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From: Alle-Murphy, Linda
Sent: Wednesday, December 28, 2005 9:05 AM
To: Mansueti, Lawrence
Subject: Re: Order No. 202-05-3

Dear Mr. Mansueti,

I am an associate at Schnader Harrison Segal and Lewis, working together with John Britton, who represents the City of Alexandria in the Mirant Power Plant matter. I have a few procedural questions regarding the application for rehearing.

According to Section VI.H. of Order No. 202-05-3, applications for rehearing in this matter should be addressed to you. Section VI.H. cites to 16 U.S.C. Section 825(1), which refers to the "Commission" (FERC). I am just seeking to confirm that Section 825(1) also applies to this DOE proceeding.

Also, are 10 CFR Section 1003.1 et seq., Office of Hearings and Appeals Procedural Regulations applicable to this proceeding (e.g. re service requirements, etc.) If not, are there other procedural rules that apply to this proceeding?

Thank you very much for your assistance! You may respond by return e-mail or, if that is not convenient for you, by telephone or fax.

Linda Alle-Murphy
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From: Cooke, Lot
Sent: Friday, December 30, 2005 8:51 AM
To: 'LAlle-Murphy@Schnader.com'
Subject: Rehearing procedures for DOE Order No. 202-05-3

Dear Ms. Alle-Murphy:

In response to your emailed question to Mr. Mansueti--

The DOE Organization Act transferred the authority of the Federal Power Commission to the Secretary, except for authority over rates and charges for the transmission and sale of electric energy, which was transferred to FERC. Federal Power Act (FPA) Section 202(c) emergency authority was generally and specifically given to the Secretary.

An order issued under the FPA is only reviewable pursuant to the rehearing provisions contained in section 313 of the FPA, so that is the applicable provision under which to seek rehearing of the December 20, 2005 order.

The DOE regulations on emergency orders, 10 CFR section 205.370, et seq., do not have a specific rehearing section, but a party seeking rehearing can look for procedural guidance to FERC's Rules of Practice and Procedure, 18 CFR Part 385. In particular the rehearing regulations contained at 18 CFR section 385.713 and the service requirement contained at 18 CFR section 385.2010. The Office of Hearings and Appeals procedures are not applicable as the Secretary will make the rehearing decision pursuant to FPA section 313.