

DEPARTMENT OF ENERGY**Office of Energy Efficiency and Renewable Energy****Federal Energy Management Advisory Committee; Open Meeting****AGENCY:** Department of Energy.**ACTION:** Notice of open meeting.

SUMMARY: This notice announces an open meeting of the Federal Energy Management Advisory Committee. The Federal Advisory Committee Act (Public Law 92-463, 86 Stat. 770), requires that agencies publish these notices in the **Federal Register** to allow for public participation. This notice announces the first meeting of the Federal Energy Management Advisory Committee (FEMAC) under Executive Order 13123—"Greening the Government through Efficient Energy Management."

DATES: Monday, October 23, 2000; 1:30 p.m. to 5:00 p.m.; Tuesday, October 24, 2000; 9:00 a.m. to 4:00 p.m.

ADDRESS: Loews L'Enfant Plaza Hotel, 480 L'Enfant Plaza, SW., Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Steven Huff, Designated Federal Officer for the Committee, Office of Federal Energy Management Programs, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585; (202) 586-3507.

SUPPLEMENTARY INFORMATION:

Purpose of Meeting: To provide advice and guidance on the Federal Energy Management.

Tentative Agenda: Agenda will include discussions on the following:

Monday, October 23, 2000 and Tuesday October 24, 2000

- Energy-Savings Performance Contracts
- Utility energy-efficiency service contracts
- Procurement of ENERGY STAR (Registered Trademark) and other energy efficient products
 - Building design
 - Process energy use
 - Applications of efficient and renewable energy technologies (including clean energy technologies) at Federal Facilities
- Public Comment

Public Participation: In keeping with procedures, members of the public are welcome to observe the business of the Federal Energy Management Advisory Committee. If you would like to file a written statement with the Committee, you may do so either before or after the meeting. If you would like to make oral statements regarding any of these items

on the agenda, you should contact Steven Huff at (202) 586-3507 or Steven.Huff@ee.doe.gov (e-mail). You must make your request for an oral statement at least 5 business days before the meeting. Members of the public will be heard in the order in which they sign up at the beginning of the meeting. Reasonable provision will be made to include the scheduled oral statements on the agenda. The Chair of the Committee will make every effort to hear the views of all interested parties. The Chair will conduct the meeting to facilitate the orderly conduct of business.

Minutes: The minutes of the meeting will be available for public review and copying within 30 days at the Freedom of Information Public Reading Room; Room 1E-190; Forrestal Building; 1000 Independence Avenue, SW., Washington, DC, between 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC on October 3, 2000.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 00-25768 Filed 10-5-00; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission****[Docket No. ID-2932-001]****James R. Lientz, Jr; Order Granting Interventions, Dismissing Rehearing As Moot, and Directing Notification of Change in Status**

Issued October 2, 2000.

Before Commissioners: James J. Hoecker, Chairman; William L. Massey, Linda Breathitt, and Curt Hebert, Jr.

In this order, the Commission dismisses as moot a request for rehearing, in light of subsequent and superseding Congressional action, of a letter order issued in this proceeding on August 13, 1998, that concluded that James R. Lientz, Jr. could only conditionally hold interlocking positions as Director of Georgia Power Company (Georgia Power) and President and Director of NationsBank of Georgia, N.A. (NationsBank Georgia).¹

In addition, the Commission directs other individuals who have been granted authorization to hold an interlock and who believe they are

affected by the above Congressional action to provide notice to us.

Background

On January 3, 1996, Mr. Lientz filed an application pursuant to section 305(b) of the Federal Power Act (FPA)² for Commission authorization to hold interlocking positions as Director of Georgia Power and President and Director of NationsBank Georgia. As explained in the August 13 Order, Georgia Power is a public utility for the purpose of section 305(b).³ While neither NationsBank Georgia nor its parent may directly underwrite or participate in the marketing of the securities of a public utility, two affiliates of NationsBank Georgia may underwrite or participate in the marketing of the securities of public utilities. The Commission has found that these securities underwriting and marketing authorizations are attributed to NationsBank Georgia, and as a consequence, the proposed interlocking positions were found to be jurisdictional pursuant to section 305(b).⁴

In the August 13 Letter Order, the Director, Division of Opinions and Corporate Applications, Office of Electric Power Regulation, pursuant to delegated authority, explained.

