

136 FERC ¶ 61,217
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Marc Spitzer, Philip D. Moeller,
John R. Norris, and Cheryl A. LaFleur.

Florida Power & Light Company
NextEra Energy Duane Arnold, LLC
NextEra Energy Point Beach, LLC
NextEra Energy Seabrook, LLC

Docket No. ER11-3081-000

ORDER CONDITIONALLY GRANTING REQUEST FOR WAIVER OF AFFILIATE
RESTRICTIONS

(Issued September 29, 2011)

1. On March 14, 2011, as amended May 20, 2011, Florida Power & Light Company (FPL) and its three market-regulated power sales affiliates that operate nuclear generating facilities, the NextEra Market-Regulated Nuclear Companies,¹ filed a request for a limited waiver of the market-based rate affiliate restrictions in order to allow their continued sharing of nuclear fuel design, procurement, and fabrication functions. In this order, we conditionally grant FPL and the NextEra Market-Regulated Nuclear Companies' (collectively, Applicants) request for limited waiver of certain affiliate restrictions, effective April 20, 2011.

I. Background

2. Applicants are subsidiaries of NextEra Energy, Inc. (NextEra Energy). NextEra Energy's two principal subsidiaries are FPL and NextEra Energy Resources, LLC (NextEra Energy Resources).² FPL is a franchised public utility with captive customers. The NextEra Market-Regulated Nuclear Companies, which are indirect wholly-owned subsidiaries of NextEra Energy Resources, own and operate four nuclear power units as

¹ The NextEra Market-Regulated Nuclear Companies are: NextEra Energy Duane Arnold, LLC (NextEra Duane Arnold); NextEra Energy Point Beach, LLC (NextEra Point Beach); and NextEra Energy Seabrook, LLC (NextEra Seabrook).

² NextEra Energy Resources also owns NextEra Energy Power Marketing, LLC (NextEra Energy Power Marketing).

explained further below. FPL and the NextEra Market-Regulated Nuclear Companies each have authorization to make sales at market-based rates outside of peninsular Florida.³

3. Applicants state that FPL owns and operates four nuclear power units in Florida: St. Lucie Units 1 and 2 (nuclear power units located near Jensen Beach, Florida), and Turkey Point Units 3 and 4 (nuclear power units located near Florida City, Florida). All of FPL's entitlements to power generated by its four nuclear units are used to serve FPL's retail native load customers. Applicants explain that the division of Energy Marketing & Trading (FPL Energy Marketing) controls and markets the power from the generation assets owned by FPL, with the exception of St. Lucie and Turkey Point. Applicants state that physical operations of all nuclear assets owned by FPL (i.e., St. Lucie and Turkey Point) and NextEra Energy Resources are under the Nuclear Division of NextEra Energy. Applicants state that their waiver request concerns only the sharing of nuclear fuel design, procurement, and fabrication functions within the NextEra Nuclear Fuel Department, a department within the Nuclear Division of NextEra Energy.

4. Applicants state that the NextEra Market-Regulated Nuclear Companies own and operate four nuclear power units located in Iowa, Wisconsin, and New Hampshire. Specifically, NextEra Duane Arnold owns 70 percent of and operates the Duane Arnold Energy Center, a 605 MW reactor located near Palo, Iowa.⁴ All of the output from the Duane Arnold Energy Center to which NextEra Duane Arnold is entitled is sold to Interstate Power & Light Company under a long-term power purchase agreement. NextEra Point Beach fully owns and operates the Point Beach Nuclear Plant, Units 1 and 2, which are two 511.5 MW nuclear power units located in Two Rivers, Wisconsin. All of the output from the Point Beach Nuclear Plant is sold to Wisconsin Electric Power Company under a long-term power purchase agreement. NextEra Seabrook owns approximately 88 percent of and operates the Seabrook Station, a 1,246 MW nuclear power unit located in Seabrook, New Hampshire.⁵ All of the output from Seabrook

³ See *Florida Power & Light Co.*, Docket No. ER97-3359-011 (Nov. 20, 2009) (delegated letter order); *FPL Energy Point Beach, LLC*, Docket No. ER07-904-000 (June 26, 2007) (delegated letter order); *FPL Energy Duane Arnold, LLC*, Docket No. ER05-1281-000 (Nov. 8, 2005) (delegated letter order); *FPL Energy Seabrook, LLC*, Docket No. ER02-1838-000 (July 3, 2002) (delegated letter order); *Florida Power & Light Co.*, 81 FERC ¶ 61,107 (1997).

