

**BEFORE THE PUBLIC SERVICE COMMISSION
STATE OF MISSOURI**

In the Matter of an Investigation into)	
Compliance with the Required Registration)	Case No. : GO-2004-0195
of Sellers of Electricity and Gas for Use or)	
Consumption within Missouri.)	

**MOTION TO DISMISS OF DUKE ENERGY CONTROL AREA SERVICES,
LLC, DUKE ENERGY MERCHANTS, LLC, DUKE ENERGY OPERATING CO.,
DUKE ENERGY OPERATING CO., LLC, DUKE ENERGY ST. FRANCIS, LLC,
ASSOCIATED NATURAL GAS, INC., ASSOCIATED NATURAL GAS CO., DUKE
ENERGY MARKETING AMERICA, LLC., AND DUKE ENERGY TRADING AND
MARKETING, L.L.C.**

Duke Energy Control Area Services, LLC, Duke Energy Merchants, LLC, Duke Energy Operating Co., Duke Energy Operating Co., LLC, Duke Energy St. Francis, LLC, Associated Natural Gas, Inc., Associated Natural Gas Co., Duke Energy Marketing America, LLC, and Duke Energy Trading and Marketing, LLC. (the “Movants”) hereby move that the Commission dismiss them as named parties to this proceeding and permit them to withdraw from all further participation in this docket.

In support of this Motion, the Movants respectfully state as follows:

1. Duke Energy Control Area Services, LLC, a wholly-owned subsidiary of Duke Energy North America, LLC, provides control area services to affiliated and unaffiliated entities. The control area services that Duke Energy Control Area Services, LLC provides include scheduling coordination and energy-related monitoring services. Duke Energy Control Area Services, LLC provides such services to affiliated and non-affiliated generation companies and non-affiliated load serving entities who have NERC certified control areas. Duke Energy Control Area Services, LLC does not own or control electric generation, transmission or distribution facilities. The control area services provided by it do not include the sale of power or ancillary

services. It does not sell electricity, natural gas, methane or propane at the wholesale or retail level in Missouri, and has never done so in the past. It currently conducts no business activities in Missouri, although up to 2001 it provided control area operator services to the NRG Generating Unit near Audrain.

2. Duke Energy Merchants, LLC has never sold electricity, natural gas, methane or propane at the retail level in Missouri. Duke Energy Merchants, LLC provides financial, risk management and asset management services to producers and transporters of global energy commodities and derivative products, such as crude oil, refined products, residual fuels and coal. Duke Energy Merchants, LLC sold fertilizer in Missouri, but ceased doing so in December 2001. It also has a refined products license to sell gasoline and diesel, but not at the retail level. Duke Energy Merchants, LLC is in the process of winding up its business and expects to be dissolved later this year.

3. Duke Energy Operating Company was converted to Duke Energy Operating Company, LLC, effective December 31, 1999. Neither Duke Energy Operating Company nor Duke Energy Operating Co., LLC have sold electricity, natural gas, methane or propane at the retail level in Missouri. Duke Energy Operating Company, LLC is a payroll company for certain Duke Energy employees.

4. Duke Energy St. Francis, LLC, a wholly-owned subsidiary of Duke Energy North America, LLC, has never sold electricity, natural gas, methane or propane at the retail level in Missouri. Duke Energy St. Francis, LLC is an exempt wholesale generator doing business in Missouri. It buys power from Associated Electric Cooperative, Inc. and sells power to a Duke affiliate at the wholesale level only.

5. Associated Natural Gas, Inc. is now known as Duke Energy Field Services, L.P. This company does not sell electricity, natural gas, methane or propane at the retail level in Missouri. Associated Natural Gas, Inc. has been a part of the Duke Energy family of companies since 1997 and has not engaged in selling natural gas at the retail level since becoming a member of the Duke Energy family of companies. Although its name is similar to the local distribution gas company that was subject to the Commission's jurisdiction until its Missouri assets were purchased by Atmos Energy Corp., this entity has not engaged in selling gas at the retail level since becoming a Duke Energy company in 1997.

6. Associated Natural Gas Co. is now known as Duke Energy Natural Gas Corp. It does not sell electricity, natural gas, methane or propane at the retail level in Missouri. Associated Natural Gas Co. has been a part of the Duke Energy family of companies since 1997 and has not engaged in retail natural gas distribution activities since becoming a member of the Duke Energy family of companies. Although its name is similar or identical to the local distribution gas company that was subject to the Commission's jurisdiction until its Missouri assets were purchased by Atmos Energy Corp., this company has not engaged in retail natural gas distribution activities since becoming a Duke Energy company in 1997.

7. Duke Energy Marketing America, LLC does not sell electricity, natural gas, methane, or propane at the retail level in Missouri, and has never done so. Duke Energy Marketing America, LLC engages in marketing electricity and gas at the wholesale level only.

8. Duke Energy Trading and Marketing, L.L.C. does not sell electricity, natural gas, methane, or propane at the retail level in Missouri.¹ Duke Energy Trading and Marketing, L.L.C. engages in marketing electricity and gas at the wholesale level only in Missouri.

9. Movants assert that Associated Natural Gas, Inc. and Associated Natural Gas Co., should be dismissed from this proceeding since these entities have not engaged in selling natural gas or any other energy product at the retail level since becoming a member of the Duke Energy family of companies in 1997. In addition, Duke Energy Control Area Services, LLC, Duke Energy Operating Company and Duke Energy Operating Company, LLC have never engaged in selling electricity, natural gas, methane or propane at either the retail or wholesale level in Missouri and should therefore be dismissed from further participation in this proceeding.

10. Further, movants assert that dismissal of the following entities is proper because Duke Energy St. Francis, LLC, Duke Energy Marketing America, LLC, Duke Energy Merchants, LLC, and Duke Energy Trading and Marketing, L.L.C. do not “sell energy services at retail” within the plain meaning of Section 393.298 (10), Mo. Rev. Stat. (2000).

11. In view of the foregoing statements, confirmed through the affidavit of Madeline A. Coblenz, attached as Exhibit A, and as none of the entities are an “energy supplier” or “sell energy services at retail” pursuant to Section 393.297 *et seq.*, the Movants believe that they have inadvertently and erroneously been included within the scope of these proceedings and should be dismissed.

WHEREFORE, Duke Energy Control Area Services, LLC, Duke Energy Merchants, LLC, Duke Energy Operating Co., Duke Energy Operating Co., LLC, Duke Energy St. Francis, LLC, Associated Natural Gas, Inc., Associated Natural Gas Co., Duke Energy Marketing

¹ The Commission named Duke Energy Trading and Market Services, L.L.C. as a party to this proceeding. While there is no Duke company with this name, there is a Duke company known as Duke Energy Trading and

America, LLC and Duke Energy Trading and Marketing L.L.C. respectfully request that they be dismissed from these proceedings and relieved from all further obligations to participate in this docket.

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing document was served upon all counsel of record, including the Office of the General Counsel of the Commission, as well as the Office of the Public Counsel, this 1st day of April, 2004.

/s/ Karl Zobrist

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