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June 7, 2006

Luly E. Massaro
Division Clerk
Division of Public Utilities & Carriers
89 Jefferson Boulevard
Warwick, RI 02888

Re: In Re: Joint Petition for Purchase and Sale of Assets by the Narragansett Electric Company and Southern Union Company
Docket No. D-06-13

Dear Luly:

I enclose an original and four copies of the following documents for filing:

1. Objection of Southern Union Company to Motion to Compel of Attorney General; and

2. Objection of Southern Union Company to Motion to Compel of Rhode Island Department of Environmental Management.

Very truly yours

Gerald J. Petros

GJP:cl

cc: Counsel of record

710724v1 (14015/128511)

STATE OF RHODE ISLAND & PROVIDENCE PLANTATIONS
PUBLIC UTILITIES COMMISSION
DIVISION OF PUBLIC UTILITIES AND CARRIERS

IN RE:	JOINT PETITION OF THE NARRAGANSETT ELECTRIC COMPANY AND SOUTHERN UNION COMPANY FOR APPROVAL OF PURCHASE AND SALE OF ASSETS	))))	Docket D-06-13

OBJECTION OF SOUTHERN UNION COMPANY TO MOTION TO COMPEL OF ATTORNEY GENERAL

I. INTRODUCTION

Petitioner, Southern Union Company, ("Southern Union") objects to the motion of the Rhode Island Department of Attorney General ("Attorney General") to compel more responsive answers and the production of documents in response to the Attorney General's Data Requests Nos. 1-2, 1-14 through 1-18.

In this case, the Division has already ruled that the only relevant aspect of the "Tiverton" matter is whether this transaction ["the proposed asset sale"] will negatively impact Southern Union's ability to pay for a cleanup if it is found liable. The Attorney General's motion seeks information and documents concerning Southern Union's post-transaction "plans" to move its Massachusetts assets into a subsidiary corporation. The Attorney General further contends, without factual or legal support, that Southern Union will or could assign any potential Tiverton liability to this Massachusetts subsidiary and thereby evade responsibility.

The Division should deny the Attorney General's motion for at least three reasons. First, the information sought by the Attorney General is plainly outside of, and contrary to, the limited inquiry framed by the Division: will this transaction – not some later transaction in Massachusetts – impact Southern Union's ability to pay. Second, there is no legal or factual

support for the Attorney General's "apprehension" that Southern Union could evade potential Tiverton liability through an assignment to a Massachusetts subsidiary. In fact, Rhode Island statutory law, as well as the common law throughout the United States, prohibits such an evasion. Finally, Southern Union has offered to stipulate in this proceeding that neither the approval of the Joint Petition nor the subsequent Massachusetts Transfer of assets to a subsidiary shall alter (i) Southern Union's liability, if any, for environmental issues associated with Tiverton or (ii) Southern Union's legal obligation, if any, to satisfy a final (following all appeals) enforceable judgment entered against it arising out of the Tiverton actions. Such stipulation addresses any reasonable concerns expressed by the Attorney General and eliminates any further need for the Hearing Officer to address the particular Data Requests in question. For all of these reasons, discussed more fully below, the Division should deny the Attorney General's motion to compel.

II. ARGUMENT

1. The Massachusetts Transaction is Beyond the Limited Scope of This Proceeding.

The Division has limited the Tiverton inquiry to determining whether "the proposed assets sale does not negatively impact Southern Union's ability to pay for remedial actions in the event it is found liable for any of the contamination in Tiverton." Order, p. 16. The Division found that intervention for this "limited purpose" will not unduly delay the proceedings or prejudice the petitioners. Thus, the relevant issue is whether this transaction, the only transaction before the Division, will impact Southern Union's ability to pay. Employing this standard established by the Hearing Officer, it is clear that the Attorney General's questions concerning Southern Union's later plans to transfer New England Gas Company's Massachusetts operations

to a Massachusetts subsidiary are not relevant to this proceeding, which is intended to review the impact of the Rhode Island transaction.

Moreover, the transfer of Southern Union's Massachusetts assets to a Massachusetts subsidiary will not impact Southern Union's "ability to pay." Southern Union's assets exceed $5 billion. Southern Union's Massachusetts assets constitute a relatively small percentage of those assets. Transferring those assets to a wholly owned subsidiary cannot possibly have an appreciable impact on Southern Union's ability to pay a potential judgment arising out of Tiverton. Even the Attorney General must concede this much.

