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March 30, 2001

ELECTRONIC FILING

The Honorable David P. Boergers  
Secretary  
Federal Energy Regulatory Commission  
Dockets Room, Room 1A  
888 First Street, N.E.  
Washington, D.C. 20426

Re: Petition for Declaratory Order, Cogen Lyondell Inc., et al.; Docket No. EL01-49-00

Dear Secretary Boergers:

Enclosed for filing please find the Industrial Consumers' motion to intervene in Docket No. EL01-49-000, Cogen Lyondell, Inc.'s Petition for Declaratory Order.

We ask that you email confirmation of receipt of Industrial Consumers' electronic filing to kvanderstoep@cgsh.com.

Sincerely,

[Signed]

Sara D. Schotland

Enclosures

UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION

\_\_\_\_\_) )  
Cogen Lyondell, Inc. et al. ) Docket No. EL01-49  
\_\_\_\_\_) )

MOTION TO INTERVENE  
OF INDUSTRIAL CONSUMERS

Industrial Consumers the Electricity Consumers Resource Council (ELCON) and the American Chemistry Council (ACC) urge the Federal Energy Regulatory Commission (FERC) to move to intervene in the above-captioned docket. Cogen Lyondell and 13 other Texas cogenerators have filed a petition for a declaratory order asking FERC to declare that purchasing utilities will retain their mandatory PURPA purchase obligations after they complete their corporate restructuring required by state law. The restructured utilities maintain that under state law, the transmission and distribution companies will be the only entities that remain as “electric utilities” as defined under Texas’s restructuring law, SB7. These entities are prohibited by state law from purchasing electricity except to serve their own needs. Petitioners maintain that the new holding companies and their power generation subsidiaries continue to qualify as electric utilities under PURPA’s definition and thus must buy power from QFs. Petitioners assert that PURPA’s definition of electric utility and PURPA’s purchases should preempt. It is the generation affiliates of the restructured entities who can adjust dispatch to accommodate QF power and thus should have the PURPA purchase obligation.

## DESCRIPTION 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, including: steel, aluminum, chemicals, petroleum, motor vehicles, industrial gases, machinery, glass, agricultural and food products, rubber, computer chips, paper and electronics. The member companies of ELCON consume approximately five percent of all electricity in the United States.

The American Chemistry Council (ACC) is a nonprofit trade association whose member companies represent more than ninety percent of the productive capacity of basic industrial chemicals in the United States. The manufacturing processes of many ACC member companies are highly energy-intensive. In addition, the chemical industry uses a substantial amount of self-generated electricity. Total electricity used by the industry, purchased plus self-generated, represents approximately eighteen percent of industrial electricity consumption in the United States and approximately six percent of national electricity consumption.

Industrial Consumers have standing to intervene because their members have facilities in Texas and are directly affected by the filing. In addition, many members are engaged in industrial cogeneration or purchase QF power and are concerned about the precedential impacts of the filing which raises the question of the continued applicability of PURPA in states where restructuring has occurred. Industrial Consumers who have only recently become aware of Cogen Lyondell's filing, will shortly supplement this filing with more detailed comments.

NOTICES AND COMMUNICATIONS

Notices and communications should be addressed to:

Dr. John Anderson  
Executive Director  
The Electricity Consumers Resource Council  
1333 H Street, N.W.  
The West Tower, 8th Floor  
Washington, D.C. 20005

Tom Choman  
American Chemistry Council  
1300 Wilson Boulevard  
Arlington, VA 22209

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CONCLUSION

Wherefore, FERC should grant the motion to intervene filed by Industrial Consumers.

Respectfully submitted,

[Signed]

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HAMILTON  
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202-974-1500

Dated: March 30, 2001

CERTIFICATE OF SERVICE

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

Dated at Washington, D.C., this 30<sup>th</sup> day of March, 2001.

[Signed]

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Kari Vander Stoep  
Law Clerk  
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