

STATE OF FLORIDA

COMMISSIONERS:
LILA A. JABER, CHAIRMAN
J. TERRY DEASON
BRAULIO L. BAEZ
MICHAEL A. PALECKI
RUDOLPH "RUDY" BRADLEY



DIVISION OF EXTERNAL AFFAIRS
CHARLES H. HILL
DIRECTOR
(850) 413-6800

Public Service Commission

June 13, 2002

VIA ELECTRONIC FILING

The Honorable Magalie R. Salas
Federal Energy Regulatory Commission
888 First Street, NE
Washington, DC 20426

RE: Docket No. RM01-10-000, Standards of Conduct for Transmission Providers

Dear Ms. Salas:

Forwarded herewith are comments of the Florida Public Service Commission on proposed rules in the above-captioned proceeding regarding Standards of Conduct for Transmission Providers.

Sincerely,

/ s /

Cynthia B. Miller, Esquire
Bureau of Intergovernmental Liaison

CBM:tf

states.” The FERC staff seemed to conclude that the “the benefit of eliminating the potential anti-competitive effects of a transmission owner’s native preference” outweighs the cost of separating the retail sales function from the transmission function.

The FPSC is concerned. As we urged in our December 19, 2001, comments, we continue to believe that the FERC should not extend the standards of conduct into a bundled electric retail environment. In addition, the FERC rulemaking should expressly acknowledge the state commission role regarding standards of conduct.

Separation Standard in a Bundled Retail Environment

We agree with the approach the FERC is taking to restrict preferential access to information in the wholesale environment. However, it appears premature to have these standards applied in the bundled retail environment. The cost impact on retail ratepayers is a major concern. For those states like Florida that do not have unbundled electric retail transmission, the FERC should not impose on transmission providers a requirement to separate employees managing bundled retail sales from those employees managing the transmission necessary to provide that bundled service.

The regulation requiring functional separation would appear to unnecessarily increase the costs of providing retail service. There could be additional transaction costs, additional delays, and even the need for the companies to hire an increased number of employees to comply, without any commensurate benefit to ratepayers. The employees might be performing redundant functions. Bundled retail sales are not subject to competition, and the transmission used for bundled retail sales is a necessary component of those sales and is not available for any other use. Thus, in a bundled retail environment, there should be an express exemption from the requirement for employees

managing retail sales to operate independently of the transmission function. The cost impact on retail ratepayers in those states which have not chosen retail access, is not warranted.

Another potential cost impact relates to restoration efforts. Florida is routinely a victim of hurricanes. We are concerned that restoration functions might not be as effective under this separation of employees requirement.

We have developed amendatory language for consideration. The language, which is attached, provides that utilities operating in bundled electric transmission states are exempt from the standard of conduct rules in those states.

State Commission Independent Authority Over Standards of Conduct

We continue to be concerned that the FERC rulemaking has not acknowledged state commissions' independent authority over standards of conduct. We suggest the attached simple addition to the rules. We can understand that the FERC may be reluctant to endorse a patchwork of conflicting rules across the states, and that such a patchwork could be difficult on the providers. However, states have statutory authority which cannot be ignored, and have more knowledge of local conditions which need to be considered. Numerous commenters have mentioned this separate state authority.

In conclusion, the FPSC urges that the FERC adopt the attached revision to authorize an opportunity for utilities operating in bundled states to seek an exemption. In addition, the FERC should acknowledge separate state commission authority by acknowledging that state commissions may adopt more stringent standards of conduct so long as such standards are not in conflict with the FERC rules.

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Respectfully submitted,

/ s /

Cynthia B. Miller, Esquire
Bureau of Intergovernmental Liaison

DATED: June 13, 2002

§ 358.1 Applicability.

(a) This part applies to any interstate natural gas pipeline that transports gas for others pursuant to subpart A of part 157 or subparts B or G of part 284.

(b) This part applies to any public utility that owns, operates, or controls facilities used for the transmission of electric energy in interstate commerce, except that this part does not apply to an electric transmission provider that is a Commission-approved Regional Transmission Organization (RTO). If an electric transmission owner participates in a Commission-approved RTO and does not operate or control its transmission facilities, it may request an exemption from this part. If any public utility operates in a state that has not authorized retail electric unbundling, the public utility is exempt from this part. ~~If any public utility operates in a state that has not authorized retail electric unbundling, the public utility may request an exemption from all or portions of this part upon showing how the exemption would meet the public interest.~~

(c) Inasmuch as State commissions have a state statutory role over standards of conduct, State commission requirements may be more rigorous than the following rules, but shall not be in conflict with the Federal Energy Regulatory Commission rules.