2. Southern Union Cannot Evade Potential Tiverton Liability By Assigning That Liability to a Massachusetts Subsidiary.

The Attorney General's contention that Southern Union will somehow evade potential liability for Tiverton by assigning any liability to this Massachusetts subsidiary is without merit. First, that argument is outside the scope of the limited inquiry permitted by the Division regarding Tiverton in this proceeding. The issue raised by the Attorney General is a liability issue, not an ability to pay issue.

Second, the premise of the Attorney General's concern is demonstrably false. Under Rhode Island law, and indeed under the common law throughout the United States, a corporation cannot evade or eliminate a legal liability by simply assigning that liability to a subsidiary or some other corporation. Case law directly on point holds that such assignments or agreements between a parent corporation and its subsidiary have no effect against third party tort claimants. In other words, a parent corporation remains liable for the acts of its predecessor-by-merger despite a purported assignment of liability to a subsidiary.

As an initial matter, it is clear that when Southern Union acquired FRGC through the merger, Southern Union, as the surviving corporation, assumed liability for torts committed by

FRGC prior to the acquisition date. See R.I. Gen. Laws § 7-1.2-1005(b)(5) ("The surviving corporation [of a merger] . . . is subsequently responsible and liable for all the liabilities and obligations of each of the corporations merged . . . ."); Mass Gen. Laws § 80(b) (the "surviving corporation [of a merger] shall be deemed to have assumed, and shall be liable for, all liabilities and obligations of each of the constituent corporations in the same manner and to the same extent as if such resulting or surviving corporation has itself incurred such liabilities or obligations."); 19 C.J.S. *Corporations* § 810(a) ("As a general rule, a corporation formed by consolidation or merger is answerable for the debts and liabilities of the constituent corporations, whether they arise *ex contractu* or *ex delicto*.").[1]

Courts that have considered the issue have rejected the notion that a parent corporation can strip itself of liability, either for its own torts or for the torts of a predecessor-by-merger, by assigning liability to a subsidiary corporation. E.g., Arevalo v. Saginaw Machine Sys., 344 N.J. Super. 490, 493, 498 (2001) (manufacturer of diecasting machinery remained liable for products liability claim despite subsidiary's assumption of liability); Tretter v. Rapid American Corp., 514 F.Supp. 1344, 1346 (E.D. Mo. 1981) (parent company would remain liable to third party for products liability asbestos claim based on conduct of predecessor-by-merger, despite parent corporation's assignment of all assets and liabilities of acquired corporation to subsidiary corporation). Similarly, a corporation's transfer of all of its assets, or of a corporate division, to another corporation does not relieve the transferor of liability. E.g., Gee v. Tenneco, Inc., 615

[1] C.J.S. further explains that the surviving corporation is liable for the liabilities of the constituent corporations "not only where liability is imposed on the new corporation by statute, or by the charter of such corporation, or by the agreement of . . . merger, but also where the constituent corporations go out of existence without any arrangement as to payment of their debts and liabilities, and the performance of their obligations being made." 19 C.J.S. *Corporations* §810(a). In this case, there are multiple bases for Southern Union's assumption of the liabilities of FRGC, including statutory law, the merger agreement, and the fact that FRGC ceased to exist by way of the merger.

F.2d 857, 862 (9th Cir. 1980) (chemical corporation could not evade liability for pre-sale tortious conduct of antibiotics division by selling division to another corporation); Cyr v. B. Offen & Co., Inc., 501 F.2d 1145, 1153 (1st Cir. 1974) ("a corporation cannot disable itself from responding to liability for its acts by distributing its assets"); Trimper v. Harris Corp., 441 F. Supp. 346 (E.D. Mich. 1977) (manufacturer of allegedly defective press remained liable despite sale of all of its assets to another corporation).[2]

In Rapid American, which is directly on point, the Glen Alden Corporation[3] ("Glen Alden") argued that it could not be liable for the acts of a corporation, the Phil Carey Manufacturing Corporation ("Old Carey"), that it had acquired through a merger. Rapid American, 514 F. Supp. at 1345. Glen Alden contended that it could not be liable for asbestos-related claims arising from Old Carey's conduct because, on the same day that Glen Alden acquired Old Carey, it had "assigned all the assets and liabilities it acquired from Old Carey to a newly formed subsidiary, Philip Carey Manufacturing Corporation (New Carey)." Id. at 1346. In the same transaction, New Carey "agreed to assume all liabilities of Old Carey and agreed to indemnify Glen Alden against any such liabilities." Id. at 1346. Glen Alden itself had never manufactured or sold asbestos. Id.

