

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

New York Independent System Operator, Inc.)
_____)

Docket No. ER03-647-000

**MOTION TO INTERVENE OF
THE ELECTRICITY CONSUMERS RESOURCE COUNCIL**

The Electricity Consumers Resource Council (“ELCON”) hereby moves to intervene in the above-captioned docket, and offers the following comments on New York ISO’s “ICAP Demand Curve” proposal.

INTRODUCTION

On March 21, 2003, New York ISO (“NYISO”) filed for FERC approval of its ICAP Demand Curve proposal. The New York Demand Curve proposal administratively sets a price buyers must pay for capacity that varies with the amount of capacity available in the State at that time. The Demand Curve proposal significantly revises the existing, competitive bid-based ICAP/UCAP market in New York. NYISO argues that the current value of capacity outside of New York City is too low to maintain the continued operation of low-capacity-factor generating units and too low to attract needed investment to meet the State’s future needs. Advocates of the Demand Curve proposal express concern about the continued operation of certain upstate generating plants that could rapidly convert the capacity surplus that presently exists in the Rest of State (“ROS”) market. The Demand Curve proposal authorizes payment of

an administratively set market-clearing price for capacity above the statewide installed reserve margin (“IRM”) established by the New York State Reliability Council (“NYSRC”). That market-clearing price is projected to exceed recent ICAP prices by a substantial amount.

SUMMARY

ELCON agrees with the views expressed in the Joint Protest of Association for Energy Affordability, Inc., et al. (the “Multi-Sector Protestors”) that the Demand Curve proposal is a drastic remedy that would increase significantly the cost of ICAP in New York and thus the total cost of electricity to end-use customers. The Multi-Sector Protestors contend that the NYISO has not demonstrated that the total revenues available to New York generators are insufficient to spur investment. Those Protestors also point to the lack of evidence that higher ICAP prices would in fact lead to new generation being constructed and/or existing generation being retained in New York.

The absence of evidence that the Demand Curve approach is necessary to stimulate new investment in New York not only raises questions as to the advisability of an administratively determined pricing mechanism as a policy choice but suggests that the concept is legally vulnerable under the ratemaking case law. Inasmuch as the Demand Curve is neither cost-based nor market-based, the NYISO claims that the Demand Curve is needed to provide “economic incentives for investment in new generating capability and expenditures necessary to keep the most costly existing generators in operation.” Patton Affidavit at 3. However, extensive D.C. Circuit case law imposes constraints on FERC tariffs and requires demonstration that the incentives are carefully calibrated and will not result in a windfall. For example, in Farmers Union Central Exchange Inc. v. FERC, 734 F.2d 1486, 1503 (D.C. Cir. 1984), cert.

denied, 469 U.S. 1034 (1984), the D.C. Circuit held that unsupported predictions of increased investment in oil pipelines were not sufficient to justify the challenged incentive rates. There must be an attempt to “verify the accuracy of [the Commission’s] prediction that granting...incentives will spur increased investment.”¹ The increase should not be inflated beyond what is needed to incent the regulated utility.²

ELCON does not argue that installed capacity payments are inherently inconsistent with the just and reasonable standard; rather they should not be based on some arbitrary guesses as to the level necessary to incent investment.

Below, ELCON reviews the ICAP case law, which recognizes that ICAP payments must be justified as incentive rates (Part A). ELCON then reviews the case law on incentive ratemaking, which requires that incentive rates be limited to rates necessary to achieve the desired investment objectives (Part B). ELCON submits that the Demand Curve proposal violates the just and reasonable standard, in view of the lack of empirical evidence to support the level of incentives or the NYISO’s allegation that these incentives will yield new investment. Finally, ELCON notes that the Demand Curve proposal is inconsistent with FERC’s regulatory philosophy as articulated in the SMD NOPR. Specifically, the Demand Curve proposal attempts to preserve the ICAP approach that the NOPR has disavowed and may seriously inhibit the formation of a robust, liquid forward market (Part C).

¹ Id. (quoting City of Charlottesville v. FERC, 661 F.2d 945, 955 (D.C. Cir. 1981) (Wald, J., concurring)).

² See City of Charlottesville, 661 F.2d at 950.