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

Standards of Conduct for
Transmission Providers

) Docket No. RM01-10-000
)

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the foregoing Notice of Intervention of the Florida Public Service Commission will be sent by U.S. Mail to all parties on the attached service list.

/ s /

Cynthia B. Miller, Esquire
Bureau of Intergovernmental Liaison

FLORIDA PUBLIC SERVICE COMMISSION
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

DATED: June 13, 2002

Service List
Docket No. RM01-10-000

William S. Scherman
Skadden, Arps, Slate, Meagher & Flom, LLP
1440 New York Ave., NW
Washington, DC 20005-2111

M J Parish III, Vice President
Dykema Gossett, PLLC
P.O. Box 550
Andalusia, AL 36420

James H. Holt
Betts & Holt
Suite 1000 West Tower, 1333 H St., NW
Washington, DC 20005-4707

Dennis Prince, Vice President
Alliance Pipeline, L.P.
600, 605 - 5th Avene SW
Calgary, Canada T2P 3H5

Kevin F. Duffy, Asst. General Counsel
American Electric Power Service Corp.
1 Riverside Plz., 29th Floor
Columbus, OH 43215-2355

David Friedman, Director
American Forest & Paper Assoc.
1111 19th St., NW, Suite 800
Washington, DC 20036-3603

Jane R. Lewis
American Gas Assoc.
400 N. Capitol St., NW
Washington, DC 20001-1511

Allen Mosher, Director
American Public Power Assoc.
2301 M St., NW, Fl. 3
Washington, DC 20037-1427

Jeffrey A. Holligan
Amoco Production Co.
P.O. Box 3092
Houston, TX 77253-3092

Dave Francis
Aquila Networks
7101 Mercy Rd., Ste. 400
Omaha, NE 68106-2638

Philip Davies
AEC Storage & Hub
3900, 421-7th Avenue, SW
Calgary, AB Canada T2P 4KP

Susan N. Kelly, Esquire
Miller, Balis & O'Neil, P.C.
1140 19th St., NW, Ste. 700
Washington, DC 20036-6607

David R. Poe
LeBoeuf, Lambe, Greene & MacRae
1875 Connecticut Ave., NW, Suite 1200
Washington, DC 20009-5728

Albert A. Foer, President
American Antitrust Institute
2919 Ellicott St., NW
Washington, DC 20008-1022

Dena E. Wiggins
Sutherland, Asbill & Brennan, LLP
1275 Pennsylvania Ave., NW
Washington, DC 20004-2404

Daniel E. Frank, Attorney
Sutherland, Asbill & Brennan, LLP
1275 Pennsylvania Ave., NW
Washington, DC 20004-2404

William T. Miller
American Public Gas Assoc.
1140 19th St., NW, Ste. 700
Washington, DC 20036-6607

Frederick T. Kolb
Amoco Production Co.
P.O. Box 3092
Houston, TX 77253-3092

Katherine B. Edwards, Esquire
GKRSE
1500 K St., NW, Ste. 330
Washington, DC 20005-1227

Patrick J. Joyce
Blackwell, Sanders, Peper & Martin, LLP
P.O. Box 542090
Omaha, NE 68154-8090

Mary C. Cochran
Arkansas Public Service Commission
P.O. Box 400
Little Rock, AR 72203-0400

Elias G. Farrah, Esquire
LeBoeuf, Lamb, Greene & MacRae, LLP
1875 Connecticut Ave., NW, Ste. 1200
Washington, DC 20009-5715

James H. Jeffries, IV
Nelson, Mullins, Riley & Scarborough, LLP
100 N. Tryon St., Ste. 3350
Charlotte, NC 28202-4031

Wendy N. Reed
Wright & Talisman, P.C.
1200 G Street, NW, Ste. 600
Washington, DC 20005-3898

Keshmira R. McVey, Atty.
Bonneville Power Admin.
P.O. Box 3621
Portland, OR 97208-3621