The court rejected Glen Alden's argument, stating as follows:

> The law is clear that if the parties effect the transfer of a corporate enterprise through a merger, consolidation, or sale of stock, the transferee assumes its predecessor's liabilities, including product liability claims. When Glen Alden merged with Old Carey, therefore, Glen Alden assumed the liability for the claim involved in this suit. . . . That Glen Alden subsequently transferred this liability to New Carey does not defeat plaintiff's cause of

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[2] See the earlier related opinion in Trimper v. Bruno-Sherman Corp., 436 F.Supp. 349 (E.D. Mich. 1977), for background.

[3] Rapid American was, in fact, the party to the suit, but Rapid American and Glen Alden were related entities and there was no dispute that Rapid American stood in the shoes of Glen Alden for purposes of the case. Rapid American, 514 F.Supp. at 1345, n.1 This memo, like the court's decision, refers exclusively to Glen Alden, for simplicity's sake.

> action [against Glen Alden]; it merely gives Glen Alden a claim for indemnity against New Carey's successor . . . .

Rapid American, 514 F. Supp. at 1346 (internal citations and quotations omitted). Thus, the court denied Glen Alden's motion for summary judgment, holding that the company could be held liable to the plaintiff for the conduct of its predecessor-by-merger. Id. at 1347. Discussing Gee, in which the court held that a corporation could not evade liability for the conduct of one of its divisions by later selling the division to another corporation, the court in Rapid American explained as follows:

> Though in Gee the transferor corporation was allegedly liable due to a tort committed by it, there is no reason to reach a different result when the transferor's liability was assumed due to a merger. The transferor can not escape liability to a third party by assigning the liability to the transferee.

Id. at 1346-1347.

Essentially the same principles just discussed also apply under CERCLA. A party may not transfer or assign away its CERCLA liability; the most it can do is contract with another party for indemnification. Truck Components, Inc. v. Beatrice Co., 143 F.3d 1057, 1059 (7th Cir. 1998) (Easterbrook, J.) (CERCLA "forbids any contractual attempt by an owner or operator to assign its liability"); Beazer East, Inc. v. Mead Corp., 34 F.3d 206, 211 (3rd Cir. 1994) ("any attempt to completely 'transfer' liability" is "ineffective" under CERCLA; "the most a party can do to limit its liability under CERCLA is to obtain from another an agreement 'to insure, hold harmless, or indemnify' it from any liabilities established against it." (internal citation and quotation omitted)); Mardan Corp. v. C.G.C. Music, Ltd., 804 F.2d 1454, 1459 (9th Cir. 1986) ("Contractual arrangements apportioning CERCLA liabilities . . . cannot alter or excuse the underlying liability, but can only change who ultimately pays that liability."); Purolator Products Corp. v. Allied-Signal, 772 F. Supp. 124, 129 (W.D.N.Y. 1991) ("liable parties can contractually

shift responsibility for their response costs among each other, but they may not thereby escape their underlying liability to the Government or another third party.").

The statutory basis for this non-transferability principle is 42 U.S.C. § 9607(e)(1), § 107(e)(1) of CERCLA, which states:

> No indemnification, hold harmless, or similar agreement or conveyance shall be effective to transfer from the owner or operator of any vessel or facility or from any person who may be liable for a release or threat of release under this section, to any other person the liability imposed under this section. Nothing in this subsection shall bar any agreement to insure, hold harmless, or indemnify a party to such agreement for any liability under this section.

