

130 FERC ¶ 61,030  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

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

Brian Hunter

Docket No. IN07-26-003

ORDER DENYING REHEARING

(Issued January 15, 2010)

1. On August 18, 2008, Respondent Brian Hunter (Hunter) filed a request for rehearing of the Order Denying Rehearing, Motions for Stay, and Motions for Summary Disposition, and Establishing Hearing Procedures that was issued July 17, 2008.<sup>1</sup> As discussed below, the Commission denies Hunter's request for rehearing of the Second Rehearing/Hearing Order.

**I. Background**

2. This proceeding commenced with an order issued July 26, 2007, directing Hunter and other respondents associated with Amaranth Advisors L.L.C. to show cause why they should not be found to have violated the Commission's Anti-Manipulation Rule,<sup>2</sup> as well as why they should not be required to pay civil penalties and disgorge unjust profits.<sup>3</sup> The Show Cause Order alleged that the respondents manipulated the price of the New York Mercantile Exchange (NYMEX) Natural Gas Futures Contract (NG Futures

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<sup>1</sup> *Amaranth Advisors L.L.C.*, 124 FERC ¶ 61,050 (2008) (Second Rehearing/Hearing Order).

<sup>2</sup> In the Energy Policy Act of 2005, Congress amended the Natural Gas Act (NGA) by adding, *inter alia*, section 4A, which prohibits manipulation of natural gas markets in connection with the sale or purchase of natural gas or transportation services that are subject to the Commission's jurisdiction. 15 U.S.C. § 717c-1 (2006). The Commission implemented that amendment by adopting the Anti-Manipulation Rule (18 C.F.R. § 1c.1 (2009)). *Prohibition of Energy Market Manipulation*, Order No. 670, FERC Stats. & Regs. ¶ 31,202, *order denying reh'g*, Order No. 670-A, 114 FERC ¶ 61,300 (2006) (together, Order No. 670).

<sup>3</sup> *Amaranth Advisors L.L.C.*, 120 FERC ¶ 61,085 (2007) (Show Cause Order).

Contract) by engaging in extensive sales during the final 30 minutes of trading on three dates in 2006, intentionally producing artificial “settlement prices” for the contracts, which in turn affected the prices of Commission-jurisdictional transactions. Respondent Hunter and another trader were alleged to have executed the trades at issue. In addition to the instant proceeding, the respondents’ conduct also has been the subject of proceedings in various federal courts, including a complaint filed in the United States District Court for the Southern District of New York by the Commodity Futures Trading Commission (CFTC).<sup>4</sup>

3. Various respondents filed requests for rehearing of the Show Cause Order and for an extension of the deadline for filing responses to the Show Cause Order.<sup>5</sup> On November 30, 2007, the Commission issued an order denying rehearing, addressing at length the challenges to the Commission’s subject matter jurisdiction, explaining the statutory basis for the Anti-Manipulation Rule and its relationship with other NGA provisions, and describing the type of conduct that is subject to the rule, as well as the meaning of “any entity” and the meaning of the “in connection with” language of NGA section 4A. The Commission also discussed its jurisdiction compared to that of the CFTC.<sup>6</sup> The Commission concluded as follows:

The Commission denies Amaranth’s request for expedited rehearing on the issue of the Commission’s jurisdiction to punish manipulative trading of NG Futures Contracts that had a direct effect on the price of physical natural gas within the Commission’s jurisdiction. The Commission’s determination is supported by the language of the NGA; it is consistent with, and does not infringe upon, the jurisdiction of the CFTC; and it furthers the objective of the NGA to ensure that energy markets remain fair and competitive.<sup>7</sup>

4. On December 14, 2007, Hunter and other respondents filed their responses to the Show Cause Order, challenging all aspects of that order. On February 1, 2008, the Commission issued an Order Designating Commission Staff as Non-Decisional and

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<sup>4</sup> *CFTC v. Amaranth Advisors, L.L.C.*, 523 F. Supp. 2d 328 (S.D.N.Y. 2007).

<sup>5</sup> Hunter did not file a request for rehearing of the Show Cause Order, although on December 5, 2007, he filed an Emergency Motion to Stay Proceedings or, Alternatively, for Extension of Time to Answer Order to Show Cause.

<sup>6</sup> *Amaranth Advisors L.L.C.*, 121 FERC ¶ 61,224 (2007) (First Rehearing Order).

