

FISCHER **DORITY**
PROFESSIONAL CORPORATION

James M. Fischer
Larry W. DORITY

Attorneys at Law
Regulatory & Governmental Consultants

101 Madison, Suite 400
Jefferson City, MO 65101
Telephone: (573) 636-6758
Fax: (573) 636-0383

January 30, 2004

Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge
Missouri Public Service Commission
200 Madison Street, Suite 100
P.O. Box 360
Jefferson City, Missouri 65102

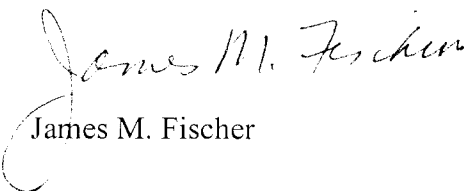
RE: *In the Matter of the Investigation into Compliance with the Required Registration of
Sellers of Electricity and Gas for Use or Consumption within Missouri, Case No.
GO-2004-0195.*

Dear Mr. Roberts:

Enclosed for filing in the above-referenced matter is the Motion of TXU Energy Retail Company LP, Enserch Energy Services, Inc., TXU Energy Trading Company, TXU Energy Retail Management Company LLC, TXU Merger Energy Trading Company LP, TXU Energy Trading Company LP, TXU Energy Services Company, TXU Energy Solutions Company LP, TXU Energy Solutions Management Company LLC, and TXU SEM Company (hereinafter collectively referred to as the "TXU Parties") for Dismissal of Certain Parties To This Action. A copy of the attached has been emailed, hand-delivered or mailed this date to each counsel of record.

Thank you for your attention to this matter.

Sincerely,


James M. Fischer

Enclosures

cc: Office of the Public Counsel
Robert Franson, General Counsel
Counsel of Record

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

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

**MOTION OF TXU ENERGY RETAIL COMPANY LP, ENSERCH ENERGY
SERVICES, INC., TXU ENERGY TRADING COMPANY, TXU ENERGY RETAIL
MANAGEMENT COMPANY LLC, TXU MERGER ENERGY TRADING COMPANY
LP, TXU ENERGY TRADING COMPANY LP, TXU ENERGY SERVICES COMPANY,
TXU ENERGY SOLUTIONS COMPANY LP, TXU ENERGY SOLUTIONS
MANAGEMENT COMPANY LLC, AND TXU SEM COMPANY
FOR DISMISSAL OF CERTAIN PARTIES TO THIS ACTION**

COMES NOW TXU Energy Retail Company LP, Enserch Energy Services, Inc., TXU Energy Trading Company, TXU Energy Retail Management Company LLC, TXU Merger Energy Trading Company LP, TXU Energy Trading Company LP, TXU Energy Services Company, TXU Energy Solutions Company LP, TXU Energy Solutions Management Company LLC, and TXU SEM Company (hereinafter collectively referred to as the “TXU Parties”), by and through their undersigned counsel, and, pursuant to 4 CSR 240-2.116(4), respectfully request that the Commission dismiss from this proceeding all TXU Parties other than TXU Energy Retail Company LP. The TXU Parties requesting dismissal (i.e., Enserch Energy Services, Inc., TXU Energy Retail Management Company LLC, TXU Energy Trading Company, TXU Merger Energy Trading Company LP, TXU Energy Trading Company LP, TXU Energy Services Company, TXU Energy Solutions Company LP, TXU Energy Solutions Management Company LLC, and TXU SEM Company) (hereinafter collectively referred to as the “Non-Proper TXU Parties”) make this request on the grounds that the Non-Proper TXU Parties (1) have never engaged in selling or distributing “energy services” in Missouri as that term is defined by Section

393.298, RSMo 2000 (hereinafter referred to as “Energy Services”), and/or (2) are no longer in existence.

I. Designated Representatives

The designated representatives of the TXU Parties are listed below. The TXU Parties request that service in this proceeding be made on both of these designated representatives.

