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FEDERAL ENERGY REGULATORY COMMISSION
OFFICE OF MARKETS, TARIFFS AND RATES
Washington, DC 20426

Dated: May 21, 2002

To: Sellers of Wholesale Electricity and/or Ancillary Services in the United States Portion of the Western Systems Coordinating Council During the Years 2000-2001 (Listed on Attachment A).

From: Donald J. Gelinas
Associate Director
Office of Markets, Tariffs and Rates

Re: Fact-Finding Investigation of Potential Manipulation of Electric and Natural Gas Prices, Docket No. PA02-2-000

Pursuant to the Commission's order issued February 13, 2002, in the above-referenced proceeding, you are hereby ordered to respond to the following data request, including requests for admissions with respect to certain trading strategies that your company may have engaged in. The data request is being issued to all sellers of wholesale electricity and/or ancillary services in the United States portion of the Western Systems Coordinating Council (WSCC) during the period 2000-2001. The data request is being posted on the Commission's web page for Docket No. PA02-2-000 and, in addition, is being sent by e-mail to a representative of the designated companies.

On April 2, 2002, in response to the request by Commission staff of March 5, 2002, all jurisdictional and non-jurisdictional wholesale sellers in the United States portion of the WSCC reported certain historical information (specified in an Excel spreadsheet template) on both physical and financial transactions for calendar years 2000 and 2001. The responses submitted indicate that the financial transaction data were not reported in a consistent manner, so that it cannot be used to identify so-called "wash," "round trip," or "sell/buyback" type transactions. Accordingly, the present follow-up data request is necessary.

Your company's response is to be signed under oath, in the form of an affidavit, by your company's president, chief executive officer, general counsel, or a corporate officer of comparable authority and responsibility, after the company, under the

supervision and control of that individual, has diligently conducted a thorough investigation into the trading activities of the company's employees and agents, including those of its affiliates[1] and subsidiaries, in the U.S. portion of the WSCC during the years 2000 and 2001.[2] **Your response is due on or before May 31, 2002.**

Your company's failure to respond in a timely and complete fashion may result in enforcement action, including the issuance of an order directing a public utility to show cause why the Commission should not revoke the public utility's authority to sell wholesale electricity and/or ancillary services at market-based rates.

I. <u>Request for Admission</u>

A. Admit or Deny: The company engaged in activities referred to as "wash," "round trip" or "sell/buyback" trading. This trading involves the sale of an electricity product to another company together with a simultaneous purchase of the same product at the same price.

B. If you so admit, provide transaction by transaction details for all such transactions your company engaged in, including, but not limited to, the following:

1. Indicate the methods and rationale used to arrive at the value or compensation of such transactions.

2. Indicate whether any such transactions were reported to Platt's, Bloomberg, or any organization that monitors, publishes or reports trading data (including bid-and-ask data) or publishes or reports prices or forward indices.

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[1]An "affiliate" is defined as stated in 18 C.F.R. § 161.2 (2001); *see* The Power Company of America, L.P., 79 FERC ¶ 61,067 at 61,325-12 (1997) (applying definition of "affiliate" in the Commission's Standards of Conduct for Interstate Pipelines with Marketing Affiliates to non-EWG public utilities).

[2]At a minimum, the signatory to the affidavit must state that he or she certifies that the information and documents provided constitute a response that is true and accurate to the best of that individual's knowledge, information, and belief formed, after a thorough investigation was diligently conducted, under the supervision and control of that individual, into the trading activities of the company's employees and agents, including those of its affiliates and subsidiaries, in the U.S. portion of the WSCC during the years 2000 and 2001.

3. Identify all such transactions referred to in question 3 that were so published or reported, or were disseminated in any manner.

4. Identify all traders that participated in such transactions, by name and position within your company, if employed by you, or by name and affiliation if they were not or are not presently employed by your company.

5. Identify how such transactions were executed (e.g., whether an electronic platform was use to initiate the sale, with the buy transaction subsequently arranged through a broker or by telephone).

6. Describe all policies and procedures implemented to prevent future transactions of this type.

II. Request for Production of Documents

To the extent your company engaged in "wash," "round trip," or "sell/buyback" type transactions, provide the following documents:

C. Provide copies of all communications or correspondence, including e-mail messages, instant messages, or telephone logs, between your company and any other company (including your affiliates or subsidiaries) that refer or relate to this activity.

D. Provide copies of all material, including, but not limited to, opinion letters, memoranda, communications (including e-mails and telephone logs), or reports, that address or discuss your company's knowledge of, awareness of, understanding of, or employment or use of any of any such transactions in the U.S. portion of the WSCC during the period 2000-2001.

To the extent that you wish to make a claim of privilege with respect to any responsive material, please provide an index of each of those materials, which includes the date of the each individual document, its title, its recipient(s) and its sender(s), a summary of the contents of the document, and the basis of the claim of privilege.

III. Manner of Providing Information

All written responses should consist of a single copy of the submission and should specify that they are to the attention of Mr. Donald J. Gelinas, Associate Director, Office of Markets, Tariffs and Rates. Responses delivered by hand to the Commission should be delivered to Dockets, Room 1A.

Additionally, you must provide information concerning any such transactions on an Excel spreadsheet. The spreadsheet needed to complete the information requested is contained in a file posted on the Commission's web page for Docket. No. PA02-2-000 (http://www.ferc.gov/electric/bulkpower/pa02-2/pa02-2.htm). On the spreadsheet, the company must identify the entered-into dates and times of such transactions, counter-parties to the transactions, transaction start and stop date/times, types of service, locations, quantities traded, prices, the identities of any index price at which trades were made and the identities of any online trading platforms used. The spreadsheet is to be completed by respondents and e-mailed to PA02-2@ferc.gov. A response that exceeds the row limit for an Excel spreadsheet must be reported in CSV format. If any respondent seeks privileged treatment of the information pursuant to 18 C.F.R. § 388.112 (2001), two versions of the spreadsheet should be e-mailed. Include in the e-mail and in the title of the spreadsheet that the information is "Confidential" or "Not Confidential."

Attachment A

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