⁴ The remainder of the Duane Arnold Energy Center is owned by the Central Iowa Power Cooperative and the Cornbelt Power Cooperative.

⁵ The remainder of the Seabrook Station is owned by the Massachusetts Municipal Wholesale Power Company, Hudson Light and Power Department, and Taunton Municipal Lighting Plant.

Station to which NextEra Seabrook is entitled is sold into the New England power market.

5. Applicants state that they share nuclear fuel design, procurement, and fabrication functions within the NextEra Nuclear Fuel Department. In other words, employees in the NextEra Nuclear Fuel Department perform these functions on behalf of both the NextEra Market-Regulated Nuclear Companies and FPL. Applicants request a limited waiver of the Commission's affiliate restrictions (18 C.F.R. §§ 35.39(c)(2)(i) and 35.39(d)(1) (2011)) in order to allow their continued sharing of nuclear fuel design, procurement, and fabrication functions. Applicants represent that although they share nuclear fuel design, procurement, and fabrication functions, there exist effective safeguards against the diversion of benefits from FPL's captive customers to NextEra Market-Regulated Nuclear Companies' shareholders. Applicants state that these safeguards will continue to exist if this waiver is granted.⁶

6. Applicants state that nuclear fuel procurement and fabrication requires specialized knowledge that allows for careful integration of power reactor core design requirements, analysis of supply availability of uranium and services required to produce the fuel assemblies, and integration of the various components needed to fabricate nuclear fuel for delivery to each nuclear plant site. Applicants state that while each reactor is unique, centralized management of the fuel design, procurement, and fabrication process allows Applicants to utilize a pool of trained engineering specialists to bring their expertise to bear at any of the eight nuclear units to promote efficient and safe operations. Additionally, Applicants contend that by utilizing a consolidated function to perform their nuclear responsibilities, they are able to obtain the economies of scale that come with purchasing for a much larger fleet of generators, resulting in savings for FPL's plants and the NextEra Market-Regulated Nuclear Companies' facilities. They state that shared fuel design, procurement, and fabrication activities provide shared benefits to FPL's captive customers worth approximately \$1 million each year in labor savings and \$10 million in annual savings achieved in procurement of conversion/enrichment/fabrication services.⁷

7. Applicants maintain that although they share nuclear fuel design, procurement, and fabrication activities within the NextEra Nuclear Fuel Department, the NextEra Nuclear Fuel Department has in place internal processes that safeguard against the transfer of benefits from FPL's captive customers. Applicants explain that from a contracting perspective, the NextEra Nuclear Fuel Department maintains separate contracts for FPL and each of the NextEra Market-Regulated Nuclear Companies for

⁶ March 14 Filing at 3-4.

⁷ *Id.* at 10-12.

each aspect of the nuclear fuel cycle. They state that the Nuclear Fuel Department maintains auditable records, including “white papers,” for every contract decision and invoice processing to justify specific design, procurement, and fabrication actions. Applicants represent that separate, duplicate contracts for each of the NextEra Market-Regulated Nuclear Companies and FPL eliminate the concern of reassignment of lower-cost deliveries to favor one entity over another. They further state that auditable records document why specific design, procurement, and fabrication decisions were made and why those decisions were in the best interest of each entity involved. They state that documenting the benefit of each contract independently and having separate contracts for each entity – provides an audit trail for regulators as well as NextEra – and serves as an additional effective barrier against advantaging the NextEra Market-Regulated Nuclear companies over FPL’s captive customers.⁸

8. Applicants state that each of the NextEra Market-Regulated Nuclear Companies and FPL contract separately for their nuclear fuel needs. Applicants further state that contracts contain the same contract terms and conditions for the price per unit of uranium, conversion services, enrichment services, and other administrative services, but may differ in terms of quantity and delivery terms based on timing for upcoming reloads.⁹ They state that purchases are made for each of the NextEra Market Regulated Nuclear Companies and FPL based on their specific timing needs to meet their upcoming reloads. Applicants also explain that when these entities have long-term open nuclear fuel requirements, shared nuclear fuel procurement personnel will solicit on behalf of all four entities to obtain economies of scale and distribute the quantity obtained based on the pro rata share of each entity’s open needs during each year of the contract period. Applicants state that, although year-to-year prices may be different, the price that each entity pays in any one year is the same. Applicants also note that they have amended their Sarbanes-Oxley¹⁰ procedures to formally codify their long-term practice of procuring nuclear fuel at the lowest evaluated cost without favoring one company over another.¹¹