FISCHER & DORITY, PC

James M. Fischer
101 Madison Street, Suite 400
Jefferson City, Missouri 65101
(573) 636-6758
(573) 636-0383 facsimile
jfisherpc@aol.com (email)

HUNTON & WILLIAMS LLP

Angela Agee Kennerly
Cecily Small Gooch
1601 Bryan Street, 30th Floor
Dallas, Texas 75201
(214) 979-3000
(214) 880-0011 facsimile
akennerly@hunton.com (email)
cgooch@hunton.com (email)

II. Introduction

All of the TXU Parties are wholly-owned subsidiaries of TXU Corp., or were wholly-owned subsidiaries of TXU Corp. during their existence.¹ TXU Corp. is a public utility holding company with operations in North America and Australia. The majority of TXU Corp.’s North American operations are located in Texas. However, certain subsidiaries of TXU Corp. have conducted business and/or registered to conduct business outside of Texas, including in the State of Missouri.

Three TXU Corp. subsidiaries formerly engaged in retail sales of natural gas in Missouri. These entities are Enserch Energy Services, Inc., TXU Energy Trading Company and TXU Energy Retail Company LP. As discussed in more detail in Section IV, *infra*, these companies are in one line of a corporate history chain and only TXU Energy Retail Company LP is still in

¹ As discussed in more detail in Sections III and IV, *infra*, some of the TXU Parties are no longer in existence due to name changes and mergers.

existence. Enserch Energy Services, Inc. was granted an Energy Seller Certificate by the Missouri Public Service Commission that was effective as of November 3, 1998 (*see* Order Granting Certificate As An Energy Seller, Re: Application of Enserch Energy Services, Inc. for Certification as a Seller of Energy Services in the State of Missouri, Case No. GO-99-124 [issued October 22, 1998]). That certificate is currently held by TXU Energy Retail Company LP.

TXU Energy Retail Company LP merged all of its Missouri natural gas contracts with and into Lakeshore Energy Texas LP, a wholly-owned subsidiary of Seminole Energy Services, L.L.C., on April 1, 2003. Lakeshore Energy Texas LP and Seminole Energy Services, L.L.C. are not affiliated with TXU Corp. TXU Energy Retail Company LP survived the merger and retained the Missouri Energy Seller Certificate that was originally granted to Enserch Energy Services, Inc. However, TXU Energy Retail Company LP no longer engages in retail sales of natural gas in Missouri.

None of the other TXU Parties (i.e., TXU Merger Energy Trading Company LP, TXU Energy Trading Company LP, TXU Energy Retail Management Company LLC, TXU Energy Services Company, TXU Energy Solutions Company LP, TXU Energy Solutions Management Company LLC, and TXU SEM Company) have ever engaged in selling or distributing Energy Services in Missouri. Accordingly, the only TXU entity that may be a proper party to this investigation is TXU Energy Retail Company LP.

III. Certain names of TXU Parties as listed in the Opening Order are not correct names of actual TXU entities.

Some of the names of TXU entities included as parties in the “Order Opening Case, Adding Parties, Directing Notice and Setting Prehearing Conference” issued by the Commission on December 9, 2003 (hereinafter referred to as the “Opening Order”) are not correct names of

current or former TXU entities. For example, in some circumstances it appears that the full name of the entity has been truncated (e.g., “TXU Merger Energy Trad”, “TXU Energy Solution C”) and in others there are grammatical errors (e.g., TXU Energy Solutions Company, LP.) (emphasis added to show errors). Accordingly, for the purposes of this Motion, the TXU Parties assume that the TXU entities listed as parties in the Opening Order and shown in Column A of the following table are intended to refer to the actual TXU entities listed in Column B of the following table.

<u>COLUMN A</u> TXU ENTITY AS LISTED IN OPENING ORDER	<u>COLUMN B</u> CORRECT NAME OF ACTUAL TXU ENTITY
TXU Energy - Trading TXU Merger Energy Trad 1601 Bryan Energy Plz EP3108 Dallas, TX 75201	TXU Merger Energy Trading Company LP (dba TXU Energy - Trading)
TXU Energy, Trading TXU Merger Energy Trad 1601 Bryan Energy Plz EP3108 Dallas, TX 75201	TXU Merger Energy Trading Company LP (dba TXU Energy, Trading)
TXU Energy Trading Company TXU Merger Energy Trad 1601 Bryan Energy Plz EP 3108 Dallas, TX 75201	TXU Merger Energy Trading Company LP (dba TXU Energy Trading Company)
TXU Energy Trading Company The Corporation Company 120 South Central Ave. Clayton, MO 63105	TXU Energy Trading Company <i>OR</i> TXU Energy Trading Company LP
TXU Energy Services Company CT Corporation 120 South Central Ave. Clayton, MO 63105	TXU Energy Services Company
TXU Energy Solutions Company, LP CT Corporation 120 South Central Ave. Clayton, MO 63105	TXU Energy Solutions Company LP

