



MidAmerican Energy Company (“MEC”), another MidAmerican subsidiary with transmission facilities in the Eastern Interconnection, is now a member of the Midwest Independent Transmission System Operator, Inc. (“MISO”) and is subject to the MISO market monitoring plan; (2) PacifiCorp, which has transmission facilities in the Western Interconnection, has an Order No. 890-compliant open access transmission tariff, which it asserts will continue to mitigate any vertical market power; (3) Joint planning initiatives, significant planned transmission expansion, and tariff revisions under Order No. 890 provide additional safeguards to ensure pro-competitive, transparent and not unduly discriminatory operation of PacifiCorp’s transmission system; and, (4) PacifiCorp has operated its transmission facilities consistent with FERC’s open access requirements. The company states that the Market Monitor has issued thirteen quarterly reports since consummation of the transaction and has not reported anti-competitive behavior or initiated an investigation into PacifiCorp’s market practices.

#### **I. MOTION TO INTERVENE**

EPSA is the national trade association representing competitive power suppliers, including generators and marketers. These suppliers, who account for 40 percent of the installed generating capacity in the United States, 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.

EPSA members are active participants in the wholesale electric markets encompassed within the Western Interconnection and have made significant investments in generation facilities across this broad area where PacifiCorp is also operating its facilities. Further, EPSA and its members have also strongly advocated for policies and rules in numerous Commission proceedings to promote and ensure that the wholesale electric markets are operated in an open-access, transparent and non-discriminatory manner.

EPSA submits it is worth noting that the Commission is currently working with ISOs/RTOs and stakeholders to develop a set of metrics that will be applied uniformly across the ISOs/RTOs that serve over two-thirds of the country to analyze the benefits and performance of such organizations. Particularly at this time, when such an effort is underway for the RTO regions, parallel mechanisms applicable to an entity or entities operating outside of the organized markets that require a comparable independent assessment of performance and operations would provide an important safeguard for other market participants and ultimately, consumers. If the Commission elects to grant PacifiCorp's request in the instant proceeding, it should require or at least not preclude other mechanisms to hold those operating outside of the formal organized markets to the same standards as those within them.

Based on the foregoing, EPSA has a direct and substantial interest in the outcome of this proceeding that cannot be adequately represented by any other party.

## II. COMMUNICATIONS

All pleadings, correspondence and other communications concerning this proceeding should be directed to:

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## III. CONCLUSION

WHEREFORE, EPSA respectfully requests that the Commission grant its timely motion for leave to intervene, as set forth above.

Respectfully Submitted,



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January 19, 2010

**CERTIFICATE OF SERVICE**

I hereby certify that I have served a copy of the comments via email upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Washington, D.C., January 19, 2010.



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Nancy Bagot