9. Additionally, Applicants state that FPL’s fuel costs and nuclear fuel design, procurement, and fabrication operations are overseen by the Florida Public Service Commission. Applicants represent that oversight by the Florida Public Service Commission includes access to records, administration of FPL’s fuel and purchased

⁸ *Id.* at 15.

⁹ May 20 Filing at 10.

¹⁰ Sarbanes-Oxley Act of 2002, Pub. L. No. 107-204, 116 Stat. 745.

¹¹ May 20 Filing at 11.

power cost recovery clause, annual auditing, and a true-up to reflect the Florida Public Service Commission's determination of actual, prudently incurred fuel costs for prior years. Applicants state that this protects FPL's captive customers from inappropriately cross-subsidizing the NextEra Market-Regulated Nuclear Companies. Applicants represent that these state regulatory measures, in conjunction with the contractual and auditable safeguards the NextEra Nuclear Fuel Department has implemented, ensure that lower cost nuclear fuel cannot be diverted or transferred from FPL to the NextEra Market-Regulated Nuclear Companies to the detriment of FPL's customers.¹²

10. Applicants state that safeguards are also in place to limit access by all of FPL's market-regulated power sales affiliates, including the NextEra Market-Regulated Nuclear Companies, to market information that could be used to the detriment of captive customers. Applicants explain that FPL and the NextEra Market-Regulated Nuclear Companies do not operate in the same markets. Applicants state that all of FPL's wholesale and retail captive customers are located in peninsular Florida, and the market-based rate tariffs of all the NextEra Energy Resources subsidiaries prohibit any sales to be made to purchasers located in peninsular Florida.¹³ Applicants also state that FPL Energy Marketing (which, as stated above, controls or markets the power from the generation assets owned by FPL with the exception of the St. Lucie and Turkey Point nuclear units), and the NextEra Energy Resources marketing affiliates (which include the NextEra Market-Regulated Nuclear Companies and NextEra Energy Power Marketing) do not have access to the same network drives, and user restrictions prohibit the ability of FPL Energy Marketing and the NextEra Energy Resources marketing affiliates from sharing any information on a jointly used trading platform. Applicants also state that FPL Energy Marketing and NextEra Energy Resources operate in separate buildings. Applicants further state that FPL Energy Marketing and NextEra Energy Power Marketing and "are key card access only."¹⁴

11. Applicants represent that shared employees (that is officers or directors of FPL or its market-regulated power sales affiliates, or employees who engage in support or field and maintenance activities, who do not direct, organize, or execute generation or marketing functions) have received training on the no conduit-rule.¹⁵

¹² March 14 Filing at 15-17.

¹³ May 20 Filing at 3.

¹⁴ *Id.* at 4. We understand this to mean that the buildings in which FPL Energy Marketing and NextEra Energy Power Marketing operate are key card access only.

¹⁵ 18 C.F.R. § 35.39(g).

12. Applicants also represent that monthly oversight meetings by NextEra Energy management of FPL and NextEra Energy Resources are held separately to ensure that there is no improper transfer of market information between non-shared officers of FPL and NextEra Energy Resources. Applicants state that in order to ensure compliance with the affiliate restrictions and Standards of Conduct, for each annual meeting held for all officers and non-officer vice presidents of FPL and NexEra Energy Resources, agendas and materials are reviewed in advance to ensure that topics will not result in prohibited communications and the NextEra General Counsel reminds attendees at the outset of the meeting to restrict communications in order to comply with the regulations. Applicants also represent that safeguards are in place for circumstances where the need arises for joint meetings where joint input is necessary for technical and policy topics. Such safeguards include the General Counsel monitoring the meetings to ensure that there is no improper sharing of market information or the dismissal of certain executives from the meeting when certain topics are discussed.¹⁶

13. Applicants submit that denial of this waiver request will harm FPL's captive customers. They state that continued consolidated nuclear fuel design, procurement and fabrication functions benefits FPL's captive customers. They further state that there will be substantial new burdens on FPL's captive customers if the Commission rules that their current consolidated operations must cease.