<u>COLUMN A</u> TXU ENTITY AS LISTED IN OPENING ORDER	<u>COLUMN B</u> CORRECT NAME OF ACTUAL TXU ENTITY
TXU Energy Solutions Company, LP. TXU Energy Solutions Management 1601 Bryan St. Dallas, TX 75201	TXU Energy Solutions Management Company LLC (General Partner of TXU Energy Solutions Company LP)
TXU Energy - Retail TXU Energy Solution C 1601 Bryan Energy Plz EP 34108 Dallas, TX 75201	TXU Energy Solutions Company LP (dba TXU Energy - Retail)
TXU Energy, Retail TXU Energy Solutions C 1601 Bryan Energy Plz EP 34108 Dallas, TX 75201	TXU Energy Solutions Company LP (dba TXU Energy, Retail)
TXU Energy Retail Company TXU Energy Solution C 1601 Bryan Energy Plz EP34108 Dallas, TX 75201	TXU Energy Solutions Company LP (dba TXU Energy Retail Company)
TXU Energy Services TXU SEM Company 9000 E. Nichols Ave. Ste. 150 Englewood, CO 89112-3474	TXU SEM Company (a subsidiary of TXU Energy Services Company)
TXU Energy Retail Company, LP CT Corporation 120 South Central Ave. Clayton, MO 63105	TXU Energy Retail Company LP
TXU Energy Retail Company LP TXU Energy Retail Management 1601 Bryan St. Dallas, TX 75201	TXU Energy Retail Management Company LLC (General Partner of TXU Energy Retail Company LP)
Enserch Energy Services 1301 Fannin Suite 2300 Houston, TX 77002	Enserch Energy Services, Inc.

IV. The Non-Proper TXU Parties that have never engaged in selling or distributing Energy Services in Missouri should be dismissed from this investigation.

The following Non-Proper TXU Parties have never engaged in selling or distributing Energy Services in Missouri and thus have never been subject to the certification requirements of Section 393.299, RSMo 2000:

- 1) TXU Merger Energy Trading Company LP. In a reorganization of the TXU group of companies on January 1, 2002,² TXU Merger Energy Trading Company LP succeeded to the wholesale transaction assets of TXU Energy Trading Company. These wholesale transaction assets involved *wholesale* gas and electricity sales. Later in the day of January 1, 2002, TXU Merger Energy Trading Company LP changed its name to TXU Energy Trading Company LP. No TXU Corp. entity currently exists by the name of TXU Merger Energy Trading Company LP.
- 2) TXU Energy Trading Company LP. TXU Energy Trading Company LP was the successor in interest to the wholesale transaction business of TXU Energy Trading Company. This business involves *wholesale* gas and electricity sales. TXU Energy Trading Company LP changed its name to TXU Portfolio Management Company LP on January 10, 2003. No TXU Corp. entity currently exists by the name of TXU Energy Trading Company LP.
- 3) TXU Energy Services Company. This company was a predecessor in interest to TXU Energy Solutions Company LP and TXU Energy Retail Company LP. In the reorganization of the TXU group of companies on January 1, 2002, its assets were merged into two companies. TXU Energy Retail Company LP succeeded to its retail commercial and industrial business, which involved electricity contracts with Texas customers. TXU Energy Solutions Company LP succeeded to its energy management business. For a more detailed description of this energy management business, see the description of TXU Energy Solutions Company LP, *infra*. TXU Energy Services Company ceased to exist after the merger on January 1, 2002. No TXU Corp. entity currently exists by the name of TXU Energy Services Company.
- 4) TXU Energy Solutions Company LP. This limited partnership is the successor in interest to the energy management business of TXU Energy Services Company. This business involves demand-side asset management, procurement and billing services. Specifically, TXU Energy Solutions Company LP assists customers with determining the best provider of a commodity service, acts as a procurement and bill consolidation agent, and provides assistance related to energy efficiency projects. TXU Energy Solutions Company LP assists its customers with decisions concerning the “demand” side of

