

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

<b>Public Service Company of Colorado</b>	)	
	)	<b>Docket ER13-75-000</b>
	)	
<b>Terra-Gen Dixie Valley, LLC</b>	)	<b>Docket ER13-76-000</b>
	)	
<b>Tucson Electric Power Company</b>	)	<b>Docket ER13-77-000</b>
	)	
<b>UNS Electric, Inc.</b>	)	<b>Docket ER13-78-000</b>
	)	
<b>Public Service Company of New Mexico</b>	)	<b>Docket ER13-79-000</b>
	)	
<b>Arizona Public Service Company</b>	)	<b>Docket ER13-82-000</b>
	)	
<b>El Paso Electric Company</b>	)	<b>Docket ER13-91-000</b>
	)	
<b>Black Hills Power, Inc., et al.</b>	)	<b>Docket ER13-96-000</b>
	)	
<b>Black Hills Colorado Electric Utility Company</b>	)	<b>Docket ER13-97-000</b>
	)	
<b>NV Energy, Inc.</b>	)	<b>Docket ER13-105-000</b>
	)	
<b>Cheyenne Light, Fuel and Power Company</b>	)	<b>Docket ER13-120-000</b>
	)	

**MOTION TO INTERVENE AND COMMENTS OF  
STARTRANS IO, LLC**

Pursuant to Rules 212 and 214 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“FERC” or “Commission”)<sup>1</sup> and the Commission’s Notice of Extension of Time,<sup>2</sup> the Startrans IO, LLC (“Startrans”) hereby submits this Motion to Intervene and Comments in response to the October 11, 2012 Order 1000 compliance filings of the Public Service Company of Colorado, Terra-Gen Dixie Valley, LLC, Tucson Electric Power Company, UNS Electric, Inc., Public Service Company of New Mexico, Arizona Public Service Company,

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<sup>1</sup> 18 C.F.R. §§ 385.212 & .214 (2012).

<sup>2</sup> Notice of Extension of Time, *Nw. Corp. (S. Dakota) et al.*, Docket No. ER13-62-000 et al. (Nov. 1, 2012).

El Paso Electric Company, Black Hills Power, Inc., Basin Electric Power Cooperative, Powder River Electric Cooperative, Black Hills Colorado Electric Utility Company, NV Energy, Inc., and Cheyenne Light, Fuel and Power Company (collectively, “WestConnect”).

## **I. COMMUNICATIONS**

All correspondence and communications relating to this proceeding should be directed to:

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## **II. MOTION TO INTERVENE**

Startrans is an independent transmission company that owns a minority interest in two high-voltage transmission projects in the WestConnect and California Independent System Operator (“CAISO”) footprints. Startrans is a participating transmission owner (“PTO”) within CAISO and receives revenues subject to a FERC jurisdictional tariff. Startrans is an indirect wholly-owned subsidiary of Starwood Energy Group Global, L.L.C., an investment firm that, through Starwood Energy Infrastructure Fund, L.P. and affiliated investment funds (collectively, “SEIF”), invests in critical energy infrastructure throughout North America on behalf of pension funds, insurance companies, financial institutions and individuals. Like other independent transmission owners, Startrans believes that greater competition will bring enhanced value to customers and result in the most innovative, cost-effective means of developing transmission infrastructure.

Startrans believes it is important to support the development of new transmission projects. New transmission development will assist the development of new renewable energy development, will lower the cost of delivering electricity to consumers and will help to enhance

grid reliability. Startrans has been actively following the Commission's Order 1000 rulemaking proceeding and the transmission planning stakeholder process held by WestConnect and its comments herein are based on that process.

### **III. COMMENTS**

The Commission's goal throughout the Order 1000 rulemaking process has been to identify transmission facilities that serve important regional and inter-regional needs and to promote the construction of such new transmission in the most cost-effective manner possible. Startrans believes the Commission can only achieve these goals if it ensures the inclusion of independent transmission owners and operators in the process. Independent transmission owners and operators provide the innovation, capital resources, and efficient project delivery and management expertise essential to the effective expansion of the transmission system in the United States. Startrans is encouraged by the efforts of the Commission and WestConnect to remove barriers to the participation of non-incumbent transmission developers through the development of planning and cost allocation rules that will be fair to all participants. However, Startrans does not believe the WestConnect Compliance Filing will achieve the Commission's stated goals of encouraging an open and fair process that will allow the participation of ALL interested developers, including independent transmission developers, because the proposed tariff revisions do not fully comply with the requirements established by the Commission in Order No. 1000.

Specifically, Startrans believes the Commission should require each of the WestConnect member utilities to: (1) remove provisions that would allow two utilities to forego the regional planning and cost allocation process by mutual agreement; (2) remove provisions that would render cost allocation voluntary for utilities that are beneficiaries of a project that has been selected in the regional planning process for cost allocation; and (3) set forth, in their respective

tariffs, more specific metrics by which a proposed transmission solution will be evaluated to determine whether it is an economic project and how decisions whether to include such facilities in a regional transmission plan will be made.

**A. The Commission Should Affirm That Transmission Planning And Cost Allocation Procedures Established In Order 1000 Are Mandatory.**

The Commission should reject the concept of voluntary participation embodied in the WestConnect Compliance Filing and should affirm that transmission planning and cost allocation procedures that are adopted in compliance with Order 1000 are mandatory for all entities electing to construct transmission facilities that fulfill regional needs and that qualify for regional cost allocation.

