

**IN THE
UNITED STATES COURT OF APPEALS
FOR THE
DISTRICT OF COLUMBIA CIRCUIT**

Cinergy Services, Inc.,)	
Petitioner,)	
)	
v.)	No. 04-1299
)	
Federal Energy Regulatory Commission,)	
Respondent.)	
)	
Southern Company Services, Inc.,)	
Petitioner,)	
)	
v.)	No. 04-1301
)	
Federal Energy Regulatory Commission,)	
Respondent.)	
)	
Colorado Office of Consumer Counsel, <i>et al.</i> ,)	
Petitioners,)	
)	
v.)	No. 04-1303
)	(Consolidated)
Federal Energy Regulatory Commission,)	
Respondent.)	

**MOTION OF NRG POWER MARKETING, INC.,
LOUISIANA GENERATING LLC, BAYOU COVE
PEAKING POWER LLC, BIG CAJUN I PEAKING
POWER LLC AND NRG STERLINGTON POWER LLC
FOR LEAVE TO INTERVENE**

Pursuant to 28 U.S.C. § 2348, Rule 15(d) of the Federal Rules of Appellate Procedure and Circuit Rule 15(b) of the Circuit Rules of the United States Court of Appeals for the District of Columbia Circuit, NRG Power Marketing, Inc. (“NRG PMI”), as well as its affiliated generators – Louisiana Generating LLC, Bayou Cove Peaking Power LLC, Big Cajun I Peaking Power LLC and NRG Sterlington Power LLC (collectively “NRG Generators”) [together NRG

PMI and the NRG Generators the “NRG Companies”] – hereby request leave to intervene in the above-captioned proceedings. In support of its motion, the NRG Companies state as follows:

1. On September 1, 2004, Cinergy Services, Inc. filed in No. 04-1299 and on September 3, 2004, Southern Company Services, Inc. filed in No. 04-1301 and Colorado Office of Consumer Counsel, *et al*, filed in No. 04-1303, petitions for review of the following orders issued by the Federal Energy Regulatory Commission (“Commission”):

- a. *AEP Power Marketing, Inc., et al.*, Docket No. ER96-2495, *et al.*, 107 FERC ¶ 61,018 (April 14, 2004) (Order on Rehearing and Modifying Interim Generation Market Power Analysis and Mitigation Policy); and
- b. *AEP Power Marketing, Inc., et al.*, Docket No. ER96-2495, *et al.*, 108 FERC ¶ 61,026 (July 8, 2004) (Order on Rehearing).

In the orders under review, the Commission adopted two new screens to assess generation market power for purposes of determining whether to authorize the applicant to make or continue to make wholesale sales of electricity in interstate commerce at market-based rates and proposed new measures for mitigating market power in the future. These new screens – the pivotal supplier analysis and the market share analysis – will apply to all pending and future market-based rate applications and triennial reviews. Interventions in Nos. 04-1301 and 04-1303 are due today, October 4, 2004. By order issued September 16, 2004, the court consolidated the petitions in 04-1301 and 04-1303 with the petition filed by Cinergy Services, Inc. in No. 04-1229.

2. The exact legal names of the NRG Companies are NRG Power Marketing, Inc., Louisiana Generating LLC, Bayou Cove Peaking Power LLC, Big Cajun I Peaking Power LLC and NRG Sterlington Power LLC. The principal office of the NRG Companies is located at 901 Marquette Avenue, Suite 2300, Minneapolis, MN 55402-3265. NRG PMI, a Delaware corporation, is a power marketing company that places market bids and enters into bilateral contracts for the supply and purchase of energy in the markets throughout the United States. Each of the NRG Generators is a Delaware limited liability company that owns generation facilities and sells power at market-based rates.

3. Because the NRG Companies sell power at market-based rates, the Court's review of the Commission's orders may impact the NRG Companies and directly affect their rights. A representative of the NRG Companies participated in the underlying technical conference in Docket No. PL02-8-000, and the NRG Companies intervened in the underlying Commission proceeding in Docket No. ER91-569-021, both of which are the subject of this appeal. In addition, the NRG Companies' interests cannot be adequately represented by any other party. Therefore, the NRG Companies submit that they have a substantial interest in this matter that may be directly affected by the Court's review of the orders at issue.

WHEREFORE, the NRG Companies respectfully request that the Court grant this motion for leave to intervene and that the NRG Companies be permitted to participate with full rights as parties in the captioned case.

Respectfully submitted,

**NRG POWER MARKETING, INC.
LOUISIANA GENERATION LLC,
BAYOU COVE PEAKING POWER LLC,
BIG CAJUN I PEAKING POWER LLC AND
NRG STERLINGTON POWER LLC**

By: _____

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Dated: October 4, 2004

DISCLOSURE STATEMENT

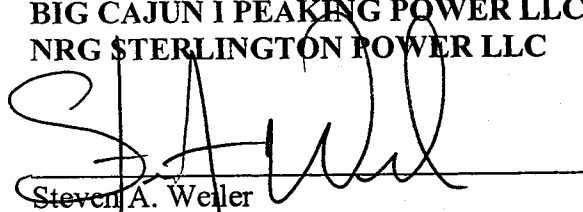
Pursuant to Rule 26.1 of the Federal Rules of Appellate Procedure and Rule 26.1 of the Circuit Rules of the United States Court of Appeals for the District of Columbia Circuit, NRG Power Marketing, Inc., Louisiana Generating LLC, Bayou Cove Peaking Power LLC, Big Cajun I Peaking Power LLC and NRG Sterlington Power LLC submit the following disclosure statement:

NRG Power Marketing, Inc. (“NRG PMI”) is a Delaware corporation, having its principal office in Minneapolis, Minnesota, and is engaged in marketing and brokering energy products throughout the United States. Louisiana Generating LLC, Bayou Cove Peaking Power LLC, Big Cajun I Peaking Power LLC and NRG Sterlington Power LLC (collectively the “NRG Generators”), each a Delaware limited liability company with its principal office in Minneapolis, Minnesota, owns electric generation facilities in Louisiana.

NRG PMI and the NRG Generators are subsidiaries of NRG Energy, Inc., a publicly held corporation. At this time, only NRG Energy, Inc. has issued shares to the public, that is NRG PMI and the NRG Generators have not issued shares to the public.

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LOUISIANA GENERATION LLC,
BAYOU-COVE PEAKING POWER LLC,
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Dated: October 4, 2004

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document by first class mail, postage prepaid, upon petitioner and the Solicitor of the Federal Energy Regulatory Commission, and upon each party to these proceedings listed below.

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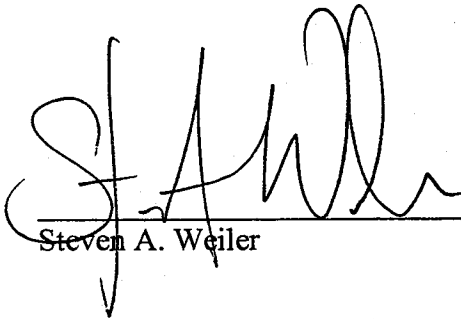
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Dated at Washington, D.C. this 4th day of October, 2004.



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