² The January 1, 2002 reorganization of the TXU group of companies was undertaken in connection with a state legislative restructuring mandate associated with implementation of retail electric competition in Texas.

electric, gas, water and trash service; it does not participate in the supply side of providing or selling the commodity.

5) TXU Energy Solutions Management Company LLC. This limited liability company is the general partner of TXU Energy Solutions Company LP. As discussed above, TXU Energy Solutions Company LP engages in the provision of demand-side asset management, procurement and billing services, which are not Energy Services. Neither TXU Energy Solutions Company LP or TXU Energy Solutions Management Company LLC have ever engaged in sales of Energy Services in Missouri.

6) TXU SEM Company. This company was a subsidiary of TXU Energy Services Company and is currently a subsidiary of TXU Energy Solutions Company LP. It has always engaged in energy management services related to the construction and installation of energy-efficient equipment for the purpose of reducing energy costs for its customers.

7) TXU Energy Retail Management Company LLC. This limited liability company is the general partner of TXU Energy Retail Company LP. While TXU Energy Retail Company LP formerly engaged in retail sales of natural gas in Missouri, TXU Energy Retail Management Company LLC, as its general partner, did not engage in such sales.

V. The Non-Proper TXU Parties that no longer exist should be dismissed from this investigation.

As discussed in Section IV, *supra*, in addition to never engaging in selling or distributing Energy Services in Missouri, TXU Merger Energy Trading Company LP no longer exists by that name as it changed its name to TXU Energy Trading Company LP on January 1, 2002. TXU Energy Trading Company LP no longer exists by that name as it changed its name to TXU Portfolio Management Company LP on January 10, 2003. TXU Energy Services Company ceased to exist after a merger with TXU Energy Solutions Company LP and TXU Energy Retail Company LP on January 1, 2002. Accordingly, TXU Merger Energy Trading Company LP, TXU Energy Trading Company LP and TXU Energy Services Company should be dismissed from this investigation.

In addition, there are two Non-Proper TXU Parties (Enserch Energy Services, Inc. and TXU Energy Trading Company) that were not listed in Section IV because they formerly *did*

engage in sales of Energy Services in Missouri -- specifically, retail sales of natural gas. However, these two entities should be dismissed from this investigation because they no longer exist.³ Instead, the successor in interest to their Missouri retail natural gas business, TXU Energy Retail Company LP, is the proper party to this investigation.

As discussed in Section II, supra, TXU Energy Retail Company LP divested itself of its Missouri retail natural gas business on April 1, 2003 through a merger with Lakeshore Energy Texas LP, a wholly-owned subsidiary of Seminole Energy Services, L.L.C. However, TXU Energy Retail Company LP survived the merger and retained its Missouri Energy Seller Certificate.

V. Affidavit and Prayer

Attached hereto is the affidavit of John F. Stephens, Jr. who is the Assistant Secretary of the existing TXU Parties and was the Assistant Secretary of the former TXU Parties, attesting to the facts stated herein.

WHEREFORE, premises considered, the TXU Parties respectfully request that the Non-Proper TXU Parties be dismissed as party respondents to this proceeding and be relieved from all further participation as a party to this matter.

³ Enserch Energy Services, Inc., which was certificated as an Energy Seller by the Missouri Public Service Commission effective as of November 3, 1998, changed its name to TXU Energy Trading Company on June 14, 1999. Thereafter, in the January 1, 2002 reorganization of the TXU group of companies, TXU Energy Trading Company's retail assets (including the Missouri retail natural gas contracts and the Missouri Energy Seller Certificate) were merged into TXU Energy Retail Company LP. Upon the completion of the January 1, 2002 reorganization, TXU Energy Trading Company ceased to exist.

