

FOR PUBLICATION
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

PUBLIC UTILITY DISTRICT NO. 1 OF
SNOHOMISH COUNTY WASHINGTON,
Petitioner,

RELIANT ENERGY SERVICES INC.,
Intervenor,

v.

FEDERAL ENERGY REGULATORY
COMMISSION,
Respondent.

No. 03-72511
FERC No.
EL02-26 et al.
Northern District of
California,
San Francisco

PUBLIC UTILITY DISTRICT NO. 1 OF
SNOHOMISH COUNTY WASHINGTON,
Petitioner,

CALPINE ENERGY SERVICES, L.P.; EL
PASO MERCHANT ENERGY L.P.;
MORGAN STANLEY CAPITAL GROUP,
INC.; MIRANT AMERICAS ENERGY
MARKETING, LP; BP ENERGY Co.;
ALLEGHENY ENERGY SUPPLY Co.,
LLC; AMERICAN ELECTRIC POWER
SERVICE CORPORATION,
Intervenors,

v.

FEDERAL ENERGY REGULATORY
COMMISSION,
Respondent.

No. 03-74208
FERC No.
EL02-26, et al.
District of Oregon,
Portland

NEVADA POWER COMPANY; SIERRA
PACIFIC POWER COMPANY,
Petitioners,

v.

FEDERAL ENERGY REGULATORY
COMMISSION,

Respondent.

No. 03-74617
FERC No.
EL02-26-000
Northern District of
California,
San Francisco

SOUTHERN CALIFORNIA WATER
COMPANY,

Petitioner,

ENRON POWER MARKETING INC.,
Intervenor,

v.

FEDERAL ENERGY REGULATORY
COMMISSION,

Respondent.

No. 03-74757
FERC No.
EL-02-28
Northern District of
California,
San Francisco

ATTORNEY GENERAL, STATE OF
NEVADA,

Petitioner,

BP ENERGY COMPANY; MIRANT
AMERICAS ENERGY MARKETING,
L.P.,

Intervenors,

v.

FEDERAL ENERGY REGULATORY
COMMISSION,

Respondent.

No. 04-70712
FERC No.
EL02-28-004
Northern District of
California,
San Francisco
ORDER

Filed November 3, 2008

Before: Harry Pregerson, and Marsha S. Berzon, and
Richard R. Clifton, Circuit Judges.

ORDER

In light of the Supreme Court's ruling in *Morgan Stanley Capital Group Inc. v. Public Utility District No. 1 of Snohomish County*, 128 S. Ct. 2733 (2008), we VACATE our prior opinion and REMAND to the Federal Energy Regulatory Commission for further proceedings consistent with the Supreme Court's opinion. The mandate shall issue forthwith.

VACATED and REMANDED.

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