II. Notice of Filing and Responsive Pleadings

14. Notice of Applicants' March 14, 2011 Filing was published in the *Federal Register*, 76 Fed. Reg. 16,405 (2011), with interventions and comments due on or before April 4, 2011. The Florida Municipal Power Agency filed a motion to intervene and comments in support of Applicants' request for waiver.

15. On April 20, 2011, the Director of the Division of Electric Power Regulation-West, acting under delegated authority, issued a data request (April 20 data request) directing Applicants to submit additional information concerning fuel contracts and costs, captive customers, access to market information, and protections and safeguards currently in place to prevent affiliate abuse.

16. On May 20, 2011, Applicants submitted their response to the April 20 data request. Notice of Applicants' May 20, 2011 Filing was published in the *Federal*

¹⁶ May 20 Filing at 4-5. For example, Applicants state that the President of NextEra Energy held meetings with FPL and NextEra Energy Resources executives to discuss renewables development and investment tax credits. However, all NextEra Energy Resources executives were dismissed from the meeting when FPL solar development was discussed.

Register, 76 Fed. Reg. 31,324 (2011), with interventions and comments due on or before June 10, 2011. None was filed.

III. Discussion

17. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. §§ 385.214 (2011), the Florida Municipal Power Agency's timely, unopposed motion to intervene serves to make it a party to this proceeding.

18. As discussed below, we will conditionally grant Applicants' request for limited waiver of the affiliate restrictions with regard to the separation of functions and information sharing provisions in 18 C.F.R. § 35.39(c)(2)(i) and 35.39(d)(1) to permit Applicants to continue their sharing of nuclear fuel design, procurement, and fabrication functions within the NextEra Nuclear Fuel Department. However, we note that this limited waiver does not affect Applicants' obligation to comply with the no-conduit provisions of section 35.39(g).¹⁷

19. In Order No. 697, the Commission codified certain affiliate restrictions in its regulations to protect captive customers from the potential for a franchised public utility to interact with a market-regulated power sales affiliate in ways that transfer benefits to the affiliate and its stockholders to the detriment of the captive customers.¹⁸ Captive customers are defined as "any wholesale or retail electric energy customers served by a franchised public utility under cost-based regulation."¹⁹ The affiliate restrictions govern, among other things, the separation of functions and the sharing of market information. The Commission requires that, as a condition of receiving and retaining market-based rate authority, sellers comply with these affiliate restrictions unless explicitly permitted

¹⁷ 18 C.F.R. § 35.39(g).

¹⁸ *Market-Based Rates For Wholesale Sales of Electric Energy, Capacity, and Ancillary Services by Public Utilities*, Order No. 697, FERC Stats. & Regs. ¶ 31,252, at P 513, *clarified*, 121 FERC ¶ 61,260 (2007), *order on reh'g*, Order No. 697-A, FERC Stats. & Regs. ¶ 31,268, *order on reh'g*, 124 FERC ¶ 61,055, *order on reh'g*, Order No. 697-B, FERC Stats. & Regs. ¶ 31,285 (2008), *order on reh'g*, Order No. 697-C, FERC Stats. & Regs. ¶ 31,291 (2009), *order on reh'g*, Order No. 697-D, FERC Stats. & Regs. ¶ 31,305 (2010).

¹⁹ Order No. 697-A, FERC Stats. & Regs. ¶ 31,268 at P 202; 18 C.F.R. § 35.36(a)(6) (2011).

by Commission rule or order granting waiver of the affiliate restrictions.²⁰ Failure to satisfy the conditions set forth in these affiliate restrictions constitutes a violation of a seller's market-based rate tariff.²¹

20. Under the separation of functions requirement in the affiliate restrictions (section 35.29(c)(2)(i)), employees of market-regulated power sales affiliates must operate separately, to the maximum extent practical, from employees of affiliated franchised public utilities with captive customers.²² Under the information sharing provisions in the affiliate restrictions (section 35.39(d)(1)), a franchised public utility with captive customers may not share market information with a market-regulated power sales affiliate if the sharing could be used to the detriment of captive customers, unless simultaneously disclosed to the public. Section 35.39(d)(2) generally provides that permissibly shared support employees, field and maintenance employees and senior officers and board of directors may have access to information covered by the prohibition of section 35.39(d)(1), subject to the no-conduit provision in section 35.39(g), which provides that a franchised public utility with captive customers and a market-regulated power sales affiliate are prohibited from using anyone as a conduit to circumvent the affiliate restrictions.