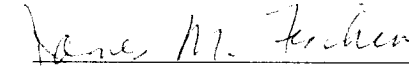
Respectfully submitted,

By: James M. Fischer
James M. Fischer MBN 27543
Fischer & Dority, P.C.
101 Madison Street, Suite 400
Jefferson City, Missouri 65101
(573) 636-6758 (telephone)
(573) 636-0383 (facsimile)
jfisherpc@aol.com (email)

**ATTORNEYS FOR TXU ENERGY RETAIL
COMPANY LP, ENSERCH ENERGY
SERVICES, INC., TXU ENERGY TRADING
COMPANY, TXU ENERGY RETAIL
MANAGEMENT COMPANY LLC, TXU
MERGER ENERGY TRADING COMPANY
LP, TXU ENERGY TRADING COMPANY LP,
TXU ENERGY SERVICES COMPANY, TXU
ENERGY SOLUTIONS COMPANY LP, TXU
ENERGY SOLUTIONS MANAGEMENT
COMPANY LLC, and TXU SEM COMPANY**

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was delivered by email, mailed by U.S. mail, postage prepaid, or hand-delivered on this the 30th day of January, 2004 to counsel of record in this case.



James M. Fischer

88874.010001 DALLAS 88994v5

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

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

AFFIDAVIT OF JOHN F. STEPHENS, JR.

COMES NOW John F. Stephens, Jr. and states as follows:

1. My name is John F. Stephens, Jr. I am over 18 years of age, of sound mind, and I am competent to make this Affidavit.

2. I am aware that TXU Energy Retail Company LP, Enserch Energy Services, Inc., TXU Energy Trading Company, TXU Energy Retail Management Company LLC, TXU Merger Energy Trading Company LP, TXU Energy Trading Company LP, TXU Energy Services Company, TXU Energy Solutions Company LP, TXU Energy Solutions Management Company LLC, and TXU SEM Company (collectively referred to herein as the "TXU Parties") have been named as parties in the above-captioned matter currently pending before the Public Service Commission of the State of Missouri ("Commission").

3. I currently serve as Assistant Secretary of all of the TXU Parties that are currently in existence and I formerly served as Assistant Secretary of all of the TXU Parties that have ceased to exist. Accordingly, I am familiar with the mission and operations of the TXU Parties, as well as their corporate history.

4. I understand that the Commission instituted this proceeding in order to determine if certain entities are violating Missouri law by engaging in the retail sale of electricity or natural gas, propane or methane to customers or consumers within the State of Missouri, or in any

associated services that are necessary for their delivery through a distribution system, without first being certificated with the Commission pursuant to Missouri law.

5. None of the TXU Parties currently engages in the retail sale of electricity or natural gas, propane or methane to customers or consumers within the State of Missouri, or in any associated services that are necessary for their delivery through a distribution system.

6. Enserch Energy Services, Inc. and TXU Energy Trading Company *did* formerly engage in retail sales of natural gas in Missouri. However, as described in subparagraph 6(a) below, these two entities no longer exist. The TXU successor in interest to their Missouri retail natural gas business was TXU Energy Retail Company LP. However, as described in subparagraph 6(b) below, TXU Energy Retail Company LP no longer engages in retail sales of natural gas in Missouri.

- a. Enserch Energy Services, Inc. became certificated as an Energy Seller by the Commission on November 3, 1998, in Case No. GO-99-124. Enserch Energy Services changed its name to TXU Energy Trading Company on June 14, 1999 and thereafter ceased to exist under that name. In a reorganization of the TXU group of companies on January 1, 2002, TXU Energy Trading Company's assets were merged into two companies. TXU Energy Retail Company LP succeeded to its retail business (including its Missouri retail natural gas contracts and the Missouri Energy Seller Certificate) and TXU Energy Trading Company LP, formerly known as TXU Merger Energy Trading Company LP and now known as TXU Portfolio Management Company LP, succeeded to its wholesale transaction business (which did not involve the retail sale of electricity or natural gas, propane or methane to customers or consumers within the State of Missouri, or in any associated services that are necessary for their delivery through a distribution system). TXU Energy Trading Company ceased to exist on January 1, 2002 after the mergers.
- b. On April 1, 2003, TXU Energy Retail Company LP merged all of its Missouri natural gas contracts with and into Lakeshore Energy Texas LP, a wholly-owned subsidiary of Seminole Energy Services, L.L.C. Lakeshore Energy Texas LP and Seminole Energy Services, L.L.C. are not affiliated with TXU Corp. Accordingly, TXU Energy Retail Company LP no longer engages in retail sales of natural gas in Missouri. However, TXU Energy Retail Company LP survived the merger and retained its Missouri Energy Seller Certificate.