Applying this provision, the Seventh Circuit explained in Truck Components that a parent corporation and its subsidiary could not stipulate that the subsidiary alone would be responsible to third parties for the parent corporation's CERCLA obligations. Truck Components, 143 F.3d at 1059. In that case, the parent corporation, Beatrice, had incorporated a wholly owned subsidiary, Brillion. Id. at 1058. At the time of incorporation, Brillion agreed to assume all of Beatrice's obligations and liabilities. Id. at 1059. Brillion, which was eventually sold off, later sued its former parent corporation under CERCLA, demanding that Beatrice bear the costs of environmental cleanup. The court rejected Brillion's argument, explaining that Brillion had agreed to bear the full costs of any liabilities of the parent corporation. Id. at 1059. However, the agreement between the two parties would not affect any claims third parties might have against the parent corporation:

> A third party required to clean up Brillion's site may be able to recover from Beatrice, for § 107(e)(1) of CERCLA, 42 U.S.C. § 9607(e)(1), forbids any contractual attempt by an owner or operator to assign its liability. But it adds that "[n]othing in this subsection shall bar any agreement to insure, hold harmless, or indemnify a party to such agreement for any liability under this subsection." In other words, Beatrice [the parent corporation] and Brillion [the subsidiary] could not agree that Brillion alone would be liable to third parties, but they could agree that Brillion will bear the full costs as between them.

Truck Components, 143 F. 3d at 1059 (emphasis added).

These authorities make clear that a parent corporation such as Southern Union can not escape its CERCLA liability to third parties by transferring that liability to a subsidiary.

Nothing in United States v. Bestfoods, 524 U.S. 51, 63-64 (1998) contradicts the above analysis. That seminal Supreme Court case did not address the issue of whether a corporation may shed its liability by assigning it to a subsidiary. Rather, it addressed the very different issue of when a parent corporation can be held vicariously liable **for the acts of a subsidiary** under CERCLA. Bestfoods concluded that corporate common law principles[4] apply to this determination. United States v. Bestfoods, 524 U.S. 51, 63-64 (1998). The court thus held that "when (but only when) the corporate veil may be pierced, may a parent corporation be charged with derivative CERCLA liability for its subsidiary's actions." Id. at 63-64.

In short, there is no legal or factual basis for the Attorney General's "apprehension" that Southern Union will or can evade potential liability under the guise of the Massachusetts subsidiary. The Division should not permit the Attorney General to embark on this fishing expedition, particularly since the pond is "empty."

3. Southern Union Will Stipulate That the Massachusetts Transaction Will Not Impact Any Potential Tiverton Liability.

Finally, in an effort to expedite these proceedings, alleviate the Attorney General's concern, and reduce the burden on the Hearing Officer, Southern Union offered to stipulate, in writing, as follows:

> Neither the approval of the Joint Petition nor the Massachusetts Transfer, shall alter (i) Southern Union's liability, if any, for environmental issues in the Bay

[4] The First Circuit has consulted state common law principles, rather than a federal common law of corporations, in resolving such issues under CERCLA. See United States v. Davis, 261 F.3d 1, 54 (1st Cir. 2001) (applying Connecticut's "mere continuation test" to determine issue of successor liability where there was no evidence state law rule "would frustrate any federal objective.").

Street Area as alleged in Corvello, et al. v. New England Gas Company, C.A. 05-221T and related cases (the "Lawsuits"), or as alleged in RIDEM's letter of responsibility to Southern Union dated March 17, 2003 (the "LOR"); or (ii) Southern Union's legal obligation, if any, to satisfy a final (following all appeals) enforceable judgment entered against it arising out of the Lawsuits or the LOR.

A copy of the proposed Stipulation is attached as Exhibit A. Southern Union presented this stipulation to the Attorney General and to RIDEM last week, following our conference with the Hearing Officer. Inexplicably, the Attorney General neither accepted this stipulation nor requested changes to it. Instead, the Attorney General, late on June 6, sent Southern Union a 22-page stipulation that goes far beyond the Massachusetts transaction and far beyond the limited purpose of this review as it pertains to the Tiverton site.

Southern Union is prepared to stipulate that neither the approval of the Joint Petition nor the Massachusetts transaction will alter its liability, if any, for Tiverton environmental issues. That stipulation eliminates any legitimate basis, and there is none, for the Attorney General's data requests regarding Southern Union's transfer of assets to a Massachusetts subsidiary. The Attorney General's persistence in this inquiry notwithstanding this stipulation exposes the Attorney General's intent to harass Southern Union and delay this proceeding in an improper effort to extract concessions concerning the Tiverton dispute. The Hearing Officer should not permit the Attorney General to abuse the appropriate purpose of these proceedings in an effort to obtain inappropriate collateral advantage.