<sup>7</sup> *Id.* P 66. In the First Rehearing Order, the Commission also reserved other issues for a future order. *Id.* P 1.

Ordering Brief.<sup>8</sup> In part, that order directed the Commission's Enforcement Litigation Staff (Enforcement Litigation Staff) to file a brief addressing the issues that it recommended be set for an evidentiary hearing before an Administrative Law Judge (ALJ) and those it recommended for a decision by the Commission without an evidentiary hearing. That order also afforded the respondents an opportunity to file reply briefs.

5. The Second Rehearing/Hearing Order primarily addressed issues not resolved in the First Rehearing Order. In the Second Rehearing/Hearing Order issued July 17, 2008, the Commission affirmed its earlier determinations that it has subject matter jurisdiction and that it has personal jurisdiction over Hunter. Additionally, the Commission affirmed that the term "any entity" in NGA section 4A applies to natural persons, that specific false statements need not be made to trigger potential liability under that section, and that acting with reckless disregard for jurisdictional transactions also is sufficient to trigger potential liability. Finally, the Commission affirmed that *de novo* review in a United States District Court is not required before a civil penalty may be assessed for a violation of the Anti-Manipulation Rule.

6. Following the issuance of the Second Rehearing/Hearing Order, the United States District Court for the District of Columbia (D.C. District Court) granted the Commission's motion to dismiss Hunter's request for a declaratory judgment concerning the Commission's assertion of personal jurisdiction over him, and the Court of Appeals for the District of Columbia Circuit (Court of Appeals) affirmed the lower court's decision.<sup>9</sup> Those decisions make it clear that a United States Court of Appeals has exclusive jurisdiction over challenges to the Commission's orders under the NGA.

7. Subsequent settlement discussions among certain of the respondents and Enforcement Litigation Staff proved fruitful, and on August 12, 2009, the Commission issued the Order Approving Uncontested Settlement, accepting a settlement reached by Enforcement Litigation Staff and all respondents to the Show Cause Order with the exception of Hunter.<sup>10</sup> The hearing addressing Hunter's alleged violations of the Anti-Manipulation Rule concluded September 2, 2009, and an initial decision by the ALJ is pending.

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<sup>8</sup> *Amaranth Advisors L.L.C.*, 122 FERC ¶ 61,087 (2008) (Order Designating Staff).

<sup>9</sup> *Hunter v. FERC*, 569 F. Supp. 2d 12 (D. D.C. 2008), *aff'd*, 2009 U.S. App. LEXIS 23417 (D.C. Cir. 2009).

<sup>10</sup> *Amaranth Advisors L.L.C.*, 128 FERC ¶ 61,154 (2009).

## II. Discussion

8. On the first page of his request for rehearing of the Second Rehearing/Hearing Order, Hunter acknowledges that all of the issues he raises have been addressed by the Commission in previous orders. Hunter also states that his purpose in seeking rehearing is to obtain a decision that he can appeal to the Court of Appeals.<sup>11</sup> Hunter states as follows:

All of the issues addressed herein have previously been briefed by Hunter, other Respondents in this litigation and the Enforcement Staff. Moreover, the Commission has addressed all of these issues in various orders related to the instant action, as well as in orders related to other actions for violation of NGA section 4A. Since none of the issues raised in this petition are [sic] new to the Commission, we respectfully request that the Commission provide a decision of [sic] this petition expeditiously.<sup>12</sup>

### A. Jurisdiction

9. Despite his admission that these jurisdictional issues have been addressed by the Commission and the other respondents in this proceeding, Hunter nonetheless asks the Commission to consider again the question of its subject matter jurisdiction. First, Hunter contends that the Commission does not have anti-manipulation jurisdiction over those who trade solely in natural gas futures rather than physical natural gas. Hunter also argues that the NGA does not grant the Commission authority over natural gas futures, which are regulated by the CFTC. Additionally, Hunter claims that the “in connection with” language in NGA section 4A does not extend the Commission’s jurisdiction to natural gas futures and that the term “any entity” does not include natural persons.<sup>13</sup>

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<sup>11</sup> Request of Brian Hunter for Expedited Rehearing of the Commission’s Order Denying Rehearing, Motions for Stay, and Motions for Summary Disposition, and Establishing Hearing Procedures and for a Stay Pending the Commission’s Decision on Rehearing, Aug. 18, 2008, at 3.

<sup>12</sup> *Id.* at 1.