COMMENTS

A. NYISO's Demand Curve Proposal Is Inconsistent With The ICAP Case Law

Two recent court of appeals decisions are instructive with respect to ICAP charges. In Central Maine Power Co. v. FERC, 252 F.3d 34 (1st Cir. 2001), the court considered FERC's rejection of ISO-NE's \$0.17 ICAP charge and its reinstatement of the \$8.75 charge previously in effect. The court remanded for further explanation by FERC of the reason for the rejection of the \$0.17 charge.

Several aspects of Central Maine Power are of interest. First, FERC defended the \$8.75 charge because it "represents an approximation of the cost to install a peaking unit and represents a reasonable basis for setting a level to incent the construction of new generation." Id. at 40. The court expressed concern that FERC "owed petitioners (and the public who will likely pay some of any ICAP charge through passed-on retail rate increases) some explanation as to why FERC was not persuaded by petitioners' efforts to discredit the notion of a substantial charge in general or the \$8.75 charge in particular." Id. at 43. FERC was "not entitled to ignore claims that the cost of peaking facilities is less than it was in the past." Id. at 44. The court observed that PJM's ICAP charge was \$5.25 per kw-month while NYISO's net charge was \$8.75 per kw-month for much of 2000.

The principal questions that FERC needs to answer more fully are these: why, despite petitioners' various claims to the contrary, a substantial ICAP charge is still required to enforce reserve obligations; why, in light of petitioners' claims of a lower present cost of peaking capacity, \$8.75 is the proper interim figure; and why any alternatives already proffered by opponents are inadequate or are otherwise not properly considered at this time. Answers can be imagined, but it is FERC that must formulate and adopt them in the first instance.

Id. at 48.

The Central Maine case affirms that FERC tariffs may set an appropriate level of ICAP charges as a vehicle to “assure adequate energy supplies” and “to encourage suppliers to maintain marginal (i.e., high cost) existing plant or to build new facilities for peak demand.” Id. at 48. However, the lesson of Central Maine is that excessive ICAP charges are not sustainable. It should be relevant to FERC in this proceeding, as it was to the First Circuit in Central Maine, that current NYISO capacity charges are in line with capacity charges in neighboring ISOs. Projections that the NYISO Demand Curve proposal would significantly increase these charges will raise a red flag to reviewing courts under Central Maine.

The second relevant ICAP case is Sithe New England Holdings, LLC v. FERC, 308 F.3d 71 (1st Cir. 2002), where the First Circuit revisited the question of ISO-NE’s ICAP charge and whether sellers could demand a higher charge than \$0.17 kw-mo. for a 13-month period. The court admonished that ICAP is not a statutory entitlement to sellers. Petitioners

... are fatally wrong in thinking that ICAP is any part of a supposed statutory entitlement. The classic just and reasonable rate -- which utilities were entitled to implement, cf. *Mkt. St. Ry. Co.*, 324 U.S. at 566-67 -- is a rate that allows for revenues that compensate carriers for their investment and expenses, not necessarily for the individual service but (taken together with revenues from all of their rates) for their services as a whole. See *Fed. Power Comm’n v. Hope Natural Gas Co.*, 320 U.S. 591, 614-15, 88 L. Ed. 333, 64 S. Ct. 281 (1944). In this instance, the rates that perform this office are the rates that petitioners charge when they sell their surplus power or sell standby rights assuring access to that power.

Id. at 77. The court affirmed that ICAP is appropriately treated as an incentive rate:

The ICAP charge, by contrast, is not of this ilk. Rather, it is a payment to suppliers over and above the amount they charge

for power sold to or reserved for buyers. Its aim is not private compensation for past investment; instead, it is designed to serve two different public purposes: one is to give providers an extra incentive to construct new plants and the other -- this time the stick rather than the carrot, see, e.g., *ISO New Eng., Inc.*, 96 FERC ¶ 61,234 at 61,942 (2001) -- is to impose a hefty penalty on those buyers who fail to acquire the reserve capacity that FERC has decreed they shall have.

It is true that ICAP charges are tarified -- not by the sellers but by ISO-NE -- and that FERC uses the “just and reasonable” rubric in regulating them, but they are simply not part of the compensation to sellers required by the statute. If ICAP charges were abolished by FERC tomorrow, the sellers could object that FERC was behaving unreasonably in its “on and off” regulatory policies but not that they were deprived of a just and reasonable rate. Sellers can still charge the just and reasonable rate for whatever power they sell to buyers or reserve for them.

