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Organisation de Coopération et de Développement Economiques
Organisation for Economic Co-operation and Development **23-Sep-2004**

Telecommunications

1. The U.S. has moved away from structural separation between vertically related carriers. As of 2003, the Regional Bell Operation Companies were allowed into long distance services in all the states of the US. And while the Telecommunications Act of 1996 requires them to have separate subsidiaries to provide long distance for a limited 3-year period, in so

for transportation on these pipelines are regulated by the FERC. Natural gas prices are unregulated. Pipelines and producers renegotiated their long term gas supply contracts. LDCs then made separate contracts for gas supply directly with producers and marketers and purchased interstate transportation from the pipelines. Large industrial customers that are able to connect directly to interstate pipelines can also purchase natural gas directly from producers and pay the pipeline for transportation only.

6. Local distribution of natural gas in the United States is regulated by states and has not, for the most part, been structurally separated. Most residential and commercial natural gas distribution customers cannot buy their supply directly from a producer or marketer at unregulated prices but must buy from the local monopoly LDC at a regulated rate. This is changing, however, and many states have separated local distribution from gas sales, at least for large commercial and industrial customers of the LDCs. A notable example occurs in the Atlanta, Georgia, area where all retail natural gas is sold by independent suppliers because the LDC does not have an affiliated retailer.

7. Another form of separation is found in the Detroit, Michigan, area where the LDC has divested part of the capacity of its system to a competitor. This arrangement stemmed from settlement of a merger case by which the electricity distribution company in the area acquired the natural gas LDC. The competitive concern addressed by the divestiture was that after the merger, the LDC would have diminished incentives to offer discounts to customers considering investments in on-site electricity generation fueled by natural gas. On-site generation competes with the local electric utility. Potential conflicts over operation of the local distribution network and associated natural gas storage facilities are handled by an independent third party agreed to by the two competitors.

8. After restructuring the natural gas industry, the FERC sought to encourage structural separation in the electricity industry as well. The electricity industry in the United States was traditionally highly vertically integrated with the owner of the local distribution network owning all of the generation and high voltage transmission that served its customers. The FERC sought to separate these functions by encouraging entry by independent generators, but it lacked authority to order a company to transmit power over its transmission lines for a third party generator. Through a combination of legislation and regulatory changes, the FERC restructured the wholesale (generation) sector by requiring all owners of transmission to publish open access tariffs. Wholesale customers (for example municipal systems or third party utilities) could then get access to a variety of generation sources via the interstate transmission grid. Terms and conditions for transmission are set by a FERC-regulated tariff. The price for the electricity remained regulated but the regulated rate is set at the market price (so called “market based” rates) rather than based on some accounting of historical costs of production.

9. The FERC has taken further steps to separate the generation and transmission sectors, although not through actual divestiture of ownership. (As described below, some states did require divestiture of generation assets as part of their implementation of retail competition.) The FERC has encouraged creation of Regional Transmission Organizations (RTOs). In regions with RTOs, transmission-owning utilities have ceded operation of their wires to a neutral operator that is unaffiliated with any generator in the region. This organization then schedules power without regard to the ownership of the plants generating the power. While there are a set of basic principles to enforce the independence of the operator, each RTO has its own set of operating rules. Some RTOs also operate a spot wholesale electricity sales market. Prices for electricity in such markets are “market based,” with the exception of some severe load pockets.

10. Retail electricity operations (all deliveries and sales of electricity to ultimate consumers) are not regulated by the FERC and have traditionally been regulated by the states. Separation of supply, distribution and sales to ultimate consumers is thus a function of state and not federal policy. Many states considered restructuring their retail sectors. Some retained a traditional, regulated, vertically integrated