<sup>13</sup> Section 4A of the NGA provides as follows:

It shall be unlawful for any entity, directly or indirectly, to use or employ, in connection with the purchase or sale of natural gas or the purchase or sale of transportation services subject to the jurisdiction of the Commission, any manipulative or deceptive device or contrivance (as those terms are used in section 10(b) of the Securities Exchange Act of 1934 . . . in

(continued ...)

10. In the Second Rehearing/Hearing Order, the Commission stated:

The [First] Rehearing Order addressed at length and resolved the question of the Commission's authority regarding manipulative trading in the NG Futures Contract market that has a direct effect on the price of physical natural gas prices subject to the Commission's jurisdiction. For the reasons set forth there, the Commission denies [the] . . . request to dismiss this proceeding for lack of subject matter jurisdiction. Similarly, the Commission denies the requests for rehearing of Amaranth LLC and AIL to the extent they purport to adopt the arguments regarding the Commission's subject matter jurisdiction that were rejected in the [First] Rehearing Order.<sup>14</sup>

11. Indeed the entire First Rehearing Order addressed the Commission's subject matter jurisdiction, which allows it to sanction manipulative conduct that has a nexus to and a significant effect on the prices of Commission-jurisdictional wholesale sales of physical natural gas or the transportation of physical natural gas. The Commission explained that it has the authority to sanction such conduct although it does not regulate the trading of natural gas futures on a day-to-day basis. Those trading activities are subject to the CFTC's exclusive jurisdiction. The Commission further emphasized that its jurisdiction under NGA section 4A complements the CFTC's jurisdiction.<sup>15</sup>

12. In his May 19, 2008 response pursuant to the Order Designating Staff, Hunter relied on his response to the Show Cause Order (at p. 55) on the issue of the Commission's statutory jurisdiction.<sup>16</sup> In addressing the interpretation of "any entity" in that response, Hunter incorporates by reference the arguments raised in the memorandum of Respondent Donohoe in compliance with the Order Designating Staff.<sup>17</sup>

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contravention of such rules as the Commission may prescribe as necessary in the public interest or for the protection of natural gas ratepayers.

<sup>14</sup> *Amaranth Advisors L.L.C.*, 124 FERC ¶ 61,050, at P 19 (2008).

<sup>15</sup> *Amaranth Advisors L.L.C.*, 121 FERC ¶ 61,224, at P 11, 15-66 (2007).

<sup>16</sup> Brian Hunter's Memorandum in Response to the Commission's Enforcement Staff's Brief Addressing Trial or a Ruling and in Opposition to Motion for Summary Disposition, May 19, 2008, at 5.

<sup>17</sup> *Id.*

13. At P 18 of the Second Rehearing/Rehearing Order, the Commission listed the arguments Hunter advanced in his May 19, 2008 memorandum in response to Enforcement Trial Staff's brief concerning the issues to be determined at hearing:

Respondent Hunter similarly claims that the Commission lacks statutory authority to bring an enforcement action against one who has traded solely in natural gas futures, for which the CFTC has exclusive jurisdiction, and has not traded in physical natural gas. Hunter maintains that the actual relationship between the natural gas futures trading and the price of physical natural gas presents a factual question that should be resolved by an ALJ before the Commission can determine that it has subject matter jurisdiction. If the natural gas futures trading at issue did not have a direct effect on jurisdictional physical natural gas prices, Hunter argues that the Commission's assertion of subject matter jurisdiction must fail. Hunter requests that the Commission resolve through a separate evidentiary hearing the factual dispute related to jurisdiction before subjecting Respondents to a full-blown proceeding on the merits.<sup>18</sup>

14. In the Second Rehearing/Hearing Order, the Commission affirmed its rulings on these issues in the First Rehearing Order.<sup>19</sup> Despite his reliance by reference on other pleadings, Hunter fails to raise any aspect of its subject matter jurisdiction that has not been resolved by the Commission in the Second Rehearing/Hearing Order or any other order in this proceeding. For example, the Commission discussed at length in the Second Rehearing/Hearing Order and rejected the arguments raised by Respondent Donohoe concerning the interpretation of "any entity."<sup>20</sup> Additionally, in his request for rehearing of the Second Rehearing/Hearing Order, Hunter admits that the Commission rejected his arguments relating to the Commission's jurisdiction for the reasons detailed in the First Rehearing Order.<sup>21</sup>

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<sup>18</sup> *Amaranth Advisors L.L.C.*, 124 FERC ¶ 61,050, at P 18 (2008) (footnote omitted).

