FEDERAL ENERGY REGULATORY COMMISSION

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NEWS RELEASE

NEWS MEDIA CONTACT:
Barbara A. Connors
(202) 502-8680

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COMMISSION SETS NEW CONDITIONS FOR UTILITY DEBT ACQUISITION

In order to prevent public utilities from borrowing substantial amounts of money and diverting the proceeds to finance non-utility businesses, the Federal Energy Regulatory Commission today announced new conditions applicable to all issuances of secured and unsecured debt authorized by the Commission.

These conditions should ensure that future issuances of debt are compatible with the public interest and will not impair a public utility's ability to perform its duties and provide appropriate ratepayer protection, the Commission said.

Today's announcement is part of an order conditionally approving Westar Energy, Inc.'s request to issue up to $650 million in long-term, unsecured debt. The Commission directed Westar, the largest electric utility in Kansas, to file quarterly status reports detailing its financial condition and debt-reduction efforts. In addition, Westar must file a Report of Securities Issued within 30 days after the sale or placement of the long-term, unsecured debt. Westar must also follow the new restrictions the Commission is applying to all future public utility issuances of secured and unsecured debt authorized by the Commission.

The new conditions announced by the Commission today are:

- public utilities seeking authorization to issue debt backed by a utility asset must use the proceeds of the debt for utility purposes only.
- if any utility assets that secure debt issuances are "spun off," the debt must follow the asset and also be "spun off."

- if any of the proceeds from unsecured debt are used for non-utility purposes, the debt must follow the non-utility assets. If the non-utility assets are "spun off," then proportionate share of the debt must follow the "spun-off" non-utility asset.
- if utility assets financed by unsecured debt are "spun off" to another entity, then a proportionate share of the debt must also be "spun off."

As the Commission moves forward in laying the foundation for dependable, affordable energy through competitive markets, balanced market rules and vigilant oversight, concerns have arisen regarding the creditworthiness of market participants. The Commission recently held two conferences (Docket Nos. AD03-3 and AD03-4) that addressed this concern, along with other related financial interests.

The Commission's authority over utilities' issuance of securities or assumption of liabilities derives from section 204 of the Federal Power Act. In evaluating a utility's request, the Commission makes certain that the monies are for a lawful purpose, the request is compatible with the public interest, and, in addition, looks at the utility's financial viability.

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