William D. Penniman
Sutherland, Asbill & Brennan
1275 Pennsylvania Ave., NW
Washington, DC 20004-2404

J.A. Gomes, Exec. Vice President
California Dairies, Inc.
P.O. Box 11865
Fresno, CA 93775-1865

Jonathan A. Bromson
California Public Util. Comm.
505 Van Ness Ave., Rm. 5138
San Francisco, CA 94102-3214

David Effross
California Public Util. Comm.
505 Van Ness Ave., Fl 4
San Francisco, CA 94102-3214

Keith R. McCrea
Sutherland, Asbill & Brennan, LLP
1275 Pennsylvania Ave., NW
Washington, DC 20004-2404

Thomas L. Blackburn, Esquire
Bruder, Gentile & Marcoux, LLP
1100 New York Ave., NW, Ste. 510, East
Washington, DC 20005-3934

Paul R. Hightower, Commission Counsel
Arkansas Public Service Commission
P.O. Box 400
Little Rock, AR 72203-0400

Douglas C. Walther
Atmos Energy Corp.
P.O. Box 650205
Dallas, TX 75265-0205

Gary A. Dahlke
Paine, Hamblen, Coffin, Brooke & Miller
717 W. Sprague Ave., Ste. 1200
Spokane, WA 99201-3919

Antonia A. Frost, Esquire
Bruder, Gentile & Marcoux, LLP
1100 New York Ave., NW, Suite 510 East
Washington, DC 20005-3934

Eric H. Carter, Atty.
Bonneville Power Admin.
P.O. Box 3621
Portland, OR 97208-3621

Nancy E. Williams
Schramm, Williams & Assoc., Inc.
512 C St., NE
Washington, DC 20002-5810

Michael L. Reidy, Sr. Vice President
Leprino Foods, Co.
1830 W. 38th Avenue
Denver, CO 80211-2225

Brian C. Prusnek
California Public Util. Comm.
505 Van Ness Ave., Rm. 4002
San Francisco, CA 94102-3214

Arocles Aguilar, Esquire
California Public Util. Comm.
505 Van Ness Ave., Rm. 5138
San Francisco, CA 94102-3214

James H. Holt
Betts & Holt
1333 H St., NW, Suite 1000 West Tower
Washington, DC 20005-4707

Sherrie N. Rutherford, Vice President
Cinergy Svcs., Inc.
139 E. 4th St.
Cincinnati, OH 45202-4003

Cheryl M. Foley, Vice President
Skadden, Arps, Slate, Meagher & Flom, LLP
P.O. Box 1188
Houston, TX 77251-1188

William W. Grygar, V. President
Panhandle Eastern Pipe Line Co.
5444 Westheimer
Houston, TX 77056-5306

Maureen Elms, Secretary
Anderson, Dude & Lebel, PC
104 S. Cascade Ave., Ste. 204
Colorado Springs, CO 80903-5102

Adelia S. Borrasca
Heller, Ehrman, White & McAuliffe, LLP
1666 K St., NW, Ste. 300
Washington, DC 20006

Jeffrey L. Landsman, Attorney
Wheeler, Van Sickle & Anderson, S.C.
25 W. Main St., Ste. 801
Madison, WI 53703-3370

Linda L. Geoghegan
Discovery Producer Svcs., LLC
2811 Hayes Rd., Rm. 2120
Houston, TX 77082-2642

Don Stanczak, Director
DTE Energy Co.
2000 Second Ave., 1024 WCB
Detroit, MI 48226

Martha B. Wyrsh, Sr. V.P. & General Counsel
Duke Energy Corp.
Suite 900, 370 17th St.
Denver, CO 80202-1370

Mary J. Doyle
Dynegy, Inc.
1500 K St., NW, Ste. 400
Washington, DC 20005-1274

David K. Owens, Exec. V.P.
Edison Electric Institute
701 Pennsylvania Ave., NW
Washington, DC 20004-2608

Julie Simon, Director
Electric Power Supply Assoc.
1401 New York Ave., NW, Fl. 11
Washington, DC 20005-2102

William M. Lange, Asst. General Counsel
CMS Enterprises Co.
1016 16th St., NW, Ste. 100
Washington, DC 20036-5703

Joseph B. Wilson
Anderson, Dude & Lebel, PC
P.O. Box 240
Colorado Springs, CO 80901-0240