Id. (emphasis added).

This decision confirms that sellers have no statutory entitlement to ICAP, rather ICAP is justified “as an extra incentive to construct new plants” and a penalty on those buyers who fail to acquire reserve capacity.

Apart from court cases, FERC’s own rulings in the ISO-NE ICAP cases characterize ICAP charges as intended “to incent the construction of new generation.” *ISO New England*, 94 FERC ¶ 61,237, at 61,845 (2001). This characterization is consistent with the NYISO filing, wherein it described the Demand Curve as necessary “to justify investment in New York generating facilities.” Filing Letter at 2.

As explained below, incentive ratemaking is subject to special case law limiting the level of incentives to that necessary to achieve policy objectives. ELCON submits that, for the reasons set forth below, the New York Demand Curve filing does not satisfy these requirements.

B. NYISO's Demand Curve Proposal Is Inconsistent With The Case Law Governing Incentive Ratemaking

On March 18, 2003, the NYISO Board of Directors issued its “Decision On Appeals Of The Management Committee Vote On The Proposed Installed Capacity Demand Curve.” NYISO contended that “New York is already approaching a serious deficiency in capacity.” Slip Op. at 2. The Demand Curve was justified as “a step in the direction of sending more appropriate signals to potential investors.” Id. NYISO summarily concludes that the increases are not “excessive,” and that the Demand Curve proposal “will send better price signals to investors without imposing a severe burden on customers.” Id. at 4.

However, NYISO does not demonstrate that there is a current deficiency given overcapacity in the ROS ICAP market. Nor does NYISO demonstrate that increased capacity payments have been calculated so that excess payments will not be made, or that the payments will be reinvested by merchant generators in New York State, as opposed to other investments outside the State or, indeed, outside the country.

1. Incentive Rates Must Be Limited To Rates Necessary To Stimulate New Generation In New York

In City of Charlottesville v. FERC, 661 F.2d 945 (D.C. Cir. 1981), the D.C. Circuit struck down the Commission’s consolidated tax policy for gas pipelines that gave shareholders, rather than ratepayers, the benefits of consolidated tax savings that come from production losses. The court insisted that a stricter standard of review would apply to Commission ratemaking endeavors that seek to encourage certain behaviors through increased rates to consumers: “[If] the Commission contemplates increasing rates for the purpose of encouraging exploration and development...it must see to it that the increase is in fact needed and is no more than is needed for the purpose. Further than this we think the Commission cannot

go without additional authority from Congress.” *Id.* at 950 (emphasis added) (quoting City of Detroit v. FPC, 230 F.2d 810 (D.C. Cir. 1955)).

The D.C. Circuit also held in City of Charlottesville that the Commission must demonstrate that the incentive is effective in achieving the desired outcome. The D.C. Circuit found that the tax savings were not being used to expand exploration, but were being put to general corporate purposes.

In Farmers Union Central Exchange Inc. v. FERC, *supra*, the Commission remanded to FERC a generic ratemaking methodology for oil pipelines. The methodology applied price caps designed only to prevent “egregious price exploitation” and relied upon market forces to assure proper rate levels. Among FERC’s justifications for setting the maximum rates at “such high levels” (734 F.2d at 1503) was the need to stimulate additional oil pipeline capacity. While the court acknowledged that non-cost factors such as the need to stimulate new supplies can be used to establish rates, there are limits to such incentives: “However, in this case FERC failed to forecast or otherwise estimate the dimensions of the need for additional capacity, and did not even attempt to calibrate the relationship between increased rates and the attraction of new capital.” *Id.* (emphasis added). The opinion sums up several cases that establish that incentive rates must be justified with findings that the particular incentive increment will result in the intended outcome:

In the absence of such a reasoned inquiry, we cannot countenance FERC’s approval of oil pipeline rates which, by FERC’s own admission, ensure “creamy returns” to the carriers, 21 FERC at 61,650, and are “far more generous than those [rates] that [FERC] or other regulators give elsewhere,” *id.* at 61,646. In a similar context, this court explained:

If the Commission contemplates increasing rates for the purpose of encouraging exploration and development . . . it

must see to it that the increase is in fact needed, and is no more than is needed, for the purpose. Further than this we think the Commission cannot go without additional authority from Congress.

