

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;
Nora Mead Brownell, Joseph T. Kelliher,
and Suedeem G. Kelly.

3E Technologies, Inc.	Docket Nos. ER98-3809-000
AC Power Corporation	ER97-2867-000
ACES Power Marketing LLC	ER99-2369-000
ACN Power, Inc.	ER98-4685-000
Adirondack Hydro Development Corporation	ER00-3109-001
AI Energy, Inc.	ER00-105-000
AIG Energy Inc.	ER03-770-000
Alcan Power Marketing Inc.	ER02-1084-000
Alliance Power Marketing, Inc.	ER96-1818-000
A'Lones Group, Inc.	ER97-512-000
Alrus Consulting, LLC	ER00-861-000
Alternate Power Source, Inc.	ER96-1145-000
Altorfer Inc.	ER01-1758-000
American Cooperative Services, Inc.	ER00-2823-000
Amvest Coal Sales, Inc.	ER97-464-000
Amvest Power, Inc.	ER97-2045-000
Archer Daniels Midland Company	ER99-2792-000
Astra Power, LLC	ER98-3378-000
Atlantic Energy Technologies, Inc.	ER97-2132-000
Beacon Generating, LLC	ER01-2355-000
Black River Power, LLC	ER00-679-000
Bollinger Energy Corporation	ER98-1821-000
Boston Edison Company	ER02-246-000
Brooklyn Navy Yard Cogeneration Partners, LP	ER97-886-000
Cadillac Renewable Energy LLC	ER98-4515-000
California Polar Power Broker, L.L.C.	ER98-701-000
Callaway Golf Company	ER01-1701-000
Cambridge Electric Light Compay	ER02-246-000
Canastota Windpower, LLC	ER01-2692-000
Candela Energy Corporation	ER00-2945-000
Capital Energy, Inc.	ER01-2138-000
Celerity Energy of New Mexico, LLC	ER01-1183-000
Chandler Wind Partners, Inc.	ER01-390-000

CHI Power Marketing, Inc.	ER96-2640-000
Chicago Electric Trading, L.L.C.	ER90-225-000
Cielo Power Market, L.P.	ER99-964-000
CMS Distributed Power, L.L.C.	ER00-2187-000
Colonial Energy, Inc.	ER97-1968-000
Commerce Energy Inc.	ER05-737-000
Commonwealth Atlantic L.P.	ER90-24-000
Commonwealth Electric Company	ER02-246-000
Community Energy, Inc.	ER01-1836-000
Competisys LLC	ER98-1790-000
Competitive Energy Services, LLC	ER01-2562-000
	ER02-1118-000
Continental Electric Cooperative Services, Inc.	ER96-1410-000
Cook Inlet Energy Supply L.P.	ER01-544-000
Cook Inlet Power, LP	ER96-2624-000
Cumberland Power, Inc.	ER01-138-000
Delta Person Limited Partnership	ER01-2071-000
Desert Power, L.P.	ER02-1866-000
Desert Southwest Power, LLC	ER94-1161-000
Direct Electric Inc.	ER99-2774-000
Duke Energy Trading and Marketing, L.L.C.	ER94-1099-000
Eclipse Energy, Inc.	ER99-3098-000
EGC 1999 Holding Company, L.P.	ER94-1478-000
Electrade Corporation	ER98-2020-000
Energy Clearinghouse Corp.	ER03-1294-000
Energy Cooperative of New York, Inc.	ER98-2918-000
Energy PM, Inc.	ER96-358-000
Energy Resource Management Corp.	ER01-2221-000
Energy Transfer-Hanover Ventures, LP	ER00-874-000
Energy West Resources, Inc.	ER96-138-000
EnergyOnline, Inc.	ER99-2061-000
Enjet, Inc.	ER99-254-000
ENMAR Corporation	ER01-1166-000
Enron Sandhill Limited Partnership	ER96-2964-000
Enserco Energy Inc.	ER98-3233-000
Environmental Resources Trust, Inc.	ER01-2439-000
Equitec Power, LLC	ER01-666-000
EWO Marketing, L.P.	ER97-382-000
Exact Power Co., Inc.	ER00-3039-000
Exeter Energy Limited Partnership	ER96-918-000
Federal Energy Sales, Inc.	ER00-1258-000
First Electric Cooperative Corporation	ER97-3580-000
First Power, LLC	ER99-2454-000