WestConnect's member utilities have proposed tariffs that include the following provision:

[Transmission provider] may share ownership, and associated costs, of any new transmission project, based upon mutual agreement between the parties. Such a joint ownership arrangement may arise because of existing joint ownership of facilities in the area of the new facilities, overlapping service territories, or other relevant considerations.<sup>[3]</sup>

Startrans believes that if this tariff language is accepted, it would provide a blanket opportunity for two entities to bypass the Order 1000 transmission planning and cost allocation process when they have mutually agreed to construct "any new transmission project" and to allocate costs among their ratepayers accordingly. This provision could also provide WestConnect utilities an opportunity to exclude any independent transmission providers from recommending any solutions to the existing transmission needs. The Commission should not approve a tariff that would allow voluntary participation in regional planning and cost allocation procedures by mutual agreement. Order 1000 requires that such procedures be mandatory for entities choosing

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<sup>3</sup> See, e.g., PSCo Compliance Filing at Attachment R-PSCo, § VI.A (emphasis added).

to construct transmission facilities that fulfill regional needs and that qualify for regional cost allocation and the Commission should insist that the WestConnect utilities comply with this mandatory requirement.

Allowing parties to agree not to participate in the planning process, yet still allocate costs regionally, would undermine the Commission's Order 1000 reforms. Importantly, voluntary participation in the regional transmission process would deprive stakeholders of an opportunity to ensure that a project is the most efficient, cost-effective, and technically achievable way of meeting an identified transmission need. Moreover, allowing neighboring transmission operators to opt out of the regional planning process by mutual agreement provides a convenient option for excluding independent transmission developers from the process.

Accordingly, the Commission should clarify that, if a project is a regional project intended to satisfy regional needs, it *must* go through the applicable transmission planning and cost allocation processes developed in compliance with Order 1000.

**B. WestConnect's Proposed Opt-out Build and Cost Allocation Provisions Do Not Comply With Order 1000 And Must Be Rejected.**

The Commission should reject the proposed opt-out provision that would grant WestConnect utilities a broad right to avoid paying costs for projects that are selected and constructed as part of the regional planning process. The WestConnect utilities' broad opt-out provision does not comply with the requirements of Order 1000.

Each of the WestConnect member utilities has proposed the following provision:

No Obligation to Construct: The Regional Planning Process is intended to determine and recommend more efficient or cost-effective transmission solutions for the WestConnect Planning Region. After the Regional Plan is approved, due to the uncertainty in the planning process and the need to address cost recovery issues, the Regional Planning Process shall not obligate any entity to construct, nor obligate any entity to commit to construct, any facilities, including any transmission facilities, regardless of whether such facilities are included in any plan. Nothing in this Attachment R or the Planning Participation Agreement or

any cost allocation under the Business Practice Manual or the Planning Participation Agreement will (1) determine any transmission service to be received by, or any transmission usage by, any entity, (2) obligate any entity to purchase or pay for, or obligate any entity to commit to purchase or pay for, any transmission service or usage, (3) obligate any entity to implement or effectuate, or commit to implement or effectuate, any cost allocation, (4) obligate any entity to pay, or commit to pay, costs of any project or proposed project in accordance with any cost allocation, or (5) entitle any entity to recover for any transmission service or usage or to recover from any entity any cost of any transmission facilities, regardless of whether such transmission facilities are included in any plan. Without limiting the generality of the foregoing, nothing in this Attachment R, the Business Practice Manual or the Planning Participation Agreement with respect to an Order No. 1000 cost allocation shall preclude WestConnect or any other entity from carrying out any of its statutory authorities or complying with any of its statutory obligations.<sup>[4]</sup>

Order 1000 does not require utilities to construct any new facilities that are included in regional transmission plans. However the WestConnect proposed provision has gone much further and would permit a transmission owner to elect not to pay its share of costs for a regional transmission project that is actually built. If accepted, the WestConnect opt-out provision would eliminate, through a tariff, one of the underlying principles of Order 1000. WestConnect's proposal would allow a beneficiary of a project selected through the regional planning process to fulfill a critical reliability purpose to elect not to absorb costs associated with that project. If allowed to be voluntary, the cost allocation provisions proposed by WestConnect would jeopardize the constructing utility's assurance of cost recovery. This provision would also introduce significant risk that needed facilities will not get built. Startrans believes that voluntary cost allocation as proposed by WestConnect would act as a significant disincentive to the participation of independent transmission developers, who would be discouraged from bidding to construct needed projects due to the risk of non-recovery of their costs. This provision could also have a chilling effect on regional transmission development projects as it

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<sup>4</sup> See, e.g., PSCo Compliance Filing at Attachment R-PSCo, § VI.B.8 (emphasis added)

opens the door for never ending debate among entities regarding related benefits and associated cost allocation.

The Commission should order WestConnect member utilities to clarify that, for projects that are selected in the regional transmission planning process for cost allocation that are actually constructed, utilities that are deemed beneficiaries of the project and allocated a share of the project's costs cannot simply elect not to pay them.

#### IV. CONCLUSION

The Commission should order the WestConnect's member utilities to modify their respective proposed tariff revisions filed in the above captioned proceedings in a manner that is consistent with Order 1000, and as set forth in the comments of Startrans herein.

Respectfully submitted,

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Dated: November 26, 2012

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a copy of the foregoing document upon each person listed on the official service list compiled by the Secretary of the Federal Energy Regulatory Commission in this proceeding.

Dated at Greenwich, CT this 26th day of November, 2012.

*/s/ Ali Amirali*

Ali Amirali



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