4. Southern Union's Remaining Objections Are Valid And Should be Sustained.

The remaining specific objections set forth by Southern Union in response to the Attorney General's Data Requests are well founded and appropriate, as set forth in Southern Union's response. The parties have already argued several of the data requests, and Southern

Union will not repeat all of those arguments here, but reserves the right to make additional arguments at the conference scheduled for June 8, 2006.

III. CONCLUSION

For all of these reasons, the Division should deny the Attorney General's motion to compel.

SOUTHERN UNION COMPANY

By Its Attorneys,

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Dated: June 7, 2006

CERTIFICATION

I hereby certify that I mailed a copy of the within to counsel of record, as set forth on the attached Certification List, via e-mail and first class mail on the 7th day of June, 2006.

Cynthia Lomas

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(14015/128511)

EXHIBIT
A

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS BEFORE THE DIVISION OF PUBLIC UTILITIES AND CARRIERS

In Re: Joint Petition for Purchase and Sale of Assets By The Narragansett Electric Company and Southern Union Company	Docket No. D-06-13

STIPULATION BETWEEN SOUTHERN UNION COMPANY, THE ATTORNEY GENERAL, TIVERTON, RIDEM, NARRAGANSETT AND THE DIVISION OF PUBLIC UTILITIES ADVOCACY

WHEREAS, Southern Union Company ("Southern Union") is a co-petitioner in the above-referenced matter seeking the approval of a Purchase and Sale Agreement ("PSA") pursuant to which Southern Union shall sell and Narragansett Electric Company ("Narragansett") shall acquire (the "Transaction") the regulated gas distribution business owned and operated by Southern Union in Rhode Island through its New England Gas Company division (the "Joint Petition");

WHEREAS, the Attorney General of the State of Rhode Island ("Attorney General"), the Town of Tiverton, and the Rhode Island Department of Environmental Management ("RIDEM") are party-intervenors in the above-referenced matter;

WHEREAS, pursuant to the PSA, Southern Union shall retain ownership of the non-Rhode Island operations of New England Gas Company including the operations of the former Fall River Gas Company ("FRGC");

WHEREAS, pursuant to the PSA, Southern Union shall retain all "Retained Environmental Liabilities" (as defined therein) including, if any, those arising out of the operations of FRGC;

WHEREAS, various parties have claimed that Southern Union bears liability for environmental issues allegedly caused by FRGC in the "Bay Street Area" of Tiverton, Rhode Island (the "Bay Street Area"), and Southern Union denies any such liability;

WHEREAS, Southern Union intends to transfer its Massachusetts operations (including the operations of the former FRGC) to a wholly-owned subsidiary (the "Massachusetts Transfer"); and

WHEREAS, certain parties have expressed concern that following approval of the Joint Petition, Southern Union may rely upon the Massachusetts Transfer as a basis for disclaiming liability for environmental issues in the Bay Street Area;

NOW, THEREFORE, Southern Union, the Attorney General, the Town of Tiverton, RIDEM, Narragansett and the Division of Public Utilities Advocacy (collectively, the "Parties"), by their undersigned counsel, hereby stipulate and agree as follows:

1. Neither the approval of the Joint Petition nor the Massachusetts Transfer, shall alter (i) Southern Union's liability, if any, for environmental issues in the Bay Street Area as alleged in Corvello, et al. v. New England Gas Company, C.A. 05-221T and related cases (the "Lawsuits"), or as alleged in RIDEM's letter of responsibility to Southern Union dated March 17, 2003 (the "LOR"); or (ii) Southern Union's legal obligation, if any, to satisfy a final (following all appeals) enforceable judgment entered against it arising out of the Lawsuits or the LOR; and

2. Based on the foregoing, the Parties have no objection to the approval of the Joint Petition premised on any concern regarding the Massachusetts Transfer or any concern regarding the impact of the Transaction on environmental issues related to the Bay Street Area.

Dated: June 2, 2006

SOUTHERN UNION COMPANY

By_____
Gerald J. Petros, Esq.

ATTORNEY GENERAL OF
THE STATE OF RHODE ISLAND

By_____
Paul Roberti, Esq.

RHODE ISLAND DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT

By_____
Brian A. Wagner, Esq.