[T]he Commission has observed that a senior executive or corporate officer has the ability to substantially influence company policies in such a manner as to jeopardize the best interests of the utility, its investors, and the consuming public. Accordingly, the Commission has held that this type of interlock requires the imposition of certain safeguards to prevent "opportunities for undue influence, failures in arms length bargaining, or other potential improprieties."

After consideration, it is concluded that the conditioned holding of the positions identified will not adversely affect public or private interests. Authorization to hold them is hereby granted subject to the condition that NationsBank Georgia (and its subsidiaries and affiliates) refrain from underwriting or participating in the marketing of securities (other than dealing in the secondary securities market) of Georgia Power (and its subsidiaries and affiliates) during the period Mr. Lientz holds any of the authorized interlocking positions.⁵

On rehearing, Mr. Lientz requests that the Commission no longer impose the underwriting ban as a condition of his interlock authorization. Mr. Lientz asserts that the underwriting ban "is no longer justified or necessary to protect the public interest,"⁶ and that changed circumstances warrant the Commission

² 16 U.S.C. 825d(b) (1994).

³ 84 FERC at 64,226.

⁴ See *id.* at 64,226 & n.3.

⁵ *Id.* at 64,226 (footnotes omitted).

⁶ Request for Rehearing at 2.

¹ James R. Lientz, Jr., 84 FERC ¶ 62,143 (1998) (August 13 Letter Order).

ceasing to impose the underwriting ban as a condition of approving the type of interlock at issue in this proceeding.

Mr. Lientz also requests that, in lieu of the underwriting ban, the Commission consider the use of two alternative, and less onerous, conditions when approving an interlock between a public utility and an underwriting firm. Specifically, that:

(i) the applicant would refrain from participating, directly, or indirectly, as director or officer of the public utility or the affected underwriting firm (or such underwriting firm's parent), in any decisions regarding the financing of the public utility (or its affiliate(s)) by such underwriting firm; or

(ii) the applicant would prove, to the satisfaction of a majority of the disinterested directors of the public utility and the affected underwriting firm, respectively, that the proposed transactions(s) between the public utility and the underwriting firm are fair and reasonable to the utility's shareholders and ratepayers, such proof to be evidenced by a vote of the disinterested directors of the public utility and the affected underwriting firm.⁷

On September 14, 1998, Georgia Power filed an untimely motion to intervene and a brief in support of Mr. Lientz's request for rehearing. On April 20, 1999, First Union Corporation (First Union) filed an untimely motion to intervene and an amicus brief in support of granting rehearing to reconsider whether the Commission's current policy on interlocks between banks and public utilities should be continued.

Subsequent and Superseding Congressional Action

On November 12, 1999, the President signed into law the Gramm-Leach-Bliley Financial Modernization Act (Financial Modernization Act).⁸ Among other things, this legislation amends section 305(b) to include four conditions, and if any one of these were met, they would remove from our jurisdiction a person seeking to hold an interlocking directorate.⁹ On November 18, 1999, First Union filed a motion to lodge the Financial Modernization Act.