City of Detroit v. FPC, 230 F.2d 810, 817 (D.C. Cir. 1955), *cert. denied sub nom. Panhandle Eastern Pipe Line Co. v. City of Detroit*, 352 U.S. 829, 1 L. Ed. 2d 48, 77 S. Ct. 34 (1956); *see San Antonio v. United States*, 203 U.S. App. D.C. 249, 631 F.2d 831, 851-52 (D.C. Cir. 1980) (ICC action, adding seven percent above costs in setting rates, is arbitrary and capricious because it lacks “adequate justification for [the] choice of a particular increment above fully allocated costs”), *rev'd on other grounds sub nom. Burlington Northern, Inc. v. United States*, 459 U.S. 1229, 103 S. Ct. 1238, 75 L. Ed. 2d 471 (1983); *Public Service Commission v. FERC*, 589 F.2d at 553-54 (citing cases). In the *Williams* proceeding, FERC “made no attempt at all to verify the accuracy of its prediction that granting pipeline [rate] incentives will spur increased investment.” *City of Charlottesville v. FERC*, 213 U.S. App. D.C. 33, 661 F.2d 945, 955 (D.C. Cir. 1981) (Wald, J., concurring). Indeed, FERC here failed to make its prediction with any specificity beyond the bald statement that “everybody agrees that the nation needs and will need more pipeline plant.” 21 FERC at 61,614.

Id. (emphasis added). The opinion concludes by reiterating the importance of carefully calibrated incentive rate mechanisms: “Departures from cost-based rates must be made, if at all, only when the non-cost factors are clearly identified and the substitute or supplemental ratemaking methods ensure that the resulting rate levels are justified by those factors.” Id. at 1530.

In *Public Service Commission v. FERC*, 589 F.2d 542 (D.C. Cir. 1978), the court remanded an order of the FPC that provided an “optional certificate program” for natural gas producers that was designed to increase exploration and development of new gas sources. The court stated that if additional incentives were needed to increase gas production beyond the national ratemaking mechanism, then incentive programs like the optional certificate would have

to be justified, especially when such an incentive might result in a rate that includes “sunk costs of a period before the onset of the program”:

Where, as here, an agency has established national rates on an average cost basis, and individual exceptions escalating the price above the national rate are established in the interest of increasing supply, there must be a connection between such increased funding and the increased exploration and development of new gas sources alleged to result. This principle has been stated in a number of ways: that there must be a “Quid pro quo” for the extra funding; that there must be an “inquiry into the incremental increase in gas supply” attributable to the program; and that there must be “symmetry” between the funding and increase in production. In the Supreme Court’s words, the program must provide increased funding “while assuring that such increase would not be levied upon consumers unless accompanied by increased supplies of gas.” Mobil Oil Corp. v. FPC, 417 U.S. 283, 318, 94 S. Ct. 2328, 2350, 41 L. Ed. 2d 72 (1974)....

In its programs to provide incentive for new expenditures the FPC has long been concerned with avoiding payment for expenditures “sunk” before the announcement of the incentive, i.e., with avoiding a windfall for old expenditures... Here, in its novel extension of total project costs as a basis for rates to include sunk costs of a period before the onset of the program, the Commission has failed to give “‘reasoned consideration’ to the shaping of its order in an effort to protect consumers from paying substantially more than necessary to bring forth the needed supplies.”

Id. at 552-54 (emphasis added) (footnotes omitted).

As the Supreme Court found in natural gas area rate cases, an increase may “not be levied upon consumers unless accompanied by increased supplies of gas.” Mobil Oil Corp. v. FPC, 417 U.S. 283, 318 (1974).

Here, too, there is a risk that the Demand Curve proposal will be “too creamy” and offer rewards not calibrated to increase generation. As noted earlier, under the Demand Curve the increased ICAP payments are not tied to actual incremental investment in New York. Indeed, suppliers receiving the increased payments would be free to simply pocket them. The Demand Curve looks more like a subsidy to current generators as opposed to an incentive for

future generators. Generally, the ICAP program is not designed as an incentive for new generation, but all generation. In fact, based on the new curve, current generation could price their capacity in a manner (just below the new price) to keep new generation off the grid. Thus, contrary to the holding in Public Service Commission v. FERC, there is no direct connection between the increased funding and actual increased investment in New York by generators receiving this largesse.