Florida Keys Electric Cooperative Association, Inc.	ER02-687-000
FMF Energy, Inc.	ER00-2706-000
Footo Creek IV, LLC	ER00-2392-001
Fresno Cogeneration Partners, L.P.	ER02-1173-000
Front Range Power Company, LLC	ER96-795-000
Gateway Energy Marketing	ER96-1933-000
Gelber Group, Inc.	ER01-1078-000
George Colliers, Inc.	ER01-2405-000
GNA Energy, LLC	ER98-4334-000
Golden Valley Power Company	ER02-1600-000
Green Mountain Energy Company	ER98-2535-000
Hafslund Energy Trading LLC	ER01-1760-000
Haleywest L.L.C.	ER02-1366-000
Hess Energy Power & Gas Company, LLC	ER01-3023-000
Hinson Power Company, LLC	ER01-2129-000
Holt Company of Ohio	ER96-1819-000
ICC Energy Corporation	ER01-2395-000
IDACORP Energy, LP	ER95-802-000
IEP Power Marketing, LLC	ER98-3478-000
INFINERGY Services, LLC	ER00-1519-000
InPower Marketing Corporation	ER94-6-000
InterCoast Power Marketing Company	ER01-688-000
IPP Energy LLC	ER00-2306-000
It's Electric & Gas, L.L.C.	ER95-784-000
J. Anthony & Associates Ltd	ER95-295-000
Kaztex Energy Ventures, Inc.	ER95-232-000
Kimball Power Company	ER03-1259-000
Kloco Corporation	ER95-1018-000
Kohler Company	ER97-2904-000
Lake Benton Power Partners, LLC	ER94-1672-000
Lambda Energy Marketing Company	ER99-3554-000
Lone Star Steel Sales Company	ER02-30-000
Longhorn Power, LP	ER96-1947-000
LS Power Marketing, LLC	ER01-1507-000
Lumberton Power, LLC	ER00-1781-000
Marquette Energy, LLC	ER98-1992-000
Medical Area Total Energy Plant, Inc.	ER99-801-000
Metro Energy Group, LLC	ER01-95-000
Miami Valley Lighting, Inc.	ER99-1156-000
Michigan Gas Exchange, L.L.C.	ER95-78-000
Mid-American Resources, Inc.	ER96-2027-000
Midwest Energy, Inc.	ER99-1293-000
Monmouth Energy, Inc.	ER96-2143-000

Monterey Consulting Associates, Inc	ER01-2509-000
Morrow Power, LLC	ER01-1336-002
Mountainview Power Partners II, LLC	ER02-1238-000
MPC Generating, LLC	ER97-610-000
Murphy Oil USA, Inc.	ER95-1278-000
NAP Trading and Marketing, Inc.	ER95-1374-000
National Fuel Resources, Inc.	ER94-1593-000
National Power Exchange Corp.	ER95-192-000
National Power Management Company	ER01-352-000
Natural Gas Trading Corporation	ER98-2618-000
Nautilus Energy Company	ER99-2537-000
Navitas, Inc.	ER97-2681-000
New Millennium Energy Corp.	ER96-1122-000
NFR Power, Inc.	ER96-2892-000
NGTS Energy Services	ER96-2585-000
Niagara Mohawk Power Corp.	ER98-1915-000
Nine Energy Services, LLC	ER00-795-000
Nordic Electric, L.L.C.	ER01-2224-000
Nordic Energy Barge 1 & 2, L.L.C.	ER00-774-000
Nordic Marketing, L.L.C.	ER94-152-000
North American Energy Conservation, Inc.	ER02-245-000
North American Energy, L.L.C.	ER97-1716-000
North Atlantic Utilities Inc.	ER01-904-000
North Carolina Power Holdings, LLC	ER98-622-000
North Star Power Marketing, LLC	ER02-41-000
North Western Energy Marketing, LLC	ER98-3048-000
Northeast Electricity Inc.	ER98-1125-000
Northeast Empire L.P. #2	ER01-1479-000
Northwest Regional Power, LLC	ER02-845-000
Northwestern Wind Power, LLC	ER97-181-000
Oceanside Energy, Inc.	ER01-2783-000
ODEC Power Trading, Inc.	ER99-2883-000
Old Mill Power Company	ER97-18-000
P&T Power Company	ER95-379-000
Peak Energy, Inc.	ER03-372-000
Peak Power Generating Company	ER98-3719-000
People's Electric Corp.	ER02-417-000
Phoenix Wind Power LLC	ER01-1821-000
Power Dynamics, Inc.	ER95-72-000
Power Exchange Corporation	ER99-3275-000
Power Management Co., LLC	ER96-2303-000
Power Providers Inc.	ER97-3187-000
Power Systems Group, Inc.	ER96-1-000