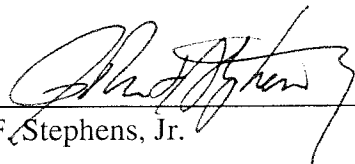
7. The following TXU Parties have never engaged in the retail sale of electricity or natural gas, propane or methane to customers or consumers within the State of Missouri, or in any associated services that are necessary for their delivery through a distribution system:

- a. TXU Merger Energy Trading Company LP. In a reorganization of the TXU group of companies on January 1, 2002, TXU Merger Energy Trading Company LP succeeded to the wholesale transaction assets of TXU Energy Trading Company. These wholesale transaction assets involved *wholesale* gas and electricity sales. Later in the day of January 1, 2002, TXU Merger Energy Trading Company LP changed its name to TXU Energy Trading Company LP. No TXU Corp. entity currently exists by the name of TXU Merger Energy Trading Company LP.
- b. TXU Energy Trading Company LP. TXU Energy Trading Company LP was the successor in interest to the wholesale transaction business of TXU Energy Trading Company. This business involves *wholesale* gas and electricity sales. TXU Energy Trading Company LP changed its name to TXU Portfolio Management Company LP on January 10, 2003. No TXU Corp. entity currently exists by the name of TXU Energy Trading Company LP.
- c. TXU Energy Services Company. This company was a predecessor in interest to TXU Energy Solutions Company LP and TXU Energy Retail Company LP. In the reorganization of the TXU group of companies on January 1, 2002, its assets were merged into two companies. TXU Energy Retail Company LP succeeded to its retail electricity sales business, which involved contracts with commercial and industrial customers in Texas. TXU Energy Solutions Company LP succeeded to its energy management business. For a more detailed description of this energy management business, see the description of TXU Energy Solutions Company LP, *infra*. TXU Energy Services Company ceased to exist after the merger on January 1, 2002. No TXU Corp. entity currently exists by the name of TXU Energy Services Company.
- d. TXU Energy Solutions Company LP. This limited partnership is the successor in interest to the energy management business of TXU Energy Services Company. This business involves demand-side asset management, procurement and billing services. Specifically, TXU Energy Solutions Company LP assists customers with determining the best provider of a commodity service, acts as a procurement and bill consolidation agent, and provides assistance related to energy efficiency projects. TXU Energy Solutions Company LP assists its customers with decisions concerning the “demand” side of electric, gas, water and trash service; it does not participate in the supply side of providing or selling the commodity.
- e. TXU Energy Solutions Management Company LLC. This limited liability company is the general partner of TXU Energy Solutions Company LP. Neither entity has ever engaged in the retail sale of electricity or natural gas, propane or

methane to customers or consumers within the State of Missouri, or in any associated services that are necessary for their delivery through a distribution system.


- f. TXU SEM Company. This company was a subsidiary of TXU Energy Services Company and is currently a subsidiary of TXU Energy Solutions Company LP. It has always engaged in energy management services related to the construction and installation of energy-efficient equipment for the purpose of reducing energy costs for its customers.
- g. TXU Energy Retail Management Company LLC. This limited liability company is the general partner of TXU Energy Retail Company LP. While TXU Energy Retail Company LP formerly engaged in retail sales of natural gas in the State of Missouri, TXU Energy Retail Management Company LLC, as its general partner, did not engage in such sales.

Further Affiant sayeth not.



John F. Stephens, Jr.

Subscribed and sworn to before me this 29 day of January 2004.



Notary Public

My Commission expires:

04/20/07