2. FERC's 1992 Policy Statement on Incentive Regulation Recognizes FERC's Statutory Duty To Assure That Consumers Benefit From Incentive Rates

In 1992, FERC established general guidelines for the Commission's consideration of incentive rate proposals on a case-by-case basis.³ FERC recognized the need to assure that incentives are beneficial to consumers:

The Commission remains convinced that benefits to consumers must be quantifiable even though the task is admittedly a difficult one. All proposals must include a quantified estimate of the consumer benefits compared to cost-of-service regulation (i.e., a comparison of projected cost-of-service rates to prospective rates under the proposed incentive rate mechanism), and a realistic estimate of the program's prospects for success and the risks of failure.⁴

In his concurrence to the 1992 Notice of Proposed Policy Statement on Incentive Regulation, Commissioner Charles A. Trabandt summarized the "take-home" message from the City of Charlottesville decision:

...[W]e cannot just decide to give companies undefined "incentives," such as tying rates to some external index. Rather, after overcoming the hurdle that we need incentive ratemaking at all, the Commission must show how that the mechanism we choose gives companies enough, but not too much, money and, in

³ Incentive Ratemaking for Interstate Natural Gas Pipelines, Oil Pipelines, and Electric Utilities, 61 FERC ¶ 61,168 (1992) ("1992 Policy Statement").

⁴ Id. at 61,590 (footnote omitted).

fact, will bring about cost reductions. I also think that we will have to introduce a rigorous monitoring program to make sure that a particular form of incentive does more than degenerate into windfalls for the pipeline.

Notice of Proposed Policy Statement on Incentive Regulation, 58 FERC ¶ 61,287, at 61,911

(1992). In Order No. 2000, FERC stated that it continued “to endorse the regulatory standards included in the Incentive Regulation Policy Statement.” Order No. 2000, FERC Stats. & Regs. ¶ 31,089, at 31,172 and 31,184.

Incentive rates approved by FERC must assure that incentives are worth the bonus and limited to the lowest sufficient amount to achieve policy goals. The Commission is required to “relate its action to the primary aim of the Act to guard the consumer against excessive rates. If the Commission contemplates increasing rates for the purpose of encouraging” a policy goal, then the Commission “must see to it that the increase is in fact needed, and is no more than is needed for the purpose.” City of Detroit v. FPC, 230 F.2d 810, 817 (D.C. Cir. 1955).

Contrary to the Commission’s policy on incentive rates, the NYISO’s Filing does not demonstrate that the Demand Curve is “no more than needed.” To the contrary, the Demand Curve would benefit all existing generators, regardless of their cost of production or their current profit levels. Thus, generators making sufficient, or even exorbitant, profits from current NYISO markets would receive a windfall from the Demand Curve.

C. The Demand Curve Is Inconsistent With FERC Policy Approaches

Apart from the vulnerability of the Demand Curve proposal under the “just and reasonable” standard, the Demand Curve proposal represents a throw back to the horse-and-

buggy days of PURPA implementation of administratively determined avoided costs.⁵ Long ago, FERC encouraged competitive bidding initiatives, recognizing that a competitive market, rather than administrative determination of avoided costs, would more closely approximate “just and reasonable” rates for QF power.⁶

Doubtless NYISO’s current ICAP/UCAP program could benefit from improvement, but an administratively determined Demand Curve is not a wise policy choice even if this approach could survive a legal challenge under the ratemaking case law. In this regard, several Multi-Sector Protestors sponsored ICAP market enhancements that would appear to stabilize the market without resorting to administratively determined prices.

The Demand Curve proposal also is inconsistent with the Commission’s regulatory philosophy as espoused in the SMD Rulemaking. The SMD NOPR questions the effectiveness of existing ICAP programs and did not impose a national ICAP requirement. NOPR ¶ 483. Instead, the NOPR said that “[c]entral to the Standard Market Design concept is its reliance on bilateral contracts entered into between buyers and sellers.” NOPR ¶ 10. In other competitive markets, bilateral contracts are the dominant mechanism by which producers recover their fixed costs, *i.e.*, there is no “spot market” for simply the *capacity to produce*. The SMD does have a requirement that load serving entities (“LSEs”) must have a reserve margin of 11 percent. The SMD, however, does not envision an ISO providing a safety net if LSEs don’t secure a bilateral contract. Yet, the legacy of rate regulation in the United States encourages

⁵ The Edison Electric Institute estimated that the above-market costs of PURPA contracts was between \$36 billion to \$40 billion over the life of the contracts. Source: http://www.eei.org/issues/comp_reg/talkcost.htm.