<sup>19</sup> *Id.* P 16-19, 35-55.

<sup>20</sup> *Id.* P 39-55.

<sup>21</sup> Request of Brian Hunter for Expedited Rehearing of the Commission's Order Denying Rehearing, Motions for Stay, and Motions for Summary Disposition, and Establishing Hearing Procedures and for a Stay Pending the Commission's Decision on Rehearing, Aug. 18, 2008, at 8 n.7.

15. Hunter attempts to distinguish cases that the Commission categorized as “exempt commodities” cases in the First Rehearing Order.<sup>22</sup> For example, Hunter contends that *FTC v. Ken Roberts Co.*<sup>23</sup> supports his claim that Congress intended the Commodities Exchange Act to preempt any other federal or state authority from regulating commodities futures trading. However, in the First Rehearing Order, the Commission discussed this case, pointing out that the Court of Appeals characterized as “specious” the notion that whatever the CFTC regulates, it does so exclusively.<sup>24</sup>

16. Hunter next argues on rehearing that the term “any entity” does not extend to natural persons. However, that issue was resolved in Order No. 670 where the Commission stated that “any entity” is a deliberately inclusive term and that Congress chose not to use the terms already defined in the NGA. Further, the Commission stated, “Thus, the Commission interprets ‘any entity’ to include any person or form of organization, regardless of its legal status, function or activities.”<sup>25</sup> The Commission received no requests for rehearing on this question. Additionally, the issue was fully addressed in the Second Rehearing/Hearing Order,<sup>26</sup> and Hunter’s request for rehearing merely repeats arguments addressed and rejected in that order. Finally, Hunter largely relies on his interpretation of *American Dental Association v. Shalala*,<sup>27</sup> and *Wolverine Power Co. v. FERC*.<sup>28</sup> The Commission analyzed those cases in the Second Rehearing/Hearing Order and distinguished them from the instant case.<sup>29</sup>

17. Hunter’s assertion that the “in connection with” language of NGA section 4A does not extend the Commission’s jurisdiction to natural gas futures is equally unpersuasive.

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<sup>22</sup> *Amaranth Advisors L.L.C.*, 121 FERC ¶ 61,224, at P 47-51 (2007).

<sup>23</sup> 276 F.3d 583 (D.C. Cir. 2001).

<sup>24</sup> *Amaranth Advisors, LLC*, 121 FERC ¶ 61,224, at P 50 (2007) (citing 276 F.3d 583, 591 (D.C. Cir. 2001)).

<sup>25</sup> *Prohibition of Energy Market Manipulation*, Order No. 670, FERC Stats. & Regs. ¶ 31,202, at P 18 (2006).

<sup>26</sup> *Amaranth Advisors L.L.C.*, 124 FERC ¶ 61,050, at P 35-55 (2008).

<sup>27</sup> 3 F.3d 445 (D.C. Cir. 1993).

<sup>28</sup> 963 F.2d 446 (D.C. Cir. 1992).

<sup>29</sup> *Amaranth Advisors L.L.C.*, 124 FERC ¶ 61,050, at P 53-54 (2008).

The Commission discussed the application of this language in Order No. 670,<sup>30</sup> and the Commission received no requests for rehearing of its interpretation of that language. In the instant proceeding, the Commission also addressed the “in connection with” language in the Show Cause Order<sup>31</sup> and in the First Rehearing Order.<sup>32</sup> In the First Rehearing Order, the Commission analyzed the two cases cited by Hunter in his request for rehearing,<sup>33</sup> and Hunter’s argument in his request for rehearing of the Second Rehearing/Hearing Order is inconsistent with the Commission’s interpretation of those cases.

18. Hunter’s claim that issues relating to the Commission’s statutory authority should be “tried and decided before proceeding on the merits”<sup>34</sup> is now moot because the hearing addressing his alleged manipulative actions has concluded.<sup>35</sup> At any rate, the Commission properly reserved factual issues for consideration at the hearing. Hunter also claims that there is nothing to link his futures trading to the purchase or sale of physical natural gas and that there is no support for the proposition that the NYMEX settlement price has a direct and substantial effect on the price of physical natural gas. The Show Cause Order alleged facts sufficient to set these questions for hearing, and the issue currently is pending before the ALJ.<sup>36</sup>

19. The Commission concludes that it has sufficiently addressed in prior orders the issues relating to subject matter jurisdiction. Accordingly, the Commission affirms that it

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<sup>30</sup> *Prohibition of Energy Market Manipulation*, Order No. 670, FERC Stats. & Regs. ¶ 31,202, at P 21-22 (2006).