Powertec International, LLC	ER98-4333-000
Primary Power Marketing, L.L.C.	ER01-2463-000
Pro-Energy Development LLC	ER95-968-000
Progas Power Inc.	ER99-4380-000
Proliance Energy, L.L.C.	ER99-1876-000
PS Energy Group, Inc.	ER96-404-000
Questar Energy Trading Company	ER00-23-000
Rayburn Country Electric Cooperative, Inc.	ER02-809-000
Renewable Energy Resources LLC	ER01-2760-000
Ridge Crest Wind Partners, LLC	ER96-1516-000
SEMCOR Energy	ER01-1121-000
SF Phosphates Limited Company, LLC	ER99-2109-000
Shell Energy Services Company, LLC	ER98-2603-000
Southwood 2000, Inc.	ER95-362-000
Stand Energy Corporation	ER01-542-000
STI Capital Company	ER98-4643-000
Storm Lake Power Partners I, LLC	ER99-1228-000
Storm Lake Power Partners II LLC	ER96-3107-000
Strategic Energy LLC	ER00-167-000
Strategic Energy Management Corp.	ER96-2591-000
Strategic Power Management, Inc.	ER97-870-000
Sunoco Power Marketing, L.L.C.	ER01-2217-002
Sunrise Power Company	ER96-2524-000
Symmetry Device Research, Inc.	ER00-1250-000
Tacoma Energy Recovery Company	ER95-581-000
Tennessee Power Company	ER95-1787-000
Texaco Natural Gas Inc.	ER97-4185-000
Texas-New Mexico Power Co.	ER01-2694-000
The Energy Group of America, Inc.	ER99-3571-000
The Legacy Energy Group, LLC	ER96-2241-000
Thicksten Grimm Burgum, Inc.	ER02-298-000
Thompson River Co-Gen, LLC	ER01-373-000
Tiger Natural Gas, Inc.	ER00-494-000
TransAlta Centralia Generation LLC	ER98-3184-000
TransAlta Energy Marketing (CA) Inc.	ER98-1055-000
TransAlta Energy Marketing (US) Inc.	ER96-1316-000
TransAlta Energy Marketing Corp.	ER01-3148-000
TransAlta Energy Marketing Corp.(US)	ER95-692-000
TransCanada Energy Ltd.	ER98-564-000
TransCanada Power Marketing Ltd.	ER01-2234-000
Travis Energy & Environment, Inc.	ER97-3428-000
Tri-Valley Corporation	ER04-957-000
TXU Electric Delivery Company	ER96-105-000

U.S. Power & Light, Inc.	ER96-3092-000
United American Energy Corp.	ER93-3-000
United Illuminating Company	ER01-1709-000
VIASYN, Inc.	ER02-1046-000
Walton County Power, LLC	ER96-2830-000
Washington Gas Energy Services, Inc.	ER98-537-000
Western Energy Marketers, Inc.	ER00-1928-000
Western New York Wind Corporation	
	EL05-111-000

**ORDER ANNOUNCING POLICY ON NON-COMPLIANCE WITH CONDITIONS OF
MARKET-BASED RATE AUTHORITY, INSTITUTING SECTION 206
PROCEEDING AND ESTABLISHING REFUND EFFECTIVE DATE**

(Issued May 31, 2005)

1. In this order, the Commission announces its policy with respect to entities that have failed to comply with the conditions under which the Commission granted them market-based rate authority, namely, the requirement to submit an updated or revised market power analysis. We direct the above-captioned market-based rate sellers, which have failed to comply with the requirement to submit an updated or revised market power analysis to file their updated or revised market analyses within 60 days from the issuance of this order or provide satisfactory support for why they should not be required to do so. For the protection of customers, we will establish a refund effective date pursuant to the provisions of section 206 of the Federal Power Act (FPA).¹ This order notifies these market-based rate sellers that their market-based rate authorizations will be revoked, unless they comply with the Commission's requirements.