⁶ FERC’s PURPA bidding rule noted that “bidding has the potential for eliminating the seemingly endless debates over what alternative sources of supply are truly avoided.” Regulations Governing Bidding Programs, IV FERC ¶ 42,455, 32,025-26 (March 16, 1988).

suppliers to seek markets with price floors and minimal price ceilings with the excuse that “the lights will go out” if their demands are not met. Policymakers often support this line of thinking out of fear that the lights might go out as happened in California and New York in recent memory. In addition, there is growing concern over the potential consequences of a “boom/bust” cycle of the unregulated generation market – although such cycles clearly benefit consumers in other capital-intensive industries.

ELCON has long supported the deregulation of generation markets with the expectation that end-use consumers would directly benefit from periods of excess capacity and the ensuing periods of low prices. Our fear with proposals such as the ICAP Demand Curve is that consumers will only pay true market-clearing prices when such prices are high, but prices that are low will be administratively fixed to ensure that generators escape risk. This is a perversion of the competitive model. In the name of “reliability,” the Demand Curve proposal attempts to tilt the balance of risk to consumers much as the way consumers fared under cost-of-service regulation. The Demand Curve is the mechanism by which independent generators can recover their “stranded costs.”

We urge the Commission to recognize that the Demand Curve only encourages generators and their traders to stay out of the forward market and not seek recovery of their fixed costs through fairly negotiated bilateral contracts. Since the Commission has expressed the view that “central to the Standard Market Design concept is its reliance on bilateral contracts,” it should desist from approving proposed fixes to the ICAP model for capacity markets. Market data published by the NYISO’s Market Monitoring Unit confirms that forward markets are not adequately developing. The volume of transactions in the spot (“LBMP”) markets averages from

40 to 51 percent on a monthly basis.⁷ Additionally, the new program is not something that a new generator could take to a bank to assist in financing (unlike a 10-year bilateral contract with a BBB+, or better, counter-party). A program can be changed, but a contract is more binding. Rather than approve changes to the NYISO's ICAP program at this time, ELCON urges the Commission to consider other solutions that might be cheaper and more responsive to the potential generation shortage cited by the NYISO as the justification for the Demand Curve.

DESCRIPTION AND STANDING OF INTERVENORS

The Electricity Consumers Resource Council ("ELCON") is an association of industrial consumers of electricity organized to promote the development of coordinated and rational federal and state policies that will assure an adequate, reliable, and efficient electricity supply for all users at competitive rates. ELCON member companies produce a wide range of products from virtually every segment of the manufacturing community. The member companies of ELCON consume approximately five percent of all electricity in the United States.

ELCON members have facilities located in the New York area and would be directly affected by the New York ISO proposal. Further, ELCON members would be directly affected in other geographies by the potential precedent.

⁷ See New York Independent System Operator, Monthly Report, February 2003, Table 4-D. In addition, the amount of load exposed to the spot market has been growing sharply in the PJM market. For example, on average for all hours in 2002, 38 percent of load was served by real-time spot market activity. In the day-ahead market, spot activity averaged 32 percent of load in all hours. See PJM Market Monitoring Unit, "2002 State of the Market," March 5, 2003, at 3. In 2001, real-time and day-ahead spot activity averaged 21 and 15 percent, respectively. See PJM Market Monitoring Unit, "PJM Interconnection State of the Market Report 2001," June 2002.

NOTICES AND COMMUNICATIONS

Notices and communications should be addressed to:

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CONCLUSION

ELCON urges FERC to reject NYISO's Demand Curve proposal and to consider alternatives preferred by the Multi-Sector Protestors.

Respectfully submitted,

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Dated: April 11, 2003

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Motion to Intervene of the Electricity Consumers Resource Council were today mailed to parties on the service list of this proceeding by U.S. mail, postage prepaid.

Dated at Washington, D.C., this 11th day of April, 2003.

/s/ Kari Vander Stoep

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