systems, though potentially interconnected, currently operate independently under normal conditions, with the interconnecting switches open except in emergency situations.<sup>3</sup>

Both UAMPS and PacifiCorp will need to upgrade their respective southwestern Utah transmission facilities over the next several years in order to maintain reliability on their systems and to keep up with their rapidly growing service requirements in the area. However, rather than continuing to build, maintain and operate independent systems, which would in many respects

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<sup>1</sup> As shown in Appendix B to the JOA, UAMPS owns a 345 kV – 138 kV substation at Central, a 138 kV double circuit line from Central Substation to the St. George 138 kV Switchyard, and the St. George Switchyard.

<sup>2</sup> Appendix C to the JOA shows that PacifiCorp owns the Red Butte 345 kV – 138 kV Substation, a single circuit 138 kV line between Red Butte and Middleton, and the Middleton 138 kV Substation. PacifiCorp's Red Butte Substation is adjacent to UAMPS' Central Substation, and PacifiCorp's Middleton Substation is adjacent to UAMPS' St. George Switchyard.

<sup>3</sup> The open switches are at Red Butte / Central and at Middleton / St. George.

result in duplicative costs and facilities, UAMPS and PacifiCorp have negotiated and entered into the JOA. As explained by PacifiCorp in its transmittal letter, the JOA provides for joint funding of necessary transmission upgrades and maintenance and for parallel operation of the two systems as a single integrated system to be operated and maintained by a single entity. When compared to continued independent planning and operation of the two systems as separate parallel systems, the result of the JOA for both UAMPS and PacifiCorp is expected to be substantially increased reliability and capacity at significantly reduced overall costs.

Plainly, UAMPS has a direct and substantial interest in this proceeding by virtue of its status as a signatory to the JOA.

(b) UAMPS and its members are also Transmission Dependent Utilities that rely on the transmission systems of others to serve their loads and access their resources. Indeed, UAMPS and its members were the first TDU's that were formally recognized as such by the Commission.<sup>4</sup> UAMPS' transmission system in southwestern Utah is interconnected to its loads there, but it does not directly reach any of the multiple UAMPS resources that serve those loads. Those resources are integrated with UAMPS loads, not only in southwestern Utah but throughout the state, by virtue of an Amended and Restated Transmission Service and Operating Agreement ("ARTSOA") between UAMPS and PacifiCorp. The ARTSOA predates Order 888,<sup>5</sup> but

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<sup>4</sup> The term "Transmission Dependent Utility" was coined by UAMPS and first used by the Commission in connection with the 1988 merger of Utah Power & Light and PacifiCorp. See *Utah Power & Light Co., PacifiCorp and PC/UP&L Merging Corp.*, Opinion No. 318, 45 FERC ¶ 61,095 at 61,291 and n. 165 (1988), *order on compliance filing*, 46 FERC ¶ 61,086 (1989), *order on reh'g*, Opinion No. 318-A, 47 FERC ¶ 61,209 (1989), *order on reh'g*, Opinion No. 318-B, 48 FERC ¶ 61,035 (1989).

<sup>5</sup> *Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Services by Public Utilities; Recovery of Stranded Costs by Public Utilities and Transmitting Utilities*, Order No. 888, FERC Stats. & Regs. ¶ 31,036 (1996), *order on reh'g*, Order No. 888-A, FERC Stats. & Regs. ¶ 31,048, *order on reh'g*, Order No. 888-B, 81 FERC ¶ 61,248 (1997),

provides for a type of network integration transmission service for UAMPS' members that are served directly or (as in southwestern Utah) indirectly from PacifiCorp's Utah division transmission system.

The ARTSOA is identified in, and will be directly affected by, the JOA that is the subject of this proceeding. See, *e.g.*, JOA §§ 3.04, 9.01 – 9.03. For this reason too, UAMPS, as a transmission customer of PacifiCorp's whose transmission service will be affected by the JOA, has a direct and substantial interest in this proceeding.

**Relief Requested.** UAMPS seeks to intervene in this proceeding in order to protect its interests both as a transmission owner and party to the JOA and as a transmission customer of PacifiCorp under the ARTSOA. UAMPS fully supports PacifiCorp's submittal and urges the Commission to accept the JOA for filing, and to waive its prior notice requirements and allow the JOA to become effective as of February 18, 2005.