Discussion

Failure to Submit Updated Market Power Analyses

2. As a condition of receiving market-based rate authority, the Commission requires market-based rate sellers to submit an updated market power analysis every three years² to allow the Commission to evaluate the reasonableness of their charges and to provide for ongoing monitoring of their ability to exercise market power. In the absence of an

¹ 16 U.S.C. § 824e (2000).

² See, e.g., *Western Resources, Inc., et al.*, 94 FERC ¶ 61,050 at 61,247 (2001); *Entergy Services, Inc.*, 58 FERC ¶ 61,234 at 61,760 (1992); *PSI Energy, Inc.*, 51 FERC ¶ 61,367 at 62,209 (1990).

updated market power analysis, the Commission cannot exercise its statutory duty to ensure that market-based rates are just and reasonable and that market-based rate sellers continue to lack the potential to exercise market power so that market forces are in fact determining the price. Accordingly, we hereby notify the public utilities identified in Appendix A of this order that their market-based rate authority will be revoked, unless they submit their updated market power analyses within 60 days of the issuance of this order or provide satisfactory support for why they should not be required to do so.

Failure to Submit Revised Market Power Analyses

3. On May 13, 2004, the Commission issued an order³ directing certain market-based rate sellers to revise the generation market power prong of their updated market power analyses pending before the Commission, consistent with the Commission's indicative generation market power screens.⁴ To date, our records indicate that the companies listed in Appendix B have not complied with the Commission's directive in the May 13 Order. Accordingly, we hereby notify the market-based rate sellers identified in Appendix B of this order that their market-based rate authority will be revoked, unless they submit their updated market analyses within 60 days of the issuance of this order.

Institution of Section 206 Proceeding in Docket No. EL05-111-000

4. In addition, we will institute a section 206 proceeding in Docket No. EL05-111-000 to determine whether the rates charged by the above-captioned market-based rate sellers remain just and reasonable.⁵ In cases where, as here, the Commission institutes a section 206 investigation on its own motion, section 206(b) requires that the Commission establish a refund effective date that is no earlier than 60 days after publication of notice of the initiation of the Commission's investigation in the *Federal Register*, and no later than five months subsequent to the expiration of the 60-day period. In order to give maximum protection to customers, and consistent with our precedent,⁶ we will establish a refund effective date at the earliest date allowed. This date will be

³ *Acadia Power Partners, LLC*, 107 FERC ¶ 61,168 (2004) (May 13 Order).

⁴ *AEP Power Marketing, Inc.*, 107 FERC ¶ 61,018 (2004), *order on reh'g*, 108 FERC ¶ 61,026 (2004).

⁵ When the Commission acts on the revised or updated market power analyses filed pursuant to this order, the Commission will assign a separate EL Docket No., in addition to the instant EL Docket No., for each market-based rate seller's filing to facilitate processing. However, the refund effective date established herein will apply in all such company-specific EL Dockets.

⁶ *See, e.g., Canal Electric Company*, 46 FERC ¶ 61,153, *reh'g denied*, 47 FERC ¶ 61,275 (1989).

60 days from the date on which notice of the initiation of the investigation in Docket No. EL05-111-000 is published in the *Federal Register*.

5. In the event that any of the above-captioned market-based rate sellers have already filed an updated or revised market power analysis in compliance with the Commission's requirements and is not currently due to file, its inclusion herein is inadvertent. Any such market-based rate seller is directed, within 30 days of the date of issuance of this order, to identify itself and the docket number in which it last filed an updated market power analysis.

6. If any of the above-captioned market-based rate sellers does not wish to continue having market-based rate authority and does not foresee entering into any contracts to sell power at market-based rates, it may file a notice of cancellation with the Commission pursuant to section 205 of the FPA to cancel its market-based rate tariff and relieve it of its obligation to submit an updated market power analysis.