John Gasal
Connexus Energy
14601 Ramsey Blvd., NW
Ramsey, MN 55303-6024

Bruce H. Staples, Vice President
Dairyland Power Cooperative
P.O. Box 817
La Crosse, WI 54602-0817

Landy W. Roberson
Discovery Producer Svcs., LLC
1111 Bagby St.
Houston, TX 77002-2551

Anne E. Bomar
Dominion Resources, Inc.
120 Tredegar St.
Richmond, VA 23219-4306

Raymond O. Sturdy, Jr.
DTE Energy Co.
2000 2nd Ave. - 688 WCB
Detroit, MI 48226-1203

J. Curtis Moffatt, Esquire
Van Ness Feldman, P.C.
1050 Thomas Jefferson St., NW, Fl. 7
Washington, DC 20007-3837

Sarah E. Tomalty
Dynegy, Inc.
1500 K St., NW, Ste. 400
Washington, DC 20005-1274

Daniel F. Collins
El Paso Corp.
555 11th St., NW, Ste. 750
Washington, DC 20004-1304

John A. Anderson, Executive Director
Electricity Consumers Resource Council
1333 H. Street, NW, West Tower, Ste. 800
Washington, DC 20005

Sara D. Schotland, Esquire
Cleary, Gottlieb, Steen & Hamilton
Suite 9000, 2000 Pennsylvania Ave., NW
Washington, DC 20006-1812

Denise Hamsher
Enbridge, Inc.
Suite 2950, 1100 Louisiana St.
Houston, TX 77002-5227

William D. Booth, Attorney
Huber, Lawrence & Abell
27th Floor, 605 3rd Avenue
New York, NY 10158-0180

Mary Margaret Farren
Skadden, Arps, Slate, Meagher & Flom, LLP
1440 New York Ave., NW
Washington, DC 20005-2111

Robert S. Waters, Esquire
Jones, Day, Reavis & Pogue
51 Louisiana Ave., NW
Washington, DC 20001-2105

Bruce Andrews, Vice President
First Electric Cooperative Corp.
901 N 1st St.
Jacksonville, AR 72076-3201

Stephen C. Terry, Sr. VP
Green Mountain Power Corp.
163 Acorn Ln.
Colchester, VT 05446-6612

Michael McMahon
Gulf South Pipeline Co., LLP
Suite 900, 20 E. Greenway Plz.
Houston, TX 77046-2011

Henry S. May, Jr., Esquire
Vinson & Elkins, LLP
2300 First City Tower, 1001 Fannin St.
Houston, TX 77002-6706

Rose T. Lennon
Washington Gas Light Co.
1100 H St., NW, Fl. 12
Washington, DC 20080-0001

Thomas G. Aridas, Special Asst. Atty. General
Illinois Commerce Commission
160 N. LaSalle Street, Suite C-800
Chicago, IL 60601

Richard L. McCord
The Empire District Elec. Co.
P.O. Box 127
Joplin, MO 64802-0127

Richard T. Saas
Steptoe & Johnson, LLP
1330 Connecticut Ave., NW
Washington, DC 20036-1704

Kimberly Despeaux, Director
Entergy Svcs., Inc.
639 Loyola Ave.
New Orleans, LA 70113-3125

William R. Mapes, Jr., Esquire
Duane Morris, LLP
1667 K St., NW, Ste. 700
Washington, DC 20006-1654

Susan S. DeSanti
Federal Trade Commission
600 Pennsylvania Ave., NW
Washington, DC 20580-0001

Kathleen L. Mazure
Duncan, Weinberg, Genzer & Pembroke, P.C.
1615 M St., NW, Ste. 800
Washington, DC 20036-3213

James K. Mitchell
Thelen, Reid & Priest, LLP
701 Pennsylvania Ave., NW
Washington, DC 20004-2608

M.L. Gutierrez
Gulfstream Natural Gas System, LLP
P.O. Box 1642
Houston, TX 77251-1642

P. Martin Teague
Gulfstream Natural Gas System, LLC
2701 N Rocky Point Dr., Ste. 1050
Tampa, FL 33607-5554

Donald L. Howell, II
Idaho Public Util. Comm.
P.O. Box 83720
Boise, ID 83720-3720

Randy Rismiller, Director
Illinois Commerce Commission
527 E. Capitol Ave.
Springfield, IL 62701-1827

