

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C.

May 26, 2006

In Reply Refer To:
The United Illuminating Company
Docket No. EL06-51-000

Akin Gump Strauss Hauer & Feld LLP
Attn: Mr. Bruce A. Grabow, Esq.
1333 New Hampshire Avenue, N.W.
Washington, D.C. 20036-1564

Re: Petition for Declaratory Order approving
proposed reclassifications of transmission and
distribution facilities

Dear Mr. Grabow:

1. On February 3, 2006, the United Illuminating Company (United Illuminating) submitted an application to the Commission to classify certain facilities as local distribution or transmission. It also submitted a March 30, 2005 decision of the Connecticut Department of Public Utility Control (Connecticut Commission) approving the proposed reclassifications. You request that the Commission defer to the Connecticut Commission's findings, consistent with Order No. 888,¹ and issue an order approving the reclassification of United Illuminating's transmission and distribution facilities as approved by the Connecticut Commission.
2. Notice of the United Illuminating Company's filing was published in the *Federal Register*, 71 Fed. Reg. 9,535 (2006), with interventions and protests due on or before February 24, 2006. None was filed.

¹ *Promoting Wholesale Competition through Open Access Non-Discriminatory Transmission Services by Public Utilities and Recovery of Stranded Costs by Public Utilities and Transmitting Utilities*, Order No. 888, 61 Fed. Reg. 21,540 (May 10, 1996), FERC Stats. & Regs. ¶ 31,036 (1996), *order on reh'g*, Order No. 888-A, 62 Fed. Reg. 12,274 (March 14, 1997), FERC Stats. & Regs. ¶ 31,048 (1997), *order on reh'g*, Order No. 888-B, 81 FERC ¶ 61,248 (1997), *order on reh'g*, Order No. 888-C, 82 FERC ¶ 61,046 (1998), *aff'd in part and remanded in part sub nom. Transmission Access Policy Study Group v. FERC*, 225 F.3d 667 (D.C. Cir. 2000), *aff'd sub nom. New York v. FERC*, 535 U.S. 1 (2002), *order on remand*, 101 FERC ¶ 61,104 (2002) (Order No. 888).

3. The Commission hereby grants United Illuminating's request to find that, on the facts that you have presented, certain facilities, as identified in the application, are state-jurisdictional local distribution facilities, and other facilities, as identified in the application, are Commission-jurisdictional transmission facilities.

4. Our deference in this proceeding only resolves the identification of the facilities used in the local distribution component of unbundled retail service; this ruling does not dictate transmission pricing; and regardless of the classification of facilities as transmission or local distribution, the Commission has jurisdiction over those facilities and can order access over them if public utilities use them to deliver power in interstate commerce to a wholesale purchaser. In addition, we note that the rates, terms and conditions of all wholesale and unbundled retail transmission service that public utilities provide in interstate commerce are subject to this Commission's jurisdiction and review. *See MidAmerican Energy Co.*, 90 FERC ¶ 61,105 at p. 61,337 (2000) (*MidAmerican*).

5. Further, our deference in this proceeding does not affect the Commission's separate determination of what facilities must be under the operational control of regional transmission organizations including independent system operators (ISOs) and Transcos. The Commission will make this latter determination taking into account the seven factors formulated for purposes of determining jurisdiction as set forth in Order No. 888, the ISO principles set forth in Order No. 888, and the principles set forth in *Regional Transmission Organizations*, Order No. 2000, 65 Fed. Reg. 809 (1999), FERC Stats. & Regs., Regulations Preambles ¶ 31,098; *order on reh'g*, Order No. 2000-A, 65 Fed. Reg. 12,088, FERC Stats. & Regs., Regulations Preambles, ¶ 31,092 (2000). *See MidAmerican*, 90 FERC ¶ 61,105 at p. 61,337; *Central Illinois Lighting Company*, 102 FERC ¶ 61,286 at P 4 (2003).

By direction of the Commission.

Magalie R. Salas,
Secretary.