

Opinion of GINSBURG, J.

SUPREME COURT OF THE UNITED STATES

Nos. 06–1457 and 06–1462

MORGAN STANLEY CAPITAL GROUP INC.,
PETITIONER

06–1457

v.

PUBLIC UTILITY DISTRICT NO. 1 OF SNOHOMISH
COUNTY, WASHINGTON, ET AL.

AMERICAN ELECTRIC POWER SERVICE
CORPORATION, ET AL., PETITIONERS

06–1462

v.

PUBLIC UTILITY DISTRICT NO. 1 OF SNOHOMISH
COUNTY, WASHINGTON, ET AL.

ON WRITS OF CERTIORARI TO THE UNITED STATES COURT OF
APPEALS FOR THE NINTH CIRCUIT

[June 26, 2008]

JUSTICE GINSBURG, concurring in part and concurring in
the judgment.

Recommending denial of the petition for certiorari in these cases, the Federal Energy Regulatory Commission urged that review “would be premature” given “the interlocutory nature of th[e] issues.” Brief for Respondent Federal Energy Regulatory Commission in Opposition 22, 25. In this regard, the Commission called our attention to “new measures” it had taken, as well as recent enactments by Congress, bearing on “the evaluation of contracts under *Mobile-Sierra*.” *Id.*, at 14–16. In view of these developments, the Commission suggested, this Court should await “the better-developed record that would be produced by FER[C] . . . on remand.” *Id.*, at 22. I agree that the Court would have been better informed had it awaited the Com-

Opinion of GINSBURG, J.

mission's decision on remand. I think it plain, however, that the Commission erred in the two respects identified by the Court. See *ante*, at 24–26. I therefore concur in the Court's judgment and join Part III of the Court's opinion.