Sarah A. Naumer, Esquire
Illinois Commerce Commission
160 N. LaSalle St., Ste. C800
Chicago, IL 60601-3113

Eric A. Eisen
Eisen Law Offices
10028 Woodhill Rd.
Bethesda, MD 20817-1218

Robert A. Weishaar, Jr., Esquire
McNess, Wallace & Nurick, LLC
1200 G St., NW, Ste. 800
Washington, DC 20005-6705

Randall S. Rich, Esquire
Bracewell & Patterson, LLP
2000 K St., NW, Ste. 500
Washington, DC 20006-1809

Scott Hempling, Attorney at Law
Law Offices of Scott Hempling
417 Saint Lawrence Dr.
Silver Spring, MD 20901-2626

Joseph B. Nelson, Esquire
Van Ness Feldman
1050 Thomas Jefferson St., NW
Washington, DC 20007-3837

Patrick J. Hester, Sr. VP
M&N Management Co.
1284 Soldiers Field Rd.
Boston, MA 02135-1003

Jennifer M. Grandholm, Atty. General
Michigan Public Svc. Comm.
6545 Mercantile Way, Ste. 15
Lansing, MI 48911-5984

James C. Holsclaw, Esquire
Midwest Indep. Trans. Sys. Operator
701 City Center Dr.
Carmel, IN 46032-7574

William F. Demarest, Jr., Esquire
Shook, Hardy & Bacon, LLP
Hamilton Square, 600 14th St., NW, Ste. 800
Washington, DC 20005-2099

Vincent C. Chavez, Supervisor
Minnesota Dept. of Commerce
85 7th Pl. E, Ste. 500
Saint Paul, MN 55101-2198

Kristina K. Wheeler, Acting General Counsel
Indiana Util. Reg. Comm.
Room E-306, 302 W. Washington St.
Indianapolis, IN 46204-4701

Samuel C. Randazzo
Industrial Coalitions
21 E. State St., Fl. 17
Columbus, OH 43215-4228

Joan Dreskin, General Counsel
Interstate Natural Gas Assn. Of America
10 G St., NE, Ste. 700
Washington, DC 20002-4248

Edward B. Myers, Esquire
Cullen & Dykman
1101 14th St., NW
Washington, DC 20005-5601

Donald F. Santa, Jr.
Troutman Sanders, LLP
401 9th St., NW, Ste. 1000
Washington, DC 20004-2146

Joseph F. McHugh, Director
M&N Management Co.
1284 Soldiers Field Rd.
Boston, MA 02135-1003

Sandra L. Hall
Maryland Public Svc. Comm.
6 Saint Paul St., Fl. 16
Baltimore, MD 21202-6806

David D'Alessandro
Morrison & Hecker
1150 18th St., NW, Ste. 800
Washington, DC 20036-3845

Jim Krebs
Midwest United Energy, LLC
8774 Yates Dr., Ste. 200
Westminster, CO 80031-6906

Christine M. Odell, Director
MIGC, Inc.
12200 Pecos St.
Denver, CO 80234-3424

Nicole J. Daggs
Mirant Americas Energy Marketing, LP
1155 Perimeter Ctr., W.
Atlanta, GA 30338-5416

Debra Raggio Bolton, Sr. Atty.
Mirant Americas, Inc.
901 F St., NW, Ste. 800
Washington, DC 20004-1429

George M. Fleming, General Counsel
Mississippi Public Utilities Staff
P.O. Box 1174
Jackson, MS 39215-1174

Raymond B. Wuslich
Winston & Strawn
1400 L St., NW
Washington, DC 20005-3509

James K. Mitchell
Thelen, Reid & Priest, LLP
701 Pennsylvania Ave., NW
Washington, DC 20004-2608

Douglas W. Schultz
Montana-Dakota Util. Co.
400 N. 4th St.
Bismarck, ND 58501-4022

Sharla M. Barklind, Asst. General Counsel
National Assn. Of Regulatory Util. Cnmrs.
1101 Vermont Ave., NW, Ste. 200
Washington, DC 20005-3553

Craig G. Goodman, President
National Energy Marketers Assoc.
3333 K St., NW, Ste. 425
Washington, DC 20007-3530