<sup>31</sup> *Amaranth Advisors LLC*, 120 FERC ¶ 61,085, at P 108-110 (2007).

<sup>32</sup> *Amaranth Advisors, LLC*, 121 FERC ¶ 61,224, at P 21-29, 34-45 (2007).

<sup>33</sup> *Amaranth Advisors L.L.C.*, 121 FERC ¶ 61,224, at P 35-38, 43-44 (2007) (citing *SEC v. Zandford*, 535 U.S. 813 (2002); *Rand v. Anaconda-Ericsson*, 794 F.2d 843 (2d Cir. 1986)).

<sup>34</sup> Brian Hunter’s Memorandum in Response to the Commission Enforcement Staff’s Brief Addressing Trial or a Ruling and in Opposition to Motion for Summary Disposition, May 19, 2008, at 5-8.

<sup>35</sup> In the Second Rehearing/Hearing Order, the Commission denied Hunter’s motion for a stay of the proceedings. *Amaranth Advisors L.L.C.*, 124 FERC ¶ 61,050, at P 7, 80-81 (2008).

<sup>36</sup> See *Amaranth Advisors L.L.C.*, 120 FERC ¶ 61,085, at P 57-112 (2007).

has subject matter jurisdiction over the alleged manipulative trading by Hunter of natural gas futures in connection with a Commission-jurisdictional transaction.

**B. Elements of Market Manipulation**

20. Hunter also asks the Commission to address the following issues again on rehearing: (1) whether open market manipulation requires some showing of additional deceptive conduct, (2) whether recklessness is the appropriate standard, (3) whether a finding of open market manipulation requires a showing of sole intent, and (4) whether the Commission must prove that he intentionally manipulated a jurisdictional transaction.

21. As discussed below, the Commission concludes that it established the elements of a claim of market manipulation in Order No. 670 and that it properly applied the criteria in the instant case. As with other issues discussed above, the Commission emphasizes that it received no requests for rehearing of Order No. 670 challenging the Commission's determination of the elements of a market manipulation claim. Whether Hunter's alleged conduct was consistent with these elements is an issue that is pending before the ALJ.

22. In Order No. 670, the Commission described the elements of a manipulation claim and explained that it would rely on precedent applying Rule 10(b) of the Securities Exchange Act in accordance with the intent of Congress.<sup>37</sup> The Commission stated that actionable conduct includes the use or employment of any device, scheme, or artifice to defraud.<sup>38</sup> The Commission also emphasized that violation of a duty to disclose under a Commission-filed tariff or Commission directive, including a material misrepresentation or in some cases, a material omission, could be found to violate the Anti-Manipulation Rule.<sup>39</sup> The Commission found it unnecessary to incorporate a specific intent standard in the rule,<sup>40</sup> and finally, the Commission stated that recklessness could satisfy the scienter element of the Anti-Manipulation Rule.<sup>41</sup>

23. Hunter asserts that the Commission erroneously determined that manipulation could consist of the sale of large volumes of NG Futures during the 30-minute settlement period on three different expiry dates without a showing of deceptive conduct. Hunter

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<sup>37</sup> *Prohibition of Energy Market Manipulation*, Order No. 670, FERC Stats. & Regs. ¶ 31,202, at P 46-53 (2006).

<sup>38</sup> *Id.* P 50.

<sup>39</sup> *Id.* P 51.

<sup>40</sup> *Id.* P 52.

<sup>41</sup> *Id.* P 53.

argues that most cases hold that, where there is no deceptive conduct, open market transactions do not send false signals to market participants, and thus, there is no case for manipulation. However, in the Second Rehearing/Hearing Order, the Commission addressed this point, explaining that false statements or some other form of deceptive conduct need not be made to trigger potential liability under NGA section 4A.<sup>42</sup> Whether Hunter's conduct supports a finding that he engaged in manipulative activities is a question of fact pending before the ALJ.