TOWN OF TIVERTON

By_____
Andrew M. Teitz, Esq.

NARRAGANSETT ELECTRIC CO.

By_____
Laura S. Olton, Esq.

THE DIVISION OF PUBLIC
UTILITIES ADVOCACY

By_____
Leo Wold, Esq.

STATE OF RHODE ISLAND & PROVIDENCE PLANTATIONS
PUBLIC UTILITIES COMMISSION
DIVISION OF PUBLIC UTILITIES AND CARRIERS

IN RE:	JOINT PETITION OF THE NARRAGANSETT ELECTRIC COMPANY AND SOUTHERN UNION COMPANY FOR APPROVAL OF PURCHASE AND SALE OF ASSETS	))))	Docket D-06-13

OBJECTION OF SOUTHERN UNION COMPANY TO MOTION TO COMPEL OF RHODE ISLAND DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

Petitioner, Southern Union Company ("Southern Union"), objects to the motion of the Rhode Island Department of Environmental Management ("RIDEM") to compel responses to RIDEM Requests 1-4 through 1-6, and 1-7 through 1-11. The Division should deny the motion because these requests are not relevant to the limited scope of RIDEM's permitted intervention, and instead constitute a fishing expedition for information apparently related to liability issues and/or calculated to aid some potential post-judgment enforcement proceedings, and are otherwise overbroad, burdensome and improper.

In its May 4, Order, the Division expressly circumscribed RIDEM's intervention to the "limited purpose" of seeking assurances that "the proposed asset sale does not negatively impact Southern Union's ability to pay for remedial actions in the event it is found liable for any of the contamination in Tiverton." Order at 16 (emphasis in original). Southern Union has fully addressed all questions from RIDEM and other parties concerning the financial impact of the proposed asset sale and Southern Union's financial wherewithal to pay any conceivable judgment arising from the alleged environmental issues in Tiverton.

By contrast, the RIDEM Requests at issue have nothing whatever to do with the impact of the proposed transaction on Southern Union's ability to pay a judgment. The Requests variously seek to discover: all financial connections of every kind between Southern Union and virtually any other entity with which it has a financial interest or connection of any kind, such as for example a single overlapping director[1] (Reqs. 1-4 and 1-5); all assets in Rhode Island of any financially related entity that RIDEM may later seek to contend is an alter ego of Southern Union for purposes of enforcing a future judgment (Req. 1-6); every instance in Southern Union's 80 plus year corporate history where it has ever taken or given an assignment of actions, claims or liabilities, including every corporate transaction in its history that so provides (Reqs. 1-7 and 1-8); every loan, mortgage, financing or other borrowing in the past five years whether or not outstanding today, or whether material to Southern Union's balance sheet (Req. 9); virtually every merger, acquisition, takeover, and asset purchase of any kind in Southern Union's corporate history (Req. 10); and any time Southern Union has ever paid, discharged or satisfied a debt of another including as part of any corporate transaction (Req 11).

Indeed, RIDEM's motion to compel concedes that these requests do not seek discovery of the effect of the transaction on Southern Union's finances, but rather seek discovery addressed to liability for and enforcement of an ultimate judgment should one ever be obtained: "Data Requests . . . seek . . . information relevant to determining issues related to potential liability and the ownership, location, and availability of and accessibility to assets . . . , identify assets that may exist within Rhode Island, . . . evaluate whether . . . entities are . . . corporate alter-egos for Southern Union . . . " As the Requests are plainly irrelevant to the limited issue of the proposed

[1] So, for example, if any of Southern Union's outside directors also sits on the board of another public or private company, RIDEM's Request identifies that other company as a "Related Entity" requiring Southern Union to provide extensive financial disclosures regarding that other company. On RIDEM's theory, Southern Union and for example, Microsoft, would be Related Entities if they share one director in common.

transaction's financial impact on Southern Union's finances, and are clearly an overbroad search for information related to some potential, contingent post-judgment enforcement proceedings, RIDEM's motion to compel should be denied in its entirety.

SOUTHERN UNION COMPANY

By Its Attorneys,

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Dated: June 7, 2006

CERTIFICATION

I hereby certify that I mailed a copy of the within to counsel of record, as set forth on the attached Certification List, via e-mail and first class mail on the 7th day of June, 2006.

Cynthia Tomas

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