

**UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION**

**Standards of Conduct for     )  
Transmission Providers     )**

**Docket No. RM01-10-000**

**JOINT COMMENTS  
OF  
THE PSEG COMPANIES**

On December 20, 2001, Public Service Electric and Gas Company (“PSE&G”), PSEG Energy Resources & Trade LLC (“PSEG ER&T”), and PSEG Power LLC (“PSEG Power”), (collectively “the PSEG Companies”),<sup>1</sup> filed Comments in response to the Federal Energy Regulatory Commission’s (the “Commission”) Notice of Proposed Rulemaking (“NOPR”) in this matter dated September 27, 2001, 96 FERC ¶ 61,334. Therein, the PSEG Companies lauded the Commission’s objective of revising existing standards of conduct to account for changes and convergence in the electric and gas industries, but expressed concern that the standards needed to be more specific in order to avoid unnecessarily burdening transmission providers and market participants.<sup>2</sup>

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<sup>1</sup>The PSEG Companies have stated their position to the Commission’s NOPR in this matter by document dated December 20, 2001. (“PSEG Comments”)

<sup>2</sup>See, Comments at p 3

On May 21, 2002 the Commission held a technical conference that addressed the NOPR and an analysis of the NOPR that had been prepared by Commission Staff regarding the major issues raised in the NOPR. (“Staff Analysis”) PSEG thanks the Commission for the further guidance provided at the technical conference and opportunity revisit these issues.

### **EXECUTIVE SUMMARY**

- The Staff’s proposed definition of “Energy Affiliate” properly excludes service companies and holding companies. Holding companies and service companies are not participants in the energy markets and should not be considered energy affiliates.
- The Staff’s Analysis properly seeks to preserve the sharing of non-operating personnel. In this regard, the Commission has permitted a transmission provider to share second-tier supervisors and personnel performing non-operating functions with its marketing affiliate. The Staff’s Analysis correctly concludes that the burdens of restricting non-operating personnel would far outweigh any potential gains. The PSEG Companies suggest that expressly defining “Transmission Function Employee” (as well as “Merchant Function Employee”) to exclude non-operating personnel would prevent potential confusion on this issue.
- The PSEG Companies are concerned that the posting of organizational charts as proposed in the NOPR could jeopardize the safety of such employees and the safe operation of the functions they perform without providing a counterbalancing benefit. The Staff’s Analysis fails to adequately consider this concern.

### **COMMENTS**

#### **I. The NOPR’s Definition of “Energy Affiliate” Should Be Clarified and Limited in Scope**

The comments of the PSEG Companies to the NOPR argued that the NOPR’s definition of “Energy Affiliate” was too broad in that it could be read to cover unintended entities and thereby limit informational flows between a

transmission provider and affiliates that are not themselves market participants.<sup>3</sup> In this regard, the PSEG Companies now endorse the proposed limitation to that definition as provided by Staff, which reads in pertinent part:

(d)(ii) The definition of energy affiliate excludes (1) other affiliated regulated transmission providers; and (2) **holding or service companies that do not engage in or are involved in transmission transactions in U.S. energy markets.** (emphasis added)<sup>4</sup>

In determining that service companies and holding companies should be specifically excluded from the definition of Energy Affiliate, the Staff correctly balances the costs to transmission providers against the benefits and concludes that service companies and holding companies were not meant to be included in the definition. The PSEG Companies urge the Commission to adopt the revised definition as suggested by Staff in order to decrease confusion as to whether or not service companies or holding companies are precluded from sharing information with affiliated transmission providers.

## **II. The Benefits Perceived to be Derived from the Posting of Organizational Charts and Employee Transfers Should be Weighed Against the Concerns for Employee Safety and System Integrity**

As proposed by the NOPR, § 358.4(b)(3) would require the posting of comprehensive organizational charts showing, *inter alia*, the business units,

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<sup>3</sup>PSEGCommentsatpp4 -8

job titles, functions and chain of command for all positions of the transmission provider. As set forth in the PSEG Comments, the PSEG Companies are concerned with this policy in view of the events of the September 11, 2001, Attack on America.

The posting requirements essentially provide terrorists a blueprint to extort sensitive security information from those most familiar with the transmission system. They also provide a list of those most critical for the continued operation of the system such that by the terrorists' elimination of these individuals, reliability would be severely jeopardized. The same is true for the naming of the merchant function employees in that the terrorist could have a blueprint for wracking havoc on economic stability.

The Staff Analysis does not address these safety concerns. The PSEG Companies respectfully assert that the safety concerns expressed herein outweigh the perceived benefits of such an extensive posting requirement and request the Commission to consider this issue.

In addition to these safety concerns, there remains an issue over the scope of the posting requirements as proposed in the NOPR. The NOPR requires that the transmission provider post information for all positions, with the exception of clerical, maintenance, and field positions. The NOPR does not limit this requirement to transmission operations or reliability functions, or even to the principal department that is responsible for

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<sup>4</sup>Staff's Analysis at p. 9

transmission operations, or to merchant functions (wholesale or even retail). The current posting requirements in Part 37 are less broad in that they require posting organizational charts and job descriptions that identify merely those employees (including those engaged in generation, ancillary services and bundled retail sales) who are engaged in transmission system operations and reliability functions and who are engaged in wholesale merchant functions. *Cambridge Electric Light Company, et al.*, Order On Standards of Conduct, 82 FERC ¶ 61,246 (1998). The Staff Analysis fails to recognize the NOPR's expansion of posting requirements in this regard. Accordingly, the PSEG Companies once again urge the Commission to re-evaluate the broad posting requirements contained in the NOPR.

### **CONCLUSION**

WHEREFORE, for the reasons discussed above, the PSEG Companies respectfully request the Commission to modify its proposal in this docket in accordance with the suggestions contained in these comments.

Respectfully submitted,

Thomas P. Thackston, Esq.  
Attorney for the PSEG Companies

June 14, 2002

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document in accordance with the requirements of Rule 2010 of the Commission's Rules of Practice.

Dated at Newark, New Jersey, 14<sup>th</sup> day of June, 2002.

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