The Commission orders:

(A) The market-based rate sellers listed in Appendices A and B are directed to file within 60 days of the date of this order, an updated or revised market power analysis, as discussed in the body of this order. If a market-based rate seller fails to make this filing, the Commission will revoke its authority to sell power at market-based rates and terminate its electric market-based rate tariff. Upon expiration of the filing deadline in this order, the Secretary shall promptly issue a notice, effective on the date of issuance, listing the market-based rate sellers whose tariffs have been terminated.

(B) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly section 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 C.F.R., Chapter I), the Commission hereby institutes a proceeding in Docket No. EL05-111-000 concerning the justness and reasonableness of the market-based rates of the above-captioned sellers, as discussed in the body of this order.

(C) The Secretary shall promptly publish in the *Federal Register* a notice of the Commission's initiation of the proceeding under section 206 of the FPA in Docket No. EL05-111-000.

(D) The refund effective date established pursuant to section 206(b) of the FPA will be 60 days following publication in the *Federal Register* of the notice discussed in Ordering Paragraph (D) above.

By the Commission.

(S E A L)

Linda Mitry,
Deputy Secretary.

APPENDIX A

The following market-based rate sellers have failed to submit the required updated market power analysis:

3E Technologies, Inc.
AC Power Corporation
ACES Power Marketing LLC
ACN Power, Inc.
AI Energy, Inc.
AIG Energy Inc.
Alliance Power Marketing, Inc.
A'Lones Group, Inc.
Alrus Consulting, LLC
Alternate Power Source, Inc.
Altorfer Inc.
American Cooperative Services, Inc.
Amvest Coal Sales, Inc.
Amvest Power, Inc.
Archer Daniels Midland Company
Astra Power, LLC
Atlantic Energy Technologies, Inc.
Beacon Generating, LLC
Black River Power, LLC
Bollinger Energy Corporation
Boston Edison Company
Brooklyn Navy Yard Cogeneration Partners, LP
Cadillac Renewable Energy LLC
California Polar Power Broker, L.L.C.
Callaway Golf Company
Cambridge Electric Light Company
Canastota Windpower, LLC
Candela Energy Corporation
Capital Energy, Inc.
Celerity Energy of New Mexico, LLC
Chandler Wind Partners, Inc.
CHI Power Marketing, Inc.
Chicago Electric Trading, L.L.C.
Cielo Power Market, L.P.
CMS Distributed Power, L.L.C.
Colonial Energy, Inc.
Commerce Energy Inc.
Commonwealth Atlantic L.P.

Commonwealth Electric Company
Community Energy, Inc.
Competisys LLC
Competitive Energy Services, LLC
Cook Inlet Energy Supply L.P.
Cook Inlet Power, LP
Cumberland Power, Inc.
Delta Person Limited Partnership
Desert Power, L.P.
Desert Southwest Power, LLC
Direct Electric Inc.
Duke Energy Trading and Marketing, L.L.C.
Eclipse Energy, Inc.
EGC 1999 Holding Company, L.P.
Electrade Corporation
Energy Clearinghouse Corp.
Energy Cooperative of New York, Inc.
Energy PM, Inc.
Energy Resource Management Corp.
Energy Transfer-Hanover Ventures, LP
Energy West Resources, Inc.
EnergyOnline, Inc.
Enjet, Inc.
ENMAR Corporation
Enron Sandhill Limited Partnership
Enserco Energy Inc.
Environmental Resources Trust, Inc.
Equitec Power, LLC
EWO Marketing, L.P.
Exact Power Co., Inc.
Exeter Energy Limited Partnership
Federal Energy Sales, Inc.
First Electric Cooperative Corporation
First Power, LLC
Florida Keys Electric Cooperative Association, Inc.
FMF Energy, Inc.
Foote Creek IV, LLC
Gateway Energy Marketing
Gelber Group, Inc.
George Colliers, Inc.
GNA Energy, LLC
Golden Valley Power Company
Green Mountain Energy Company

