use of basis differentials to price transportation services enables the pipeline to negotiate market sensitive transportation rates, consistent with the Commission’s goal of encouraging competition in the transportation capacity market. Such market sensitive rates provide greater efficiency in the production and distribution of gas across the pipeline grid. For example, such rates minimize the distorting effect of transportation costs on producer decisions concerning exploration and production. They also help the pipeline to more accurately assess when new construction is needed, because a high basis differential indicates a need for more capacity between the points.16

9. In implementing its policy against the use of basis differentials, the Commission recognized that the use of basis differential pricing mechanisms yielded significant benefits, but stated that such increased flexibility could not justify the increased risk that the pipelines may utilize their market power over transportation service to manipulate commodity market to increase basis differentials.17

10. However, in the Commission’s view, the ability of pipelines to manipulate the gas commodity market is tempered by several factors. First, part 284 of the Commission’s regulations and its policies provide that pipelines must sell capacity to maximum rate bidders.18 Therefore, pipelines may not hoard desired capacity in an attempt to widen basis differential without violating the Commission’s existing regulations.

11. Given these facts and the benefits of the use of basis differential pricing mechanisms, the Commission finds that it is not necessary to ban the use of such mechanisms in order to mitigate the potential for manipulation of the market for either transportation or gas sales. Rather, the Commission will permit the use of gas commodity basis differentials and will continue to investigate, on a case by case basis, allegations of market manipulation or attempted market manipulation by pipelines. In this manner, the flexibility benefits of this pricing mechanism may be retained while the Commission maintains the integrity of the marketplace.

The Commission orders:

(A) The requests for rehearing of the Commission’s July 9, 2003 Order are dismissed as discussed in the body of this order.

(B) The Commission’s July 9, 2003 Order is clarified as discussed in the body of this order.

18 See Tennessee Gas Pipeline Co., 91 FERC ¶ 61,053 (2000), order on reheg. ¶ 61,097 (2001), aff’d, Process Gas Consumers Group v. FERC, 292 F.3d 831 (D.C. Cir. 2002). Moreover, in Order No. 637–A, the Commission reaffirmed its position that the recourse rate effectively mitigates pipeline market power by stating that “[t]he requirement that a pipeline sell its capacity at the regulated maximum rate prevents tacit collusion between the pipeline and the shipper to withhold capacity to raise price above the ceiling.” Id. at 31,264.

19 Section 315 of the Energy Policy Act of 2005 added the following provision to the Natural Gas Act:

Prohibition on Market Manipulation

SEC. 4A. 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 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 (15 U.S.C. 78j(b))) in contravention of such rules and regulations as the Commission may prescribe as necessary in the public interest or for the protection of natural gas ratepayers. Nothing in this section shall be construed to create a private right of action.

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at http://www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than February 21, 2006.

A. Federal Reserve Bank of Chicago
(Patrick M. Wilder, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690-1414:
1. Marshall & Ilsley Corporation, Milwaukee, Wisconsin; to acquire 100 percent of the voting shares of Trustcor Financial, Inc., St. Louis, Missouri, and thereby indirectly acquire Missouri State Bank and Trust Company, Clayton, Missouri.

B. Federal Reserve Bank of San Francisco
(Tracy Basinger, Director, Regional and Community Bank Group) 101 Market Street, San Francisco, California 94105-1579:
1. Wells Fargo & Company, San Francisco, California; to acquire 100 percent voting shares of Fremont National Bank of Canon City, Canon City, Colorado.
2. Wells Fargo & Company, San Francisco, California; to acquire 100 percent voting shares of Centennial Bank of Pueblo, Pueblo, Colorado.


Robert deV. Frierson,
Deputy Secretary of the Board.
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