Kenneth G. Jaffe, Esquire
Swidler, Berlin, Shereff & Friedman, LLP
3000 K St., NW, Ste. 300
Washington, DC 20007-5109

Richard Meyer
National Rural Elec. Coop. Assoc.
4301 Wilson Blvd.
Arlington, VA 22203-1867

Mark R. Haskell
Brunenkant & Haskell, LLP
805 15th St., NW, Ste. 1101
Washington, DC 20005-2289

Kathleen E. Magruder, VP
The New Power Co.
1 Manhattanville Rd.
Purchase, NY 10577-2100

Cassandra M. Lowe, Legal Sec.
Mississippi Public Utilities Staff
P.O. Box 1174
Jackson, MS 39215-1174

Deborah J. Henry, Sr. Atty.
Allegheny Energy Svc. Corp.
800 Cabin Hill Dr.
Greensburg, PA 15601-1650

Michael P. Manion
Montana Power Co.
P.O. Box 1338
Butte, MT 59702-1338

Donald R. Ball, Director
Montana-Dakota Util. Co.
400 N. 4th St.
Bismarck, ND 58501-4022

James B. Ramsay, General Counsel
National Assn. Of Regulatory Util. Cnmrs.
1101 Vermont Ave., NW, Ste. 200
Washington, DC 20005-3553

Byron L. Harris, Dep. Consumer Adv.
National Assn. Of State Util. Cons. Adv.
723 Kanawha Blvd., E, Ste. 700
Charleston, WV 25301-2713

David W. Reitz
National Fuel Gas Supply Corp.
10 Lafayette Sq.
Buffalo, NY 14203-1826

Bree Raum
National Propane Gas Assoc.
1101 17th St., NW
Washington, DC 20036-4704

Patricia W. Jagtiani, Director
Natural Gas Supp. Assoc.
805 15th St., NW, Ste. 510
Washington, DC 20005-2276

Clinton A. Vince
Sullivan & Worcester
1666 K St., NW, Ste. 700
Washington, DC 20006-1208

Ted J. Murphy
New York Independent Sys. Oper.
1900 K St., NW, Ste. 1200
Washington, DC 20006-1109

Edgar K. Byham, Esquire
New York Power Auth.
123 Main St.
White Plains, NY 10601-3104

Leonard M. Gilmore, Manager
Nicor Gas
P.O. Box 190
Aurora, IL 60507-0190

Debra A. Palmer
Schiff, Hardin & Waite
1101 Connecticut Ave., NW, Suite 600
Washington, DC 20036-4303

Monique Rowtham-Kennedy
Northeast Util. Svc. Co.
107 Seldon Street
Berlin, CT 06037-1616

Carol Smoots, Esquire
McKenna & Cuneo, LLP
1900 K St., NW
Washington, DC 20006-1110

Scott Hempling, Atty. at Law
Hempling Law Office
417 Saint Lawrence Dr.
Silver Spring, MD 20901-2626

Lynn L. Williams, Asst. General Counsel
Oklahoma Corp. Comm.
P.O. Box 52000
Oklahoma City, OK 73152-2000

Shelby L. Provencher
Jones, Day, Reavis & Pogue
51 Louisiana Ave., NW
Washington, DC 20001-2105

Richmond F. Allan, Principal
Duncan, Weinberg, Genzer & Pembroke, P.C.
1615 M St., NW, Suite 800
Washington, DC 20036-3209

John A. Levin, Asst. Counsel
Pennsylvania Public Util. Comm.
P.O. Box 3265
Harrisburg, PA 17105-3265

Barbara Muller Champion, Sr. Atty.
Pinnacle West Companies
P.O. Box 53999
Phoenix, AZ 85072-3999

Michael W. Murphy
Niagara Mohawk Power Corp.
300 Erie Blvd., W.
Syracuse, NY 13202-4201

David I. Bloom, Atty.
Mayer, Brown & Platt
1909 K St., NW
Washington, DC 20006-1152

Louis S. Watson, Jr., Staff Atty.
North Carolina Util. Comm.
4325 Mail Service Ctr.
Raleigh, NC 27699-4325

Sean A. Atkins
Swidler, Berlin, Shereff & Friedman, LLP
3000 K St., NW, Ste. 300
Washington, DC 20007-5101