Hafslund Energy Trading LLC
Haleywest L.L.C.
Hinson Power Company, LLC
Holt Company of Ohio
ICC Energy Corporation
IDACORP Energy, LP
IEP Power Marketing, LLC
INFINERGY Services, LLC
InPower Marketing Corporation
InterCoast Power Marketing Company
IPP Energy LLC
It's Electric & Gas, L.L.C.
J. Anthony & Associates Ltd
Kaztex Energy Ventures, Inc.
Kimbal Power Company
Kloco Corporation
Kohler Company
Lake Benton Power Partners, LLC
Lambda Energy Marketing Company
Lone Star Steel Sales Company
Longhorn Power, LP
LS Power Marketing, LLC
Lumberton Power, LLC
Marquette Energy, LLC
Medical Area Total Energy Plant, Inc.
Metro Energy Group, LLC
Miami Valley Lighting, Inc.
Michigan Gas Exchange, L.L.C.
Mid-American Resources, Inc.
Midwest Energy, Inc.
Monmouth Energy, Inc.
Monterey Consulting Associates, Inc
Morrow Power, LLC
MPC Generating, LLC
Murphy Oil USA, Inc.
NAP Trading and Marketing, Inc.
National Fuel Resources, Inc.
National Power Exchange Corp.
National Power Management Company
Natural Gas Trading Corporation
Nautilus Energy Company
Navitas, Inc.
New Millennium Energy Corp.

NFR Power, Inc.
NGTS Energy Services
Niagara Mohawk Power Corp.
Nine Energy Services, LLC
Nordic Electric, L.L.C.
Nordic Energy Barge 1 & 2, L.L.C.
Nordic Marketing, L.L.C.
North American Energy Conservation, Inc.
North American Energy, L.L.C.
North Atlantic Utilities Inc.
North Carolina Power Holdings, LLC
North Star Power Marketing, LLC
North Western Energy Marketing, LLC
Northeast Electricity Inc.
Northeast Empire L.P. #2
Northwest Regional Power, LLC
Northwestern Wind Power, LLC
Oceanside Energy, Inc.
ODEC Power Trading, Inc.
Old Mill Power Company
P&T Power Company
Peak Energy, Inc.
Peak Power Generating Company
People's Electric Corp.
Phoenix Wind Power LLC
Power Dynamics, Inc.
Power Exchange Corporation
Power Management Co., LLC
Power Providers Inc.
Power Systems Group, Inc.
Powertec International, LLC
Primary Power Marketing, L.L.C.
Pro-Energy Development LLC
Progas Power Inc.
Proliance Energy, L.L.C.
PS Energy Group, Inc.
Questar Energy Trading Company
Rayburn Country Electric Cooperative, Inc.
Renewable Energy Resources LLC
Ridge Crest Wind Partners, LLC
SEMCOR Energy
SF Phosphates Limited Company, LLC
Shell Energy Services Company, LLC

Southwood 2000, Inc.
Stand Energy Corporation
STI Capital Company
Storm Lake Power Partners I, LLC
Storm Lake Power Partners II LLC
Strategic Energy LLC
Strategic Energy Management Corp.
Strategic Power Management, Inc.
Sunoco Power Marketing, L.L.C.
Symmetry Device Research, Inc.
Tacoma Energy Recovery Company
Tennessee Power Company
Texaco Natural Gas Inc.
Texas-New Mexico Power Co.
The Energy Group of America, Inc.
The Legacy Energy Group, LLC
Thicksten Grimm Burgum, Inc.
Thompson River Co-Gen, LLC
Tiger Natural Gas, Inc.
TransAlta Centralia Generation LLC
TransAlta Energy Marketing (CA) Inc.
TransAlta Energy Marketing (US) Inc.
TransAlta Energy Marketing Corp.
TransAlta Energy Marketing Corp.(US)
TransCanada Energy Ltd.
TransCanada Power Marketing Ltd.
Travis Energy & Environment, Inc.
Tri-Valley Corporation
TXU Electric Delivery Company
U.S. Power & Light, Inc.
United American Energy Corp.
United Illuminating Company
VIASYN, Inc.
Walton County Power, LLC
Washington Gas Energy Services, Inc.
Western Energy Marketers, Inc.
Western New York Wind Corporation

APPENDIX B

The following market-based rate sellers have failed to submit the required revised market power analysis:

Adirondack Hydro Development Corporation
Fresno Cogeneration Partners, L.P.
Mountainview Power Partners II, LLC
Sunrise Power Company