21. With respect to the separation of functions requirement, on April 15, 2010, in response to a request for clarification, the Commission provided guidance regarding which employees may not be shared under the affiliate restrictions unless otherwise permitted by Commission rule or order.²³ Specifically, the Commission clarified that, consistent with Order No. 697-A, a franchised public utility with captive customers and its market-regulated power sales affiliate may not share employees that make economic

²⁰ *Market-Based Rates for Wholesale Sales of Electric Energy, Capacity and Ancillary Services by Public Utilities*, 131 FERC ¶ 61,021, at P 2 (April 15 Clarification Order), *order granting in part request for extension of time to comply*, 132 FERC ¶ 61,014 (2010) (July 2 Order), *order denying reh'g*, 134 FERC ¶ 61,046 (2011) (Rehearing Order).

²¹ Order No. 697, FERC Stats. & Regs. ¶ 31,252 at P 549-550.

²² 18 C.F.R. § 35.39(c)(2)(1).

²³ April 15 Clarification Order, 131 FERC ¶ 61,021 at P 43 (2010). In Order No. 697-A, the Commission stated that "shared employees may not be involved in decisions regarding the marketing or sale of electricity from the facilities, may not make economic dispatch decisions, and may not determine the timing of scheduled outages for facilities." Order No. 697-A, FERC Stats. & Regs. ¶ 31,268 at P 253.

dispatch decisions or that determine the timing of scheduled outages.²⁴ The Commission also clarified that franchised public utilities with captive customers are prohibited from sharing employees who engage in fuel procurement.²⁵ With respect to fuel procurement employees, the Commission explained that a shared employee who procures fuel for both the franchised public utility and the market-regulated power sales affiliate may have the incentive to allocate purchases of lower priced fuel supplies to the market-regulated power sales affiliate while allocating purchases of higher priced fuel supplies to the franchised public utility.²⁶ The Commission denied rehearing of the April 15 Clarification Order, and required that market-based rate sellers comply with the guidance in the April 15 Clarification Order within 90 days, or by April 20, 2011.²⁷ The Commission has also explained that, to the extent that affected entities believe they need additional guidance concerning compliance with the currently effective market-based rate affiliate restrictions, they may submit a request for a no-action letter regarding specific proposed transactions, practices, or situations²⁸ or may seek waiver of the market-based rate affiliate restrictions on a case-by-case basis.²⁹

22. We will conditionally grant Applicants' request for a limited waiver of the separation of functions requirements of section 35.39(c)(2)(i) and the information sharing restrictions in section 35.39(d)(1) to permit Applicants to share nuclear fuel design, procurement, and fabrication functions based on their representation that their internal fuel design, procurement, and fabrication processes, as described above, safeguard against the transfer of benefits from FPL's captive customers (and thus ensure that captive customers will not be harmed). We interpret this representation to be a commitment that captive customers will not be harmed.

²⁴ April 15 Clarification Order, 131 FERC ¶ 61,021 at P 40.

²⁵ *Id.* P 41.

²⁶ *Id.* P 42.

²⁷ Rehearing Order, 134 FERC ¶ 61,046 at P 28. On April 20, 2011, Applicants filed a request for an extension of the April 20, 2011 compliance deadline. Applicants' request for extension of time was granted pending further Commission order on the March 14 waiver request. Notice of Extension of Time, Docket No. ER11-3081-000 (April 22, 2011).

²⁸ See July 2 Order, 132 FERC ¶ 61,014 at P 5 (citing *Interpretative Order Modifying No-Action Letter Process and Reviewing Other Mechanisms for Obtaining Guidance*, 123 FERC ¶ 61,157 (2008)).

²⁹ See *id.* (citing *Cleco Power LLC*, 130 FERC ¶ 61,102 (2010)).