Joe Buckley
Ohio Public Util. Comm.
180 East Board St.
Columbus, OH 43215

Kenneth R. Zimmerman, Ph.D, Chief of Energy
Oklahoma Corp. Comm.
P.O. Box 52000
Oklahoma City, OK 73152-2000

Joyce E. Davidson, Interim Director
Oklahoma Corp. Comm.
P.O. Box 52000
Oklahoma City, OK 73152-2000

C. Burnett Dunn
Gable & Gotwals
P.O. Box 871
Tulsa, OK 74102-0871

Keith M. Sappenfield, II
PanCanadian Energy Svcs., Inc.
1200 Smith St., Ste. 900
Houston, TX 77002-4501

Kenneth T. Valentine, Director
Piedmont Natural Gas Co., Inc.
P.O. Box 33068
Charlotte, NC 28233-3068

Paul E. Russell, Esquire
PPL Services Corp.
2 N 9th St.
Allentown, PA 18101-1139

Lisa H. Tucker, Esquire
PPL Companies
1735 New York Ave., NW, Ste. 500
Washington, DC 20006-5221

Richard Fryling, Jr., T5G
PSED Services Corp.
P.O. Box 570
Newark, NJ 07101-0570

Gary Lay
Public Alliance for Community Energy
1111 O St.
Lincoln, NE 68505-3690

Lawrence G. Malone
Public Service Comm State of New York
3 Empire State Plz.
Albany, NY 12223-1000

Kimberly J. Harris, Asst. General Counsel
Puget Sound Agency
411 108th Avenue, NE, Suite 1500
Bellevue, WA 98004

Alan K. Allred, VP
Questar Gas Co.
P.O. Box 45360
Salt Lake City, UT 84145-0360

Julie A. Wray
Questar Market Resources, Inc.
P.O. Box 45601
Salt Lake City, UT 84145-0601

Blaine D. Stockton, Jr.
Rural Util. Service
1400 Independence Ave., SW
Washington, DC 20250-0002

David P. Halphen
Shell Gas Transmission, LLC
1301 McKinney St., Ste. 700
Houston, TX 77010-3030

Charles J. McClees, Jr.
Shell Offshore, Inc.
P.O. Box 576
Houston, TX 77001-0576

Stewart Kepper
Shell Oil Co.
P.O. Box 576
Houston, TX 77001-0576

Steven M. Sherman, Atty.
Krieg DeVault, LLP
1 Indiana Sq., Ste. 2800
Indianapolis, IN 46204-2017

Tamara L. Linde
PSEG Service Corp.
P.O. Box 570
Newark, NJ 07101-0570

Ronald Liberty, Director
Public Service Comm. State of New York
3 Empire State Plz.
Albany, NY 12223-1000

Joel F. Zipp, Esquire
Cameron McKenna, LLP
2175 K St., NW, Fl. 5
Washington, DC 20037-1831

Gary D. Bachman, Esquire
Van Ness Feldman, P.C.
1050 Thomas Jefferson St., NW
Washington, DC 20007-3837

Tad M. Taylor, Sen. Corporate Counsel
Questar Gas Co.
P.O. Box 45360
Salt Lake City, UT 84145-0360

Michael G. Briggs, Sr. Counsel
Reliant Energy
801 Pennsylvania Ave., NW, Ste. 620
Washington, DC 20004-2615

Paul A. Szymanski
Sempra Energy
P.O. Box 1831
San Diego, CA 92112-9831

Linda G. Stuntz, Director
Stuntz, Davis & Staffier, P.C.
1275 Pennsylvania Ave., NW, Fl. 9
Washington, DC 20004-2414

Kevin M. Sweeney, Esquire
John & Hengerer
1200 17th St., NW, Ste. 600
Washington, DC 20036-3013

Stephen Pelcher
South Carolina Public Svc. Auth.
P.O. Box 2946101
Moncks Corner, SC 29461-6101

Jonathan D. Schneider, Esquire
Huber, Lawrence & Abell
1001 G St., NW, Ste. 1225
Washington, DC 20001-4545

Andrew W. Tunnell, Esquire
Balch & Bingham, LLP
P.O. Box 306
Birmingham, AL 35201-0306

Patricia E. Cooper, Corporate Counsel
Southwest Transmission Cooperative, Inc.
P.O. Box 670
Benson, AZ 85602-0670

