



FEDERAL ENERGY REGULATORY COMMISSION

June 26, 2008

Commissioner Philip D. Moeller

*Morgan Stanley Capital Group, Inc. v. Public Utility Dist.
No. 1 of Snohomish County, Wash., Nos. 06-1457, et al*

Statement of Commissioner Philip D. Moeller on Supreme Court Decision

"Today's ruling by the U.S. Supreme Court addresses an issue of debate regarding the appropriate standard by which the Commission will review jurisdictional agreements. Going forward, parties will have more certainty knowing that the standard under which their contract will be judged will not change when the composition of this Commission changes. As I have stated previously, and as the Court affirms today, the Mobile-Sierra presumption remains the default rule: FERC may abrogate a valid contract only if it harms the public interest.

The Court observed that this "public interest" standard of review is a heightened application of the "just and reasonable" statutory standard. Contractual uncertainty can have a chilling effect on needed investment in the energy industry and may deter parties from entering into long-term arrangements. Also, in those limited circumstances when the Commission may have to reform a contract, this "public interest" standard allows the Commission to undertake its statutory responsibility to protect customers.

Moreover, an important clarification provided by today's ruling is that the Mobile-Sierra presumption will be applied fairly regardless of whether the subject contract is being challenged by the buyer or the seller.

I recognize that FERC has some work to do in light of the Court's opinion and that is what I will do as part of my job as a Commissioner."