23. As discussed above, Applicants represent that safeguards exist to prevent the diversion of benefits from FPL's captive customers to NextEra Energy's shareholders. They state that nuclear fuel will be procured at the lowest evaluated cost without favoring one company over another and that the price that each company pays is the same for the price per unit of uranium, conversion services, enrichment services, and other administrative services.³⁰ They state that the Nuclear Fuel Department maintains auditable records for every contract decision and for invoice processing to document why specific design, procurement, and fabrication decisions were made and why those decisions were in the best interest of each entity involved. Applicants represent that separate, duplicate contracts for each of the NextEra Market-Regulated Nuclear Companies and FPL eliminate the concern of reassignment of lower-cost deliveries to favor one entity over another. They further represent that documenting the benefit of each contract independently and having separate contracts for each entity –provides an audit trail for regulators as well as NextEra – and serves as an additional barrier against advantaging the NextEra Market-Regulated Nuclear companies over FPL's captive customers.

24. Applicants also represent that safeguards are in place to limit access by all of FPL's market-regulated power sales affiliates, including the NextEra Market-Regulated Nuclear Companies, to market information that could be used to the detriment of captive customers, including for example, separate buildings in which FPL Energy Marketing and NextEra Energy Resources operate, and restrictions pertaining to access to network drives and trading platforms. Additionally, Applicants describe procedures in place to make sure that various meetings do not result in the improper transfer of market information. Applicants state that such procedures include reviewing agendas and materials in advance to ensure that topics will not result in prohibited communications, reminding attendees at the outset of meetings to restrict communications in order to comply with the regulations, actively monitoring meetings to ensure that there is no improper sharing of market information, and/or the dismissal of certain executives from the meeting when certain topics are discussed. Further, Applicants state that FPL and the NextEra Market-Regulated Nuclear Companies do not operate in the same markets and the market-based rate tariffs of all the NextEra Energy Resources subsidiaries prohibit any sales to be made to purchasers in peninsular Florida, where FPL's captive customers are located.

25. Accordingly, we will conditionally grant Applicants' request for limited waiver of the separation of functions requirements of section 35.39(c)(2)(i) and the information sharing restrictions in section 35.39(d)(1) to permit Applicants to continue their sharing of nuclear fuel design, procurement, and fabrication functions, based on their

³⁰ May 20 Filing at 10.

representation that their internal fuel design, procurement, and fabrication processes, as described above, safeguard against the transfer of benefits from FPL's captive customers, and thus ensure that captive customers will not be harmed. Additionally, as a condition of this waiver, we will require Applicants to maintain sufficient records to enable the Commission to audit whether the representations and commitments made in their request for waiver remain true and accurate, including their commitment that captive customers will not be harmed.

26. The waivers conditionally granted herein are limited to the specific facts, representations, policies, and procedures Applicants presented in their March 14, 2011 and May 20, 2011 Filings and apply only to the employees discussed in Applicants' March 14, 2011 and May 20, 2011 Filings. To the extent there is any material change in circumstances that would reflect a departure from the facts, representations, policies and procedures that we have relied upon in granting the requested waiver, Applicants will be required to inform the Commission within 30 days of any such change. With the exception of the limited waiver specifically granted herein, and any other previously granted waiver, all of the other affiliate restrictions continue to apply to Applicants.

27. Finally, we will direct Applicants to submit a compliance filing, within 30 days of the date of this order, revising the limitations and exemptions sections of their market-based rate tariffs to list the limited waiver granted herein and include a citation to this order.³¹

The Commission orders:

(A) Applicants' request for limited waiver of certain of the affiliate restrictions is hereby conditionally granted, effective April 20, 2011, as discussed in the body of this order.

(B) Applicants are hereby directed to submit a compliance filing, within 30 days of the date of this order, revising the limitations and exemptions sections of their market-based rate tariffs, as discussed in the body of this order.

(C) Applicants are hereby directed to maintain records to enable the Commission to audit their compliance, as discussed in the body of this order.

³¹ Order No. 697, FERC Stats. & Regs. ¶ 31,252 at Appendix C, *order on reh'g*; Order No. 697-A, FERC Stats. & Regs. ¶ 31,268 at P 384.

(D) Applicants must inform the Commission within 30 days of any material change in circumstances that would reflect a departure from the facts, representations, policies, and procedures the Commission relied upon in granting the waiver granted herein.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.