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 inter-
locutory 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 develop-
ments, 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-
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.