

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

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

**REPLY 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. TO STAFF’S RESPONSE**

Duke Energy Control Area Services, LLC (“DECA”), Duke Energy Merchants, LLC (“Duke Merchants”), Duke Energy Operating Co., Duke Energy Operating Co., LLC, Duke Energy St. Francis, LLC, Associated Natural Gas, Inc. (now doing business as Duke Energy Field Services, L.P.), Associated Natural Gas Co. (now doing business as Duke Energy Natural Gas Corp.), Duke Energy Marketing America, LLC, and Duke Energy Trading and Marketing, L.L.C. (collectively, the ‘Movants’) hereby file this Reply to the Staff of the Missouri Public Service Commission’s Response to Movants’ Motion to Dismiss. In support of this Reply, the Movants respectfully state as follows:

1. On April 8, 2004, the Staff of the Missouri Public Service Commission (“Staff”) filed a Response to Movant’s Motion to Dismiss. Staff noted that it opposes the dismissal of the Movants at this time until the investigation is closer to completion. Staff further noted that it is working on new data requests to further clarify its understanding of the business practices of various energy marketers and will consult with counsel for the Movants. (Staff Response at ¶ 4.)

2. Movants reiterate that dismissal of all Duke companies is proper as none of the Duke companies currently “sell energy services at retail” in Missouri within the plain meaning

of Section 393.298 (10), Mo. Rev. Stat. (2000). Movants thus incorporate by reference their Motion to Dismiss as though fully set forth herein and ask the Commission to dismiss each of the Movants from these proceedings and relieve them from all further obligations to participate in this docket. However, in the event the Commission decides not to dismiss all of the Movants from this proceeding at this time based on Staff's opposition, then the Commission should, at a minimum, dismiss at this time those Duke companies that have never been involved in energy marketing or are in the process of winding down their business. As part of the rationale for opposing the dismissal of the Duke companies, Staff indicated that it is in the process of formulating new discovery requests in order to gain a greater understanding of the business practices of various energy marketers. Therefore, Movants assert that dismissal of the Duke companies that are clearly not involved in energy marketing activities, or that are in the process of winding down their business, is warranted. As is evident from the Motion to Dismiss as well as the data responses provided by the Movants to Staff on February 19, 2004, these entities are: DECA, Duke Merchants, and Duke Energy Operating Company, LLC (f/k/a Duke Energy Operating Company).

3. DECA neither engages in energy marketing services nor sells energy services at retail. DECA, a wholly-owned subsidiary of Duke Energy North America, LLC, provides control area services to affiliated and unaffiliated entities. The control area services that DECA provides include scheduling coordination and energy-related monitoring services. The control area services provided by it do not include the sale of power or ancillary services. DECA provides such services to affiliated and non-affiliated generation companies and non-affiliated load serving entities who have NERC-certified control areas. A customer's control area consists of the customer's electrical facilities bounded at the metering points with the transmission

provider to which the customer's facilities are interconnected. DECA does not own or control electric generation, transmission or distribution facilities. 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.

4. Duke Merchants has never sold electricity, natural gas, methane or propane at the retail level in Missouri. Duke Merchants 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 Merchants 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 Merchants is in the process of winding up its business and expects to be dissolved later this year.

5. Duke Energy Operating Company was converted to Duke Energy Operating Company, LLC, effective December 31, 1999. Duke Energy Operating Company, LLC is a *payroll company* for certain Duke Energy employees. 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.

WHEREFORE, for the reasons stated above, the Movants respectfully request that (1) all of the Movants be dismissed from this proceeding and relieved from all further obligations to participate in this docket, or, (2) if the Commission decides not to dismiss all of the Movants at this time, the Commission dismiss Duke Energy Control Area Services, LLC, Duke Energy Merchants, LLC, Duke Energy Operating Co., and Duke Energy Operating Co., LLC from these proceedings and relieve them from all further obligations to participate in this docket.

/s/ Karl Zobrist

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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 19th day of April, 2004.

/s/ Karl Zobrist

Attorneys for Duke Energy Control Area Services, LLC, Duke Energy Merchants, LLC, Duke Energy Operating Co., and 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