Discussion

Pursuant to Rule 214(d) of the Commission's Rules of Practice and Procedure, we will grant the untimely motions to intervene of Georgia Power and First Union, given the unique circumstances present here, their interest in the outcome of this

proceeding, and the absence of any prejudice or delay.¹⁰

We will dismiss as moot the request for rehearing. As noted above, subsequent to the August 13 Letter Order and Mr. Lientz's request for rehearing, Congress amended section 305(b). Section 305(b)(2)(B) now provides, in relevant part, that the section 305(b) ban on holding interlocking directorates, absent Commission authorization, does not apply if the person holding the interlock:

(i) does not participate in any deliberations or decisions of the public utility regarding the selection of a bank, trust company, banking association, or firm to underwrite or participate in the marketing of securities of the public utility, if the person serves as an officer or director of a bank, trust company, banking association, or firm that is under consideration in the deliberation process;

(ii) the bank, trust company, banking association, or firm of which the person is an officer or director does not engage in the underwriting of, or participate in the marketing of, securities of the public utility of which the person holds the position of officer or director;

(iii) the public utility for which the person serves or proposes to serve as an officer or director selects underwriters by competitive procedures; or

(iv) the issuance of securities of the public utility for which the person serves or proposes to serve as an officer or director has been approved by all Federal and State regulatory agencies having jurisdiction over the issuance.¹¹

Thus, in amending section 305(b)(2), Congress has eliminated, in certain circumstances, the need for the holder of the interlocks to obtain Commission authorization for such interlocks. These circumstances include, as relevant here, where the underwriting firm¹² involved in an interlock is under consideration to underwrite the securities of the public utility involved in the interlock and where persons who would hold the interlocks do not themselves participate in the public utility's selection of the underwriting firm.¹³

As noted above, in his request for rehearing, Mr. Lientz proposed that as a condition for Commission approval of an interlock, "the applicant would refrain from participating, directly, or indirectly, as director or officer of the public utility or the affected underwriting firm (or such underwriting firm's parent), in any decisions affecting

the financing of the public utility (or its affiliate(s)) by such underwriting firm."¹⁴ We interpret Mr. Lientz's proposed condition as effectively agreeing to the first condition of section 305(b)(2)(B), and we direct Mr. Lientz to notify the Commission within 30 days if he believes that further Commission action is required.

In light of the new legislation pertaining to section 305(b)(2)(B)(i) and our understanding that Mr. Lientz meets at least one of the conditions of section 305(b)(2)(B), he no longer needs Commission authorization to hold the interlocking directorate. Thus, we will dismiss as moot Mr. Lientz's request for rehearing.

We also take this opportunity to state that if there are other individuals who have been granted authorization to hold interlocking directorates, but believe that they now do not need such Commission authorization because of section 305(b)(2)(B), they should notify the Commission of this within 30 days of the date of publication in the **Federal Register**, pursuant to section 45.5(b) of the Commission's regulations.¹⁵

The Commission orders:

(A) Georgia Power's and First Union's untimely motions to intervene are hereby granted.

(B) Mr. Lientz's request for rehearing of the August 13 Order is hereby dismissed as moot, as discussed in the body of this order.

(C) Any individual who has been granted authorization to hold an interlock who believes he is affected by the Financial Modernization Act is hereby directed to so notify the Commission, within thirty (30) days of the date of publication of this order in the **Federal Register**, as discussed in the body of this order.

(D) The Secretary is hereby directed to publish this order in the **Federal Register**.

By the Commission.

David P. Boergers,
Secretary.

[FR Doc. 00-25664 Filed 10-5-00; 8:45 am]

BILLING CODE 6712-01-M

ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-6611-5]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564-7167 or www.epa.gov/oeca/ofa

¹⁴ Request for Rehearing at 43.

¹⁵ 18 CFR 45.5(b) (2000).

¹⁰ 18 CFR 385.214(d)(2000).

¹¹ 16 U.S.C.A. 825d(b)(2)(B) (West Supp. 2000).

¹² We use the phrase "underwriting firm" as a short-hand description of the longer, statutory "bank, trust company, banking association, or firm."

¹³ See 16 U.S.C.A. 825d(b)(2)(B)(i) (West Supp. 2000).

⁷ *Id.* at 43.

⁸ Pub. L. 106-102, 113 Stat. 1338 (1999).

⁹ 16 U.S.C.A. 825d(b)(2) (West Supp. 2000).