24. Hunter also claims that recklessness is not the appropriate standard. He claims that open market manipulation requires a showing of sole intent and that the Commission must show that he intentionally manipulated a jurisdictional transaction. Again, the Commission addressed this in the Second Rehearing/Hearing Order,<sup>43</sup> citing its determination in Order No. 670 that acting with reckless disregard to jurisdictional transactions is sufficient to trigger potential liability under the Anti-Manipulation Rule.<sup>44</sup> The Commission stated:

The Commission disagrees with Respondents that applying the Anti-Manipulation Rule to intentional behavior that recklessly affects jurisdictional markets effectively expands the types of transactions subject to the Commission's jurisdiction under the NGA. The Commission has initiated a proceeding in order to determine whether intentional, manipulative behavior in that market negatively affected transactions within the Commission's exclusive jurisdiction in violation of NGA section 4A and the Anti-Manipulation Rule. The Commission reiterates that the Anti-Manipulation Rule is not intended to cover every common law fraud that happens to touch a jurisdictional transaction. The "in connection with" element of the Anti-Manipulation Rule ensures that only fraudulent and manipulative activity that has a nexus to a jurisdictional transaction is actionable. Whether the effect on the jurisdictional transaction is intentional or reckless is not dispositive. The question leaves for hearing whether the Respondents in fact acted recklessly with regard to the effect of their trading activity on jurisdictional transactions.<sup>45</sup>

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<sup>42</sup> *Amaranth Advisors L.L.C.*, 124 FERC ¶ 61,050, at P 56-65 (2008).

<sup>43</sup> *Id.* P 66-73.

<sup>44</sup> *Id.* P 72.

<sup>45</sup> *Id.* P 73.

25. Hunter's claims that open market manipulation requires a showing of sole intent to manipulate and that the Commission must prove that he intentionally manipulated a jurisdictional transaction similarly have no merit. However, as the Commission stated in the Second Rehearing/Hearing Order, whether the effect on jurisdictional transactions is intentional or reckless is not dispositive. Rather, the question of whether the respondents acted recklessly with regard to the effect of their trading activity on jurisdictional transactions is pending before the ALJ.<sup>46</sup>

26. Accordingly, the Commission affirms that it properly stated the elements of a market manipulation claim in the Second Rehearing/Hearing Order. Whether Hunter's conduct was consistent with those elements will be determined by the ALJ.

### C. Other Issues

27. In his request for rehearing, Hunter also asks the Commission to determine whether a trial *de novo* in the federal district court is required before penalties may be assessed for alleged market manipulation. In the Second Rehearing/Hearing Order, the Commission rejected this claim by Hunter, relying on its extensive discussion of the issue of *de novo* review in a similar case. The Commission stated as follows:

The Commission thoroughly addressed in *ETP* the issue of whether there must be a *de novo* review in a United States district court before any civil penalty may be imposed under NGA section 22. For the reasons stated in that order, the Commission again concludes that Congress intended that "the Commission's assessment of NGA section 22 civil penalties should be reviewed by a court of appeals rather than a federal district court."<sup>47</sup>

28. Further, Hunter asked the Commission to stay the hearing until it rules on his request for rehearing. In the Second Rehearing/Hearing Order, the Commission denied Hunter's request for a stay of the proceedings,<sup>48</sup> and the hearing concerning Hunter's alleged violations of the Anti-Manipulation Rule concluded on September 2, 2009; therefore, his motion for stay is moot.

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<sup>46</sup> *Id.*

<sup>47</sup> *Id.* P 77 (citing *Energy Transfer Partners, L.P.*, 121 FERC ¶ 61,282, at P 53-66 (2007) (footnotes omitted)); see also *Energy Transfer Partners, L.P.*, 124 FERC ¶ 61,149, at P 15-17 (2008) (denying rehearing of the previous order).

<sup>48</sup> *Amaranth Advisors L.L.C.*, 124 FERC ¶ 61,050, at P 81 (2008).

**D. Conclusion**

29. The Commission concludes that Hunter's request for rehearing of the Second Rehearing/Hearing Order raises no issue that has not been addressed by the Commission or the courts. Additionally, as stated above, certain issues were left for determination at the hearing and will be addressed by the Commission following the ALJ's initial decision. Accordingly, the Commission denies Hunter's request for rehearing of the Second Rehearing/Hearing Order.

The Commission orders:

Hunter's request for rehearing of the Second Rehearing/Hearing Order is denied, as discussed in the body of this order.

By the Commission. Commissioner Norris voted present.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.