Because of UAMPS' and its members' long-standing status as Transmission Dependent Utilities, UAMPS has long been a strong and active supporter of the Commission's efforts to establish open and nondiscriminatory access to transmission facilities, and, specifically, the formation of RTOs, particularly in the western United States.<sup>6</sup> In fact, UAMPS has loads, resources and transmission assets that span the proposed footprints of both Grid West (formerly

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*order on reh'g*, Order No. 888-C, 82 FERC ¶ 61,046 (1998), *aff'd in relevant part sub nom.* Transmission Access Policy Study Group, *et al.* v. FERC, 225 F.3d 667 (D.C. Cir. 2000), *aff'd sub nom.* New York v. FERC, 535 U.S. 1 (2002).

<sup>6</sup> See, *e.g.*, Docket No. RM99-2-000, Regional Transmission Organizations, *Comments of Utah Associated Municipal Power Systems* (August 23, 1999) ("As documented in the Commission's records, UAMPS has had a consistent history of difficulty in obtaining economic access to transmission facilities controlled by others, both before and after the issuance of Order No. 888. Largely because of this experience, UAMPS strongly supports the Commission's initiative in this proceeding.").

RTO West, Docket No. RT01-35) and WestConnect (RT02-1). As a result, UAMPS was active in the development of WestConnect (as well as WestConnect's ill-fated predecessor, Desert STAR) before WestConnect suspended further RTO development efforts, and it has been and remains involved in the ongoing (if somewhat ambivalent) development process for Grid West.

Although limited in geographic scope and functionality, the JOA was structured by UAMPS and PacifiCorp with the joint planning and single-system efficiency goals of RTOs firmly in mind. Nonetheless, and although UAMPS unqualifiedly supports the JOA and its acceptance by the Commission, UAMPS cannot help noting that the agreement is plainly a very distant second-best to a functioning RTO or similar region-wide independent system operator.<sup>7</sup> UAMPS and PacifiCorp would not likely have had to resort to the JOA to rationalize their southwestern Utah systems had the RTO/ISO process in the West moved forward more purposefully than it has.<sup>8</sup> In the northwest, utilities east of the Cascades (*e.g.*, PacifiCorp, Idaho Power Company, NorthWestern Energy, LLC) have generally been supportive of the establishment of an RTO or RTO-like entity (although they haven't always shared precisely equivalent visions of what that entity would look like). At least some utilities (mostly publicly owned) on the west-side of the Bonneville Power Administration ("Bonneville") transmission system, however, have so far been successful in holding the northwest RTO development efforts

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<sup>7</sup> Aside from the obvious geographic limitation of the JOA to a single part of a single state, the JOA lacks one of the most fundamental characteristics of an RTO: an independent system operator. That lack of independence means, among other things, that UAMPS cannot rely on the general IRS exception for independent system operators with respect to the private use limitations on the tax-exempt bonds that financed UAMPS' system. Instead, UAMPS must seek a private letter ruling, with the risk that failure to obtain a satisfactory response from the IRS could lead to an unwinding of the agreement. *See* JOA § 3.05

<sup>8</sup> Including the abortive IndeGO initiative in the late 1990s – an attempt to create a northwest ISO under Order No. 888 – the northwest has been talking about a regional system operator for almost a decade now, with no functioning organization to show for it.

- 6 -

substantially in check by preventing Bonneville's unequivocal support.<sup>2</sup> If substantial progress cannot be made soon, it may be time for the east-side northwest utilities to consider going it alone and establishing an east-side RTO so that at least part of the region can begin securing the benefits of independent and single-system planning and operation.

In the meantime, limited bilateral agreements like the JOA may be the best the region can do. UAMPS accordingly strongly urges the Commission to promptly accept the JOA for filing and to waive the Commission's prior notice requirements, allowing an effective date for the JOA of February 18, 2005.

For the foregoing reasons, UAMPS respectfully requests that its Motion to Intervene be granted.

Respectfully submitted,

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March 23, 2005

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<sup>2</sup> With approximately 75% of the transmission assets in its extensive service area, Bonneville's participation in a true region-wide RTO for the northwest is critical.

**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 Washington, D.C., this 23rd day of March, 2005.

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Submission Contents

Motion to Intervene of Utah Associated Municipal Power Systems UAMPS_Intervention_Pac_JOA.doc.....	1-7
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