



Technical Conference on Liability Limitation in the SMD Tariff

By Daniel A. Doyle
American Transmission Company LLC
December 11, 2002

Before the Federal Energy Regulatory Commission



American Transmission Company LLC

- Transmission-only, limited liability company
- Has no state retail tariff
- Provides only wholesale transmission service
- Owns no generation or distribution and no energy merchant activities
- Transferred operation of facilities to the Midwest ISO



Limiting Liability is Sound Regulatory Policy

- Widely accepted in state regulated tariffs
- Reduces rates
- Unavailability/inadequacy of insurance
- Potential damages
 - are difficult to quantify
 - far exceed transmission rate
 - could be commercially and financially unmanageable



Limiting Liability is Sound Regulatory Policy

- Regulated nature of business
 - one system serves all
 - one price for service
 - cannot charge higher rate to higher risk customer
- Customers have best information to protect themselves
- Courts should not regulate electric service



Proposed Liability Provision

- Applies only to damages arising from services provided under the OATT
- Does not limit liability for injuries to persons or damage to property not connected to service provided under the OATT



Proposed Liability Provision

- Limits liability for negligence to direct damages up to a stated monetary cap
- No limit on recovery of direct damage for gross negligence or willful misconduct
- No consequential damages under any circumstances
- Direct damages does not include lost profits, loss of production, loss of revenues



Proposed Liability Provision

- No liability for electric system design common to the industry or electric system operation practices or conditions common to the industry
- No liability for TOs for good faith attempts to comply with directive of the ITP