Lee Powell
Superior Natural Gas Corp.
1100 Louisiana St., Ste. 350
Houston, TX 77002-5258

Harry Long
Teco Energy, Inc.
702 N. Franklin St.
Tampa, FL 33602-4429

Roy Thilly, President & CEO
Wisconsin Public Power, Inc.
1425 Corporate Center Dr.
Sun Prairie, WI 53590-9109

Michael S. Wroblewski, Asst. Gen. Counsel
U.S. Federal Trade Comm.
600 Pennsylvania Ave., NW
Washington, DC 20580-0001

Heather H. Anderson
Shea & Gardner
1800 Massachusetts Ave., NW
Washington, DC 20036-1806

Kent Walgre
Utah Div. Of Public Util.
160 E 300 S., 5th Floor
Salt Lake City, UT 84111-2316

Craig Fishbeck, President
Vector Pipeline, L.P.
38705 Seven Mile Rd., Ste. 245
Livonia, MI 48152-1093

Harvey L. Reiter
Morrison & Hecker, LLP
1150 18th St., NW, Ste. 800
Washington, DC 20036-3845

Joanna Moore, Esquire
Southern California Public Service Auth.
2244 Walnut Grove Ave.
Rosemead, CA 91770-3714

Douglas M. Canter
McCarthy, Sweeney & Harkaway, P.C.
2175 K St., NW, Ste. 600
Washington, DC 20037-1828

Robert D. Rosenberg
Slover & Loftus
1224 17th St., NW
Washington, DC 20036-3003

Matthew M. Schreck, Esquire
Corbett & Schreck, P.C.
9525 Katy Fwy, Ste. 420
Houston, TX 77024-1416

Robert C. McDiarmid
Spiegel & McDiarmid
1350 New York Ave., NW, Ste. 1100
Washington, DC 20005-4709

Joseph R. Hartsoe, VP
Enron Transportation Svcs. Co.
1775 Eye St., NW, Ste. 800
Washington, DC 20006-2418

Kelly D. Hewitt, Esquire
Bruder, Gentile & Marcoux, LLP
1100 New York Avenue, NW
Washington, DC 20005-3934

Darrell S. Hanson
Utah Div. Of Public Util.
P.O. Box 45802
Salt Lake City, UT 84145-0802

John W. McKinney, VP
UtiliCorp United, Inc.
P.O. Box 11739
Kansas City, MO 64138-0239

Hans Mertens, Chief of Engineering
Vermont Dept. of Public Service
112 State Street, Drawer 20
Montpelier, VT 05620-2601

Mark Smoot
Wasatch Energy, LLC
P.O. Box 699
Farmington, UT 84025-0699

Jennifer B. Deegan
Washington Gas Light Co.
6801 Industrial Rd.
Springfield, VA 22151-4206

Kelly B. Harrison, Sr. Director
Western Resources, Inc.
P.O. Box 889
Topeka, KS 66601-0889

Judith L. Neason, Director
Williams Companies, Inc.
1627 Eye St., NW, Ste. 900
Washington, DC 20006-4007

Keith A. Tiggelaar
Williston Basin Interstate Pipeline Co.
P.O. Box 5601
Bismarck, ND 58506-5601

Chuck Cummings, Esquire
Wisconsin Electric Power Co.
231 W. Michigan St., Room A292
Milwaukee, WI 53290-0001

Harry Ivey, Atty. General
Wyoming Office of the Atty. General
123 Capitol Building
Cheyenne, WY 82002-0001

Clay Fitch, CEO & Gen. Manager
Wells Rural Electric Co.
P.O. Box 365
Wells, NV 89835-0365

Martin J. Bregman
Western Resources, Inc.
P.O. Box 899
Topeka, KS 66601-0889

Patricia E. Schmid, Sr. Atty.
Williams Companies, Inc.
P.O. Box 58900
Salt Lake City, UT 84158-0900

Robert T. Hall, III
Thelen, Reid & Priest, LLP
701 Pennsylvania Ave., NW, Ste. 800
Washington, DC 20004-2654

Stephen G. Oxley
Wyoming Public Service Comm.
2515 Warren Ave., Ste. 300
Cheyenne, WY 82002-0001

James P. Johnson, Asst. Gen. Counsel
Xcel Energy Services, Inc.
800 Nicollet Mall, Suite 2900
Minneapolis, MN 55402-7000