

January 11, 2001

Order Pursuant to Section 202(c) of the Federal Power Act

Pursuant to Section 202(c) of the Federal Power Act (16 U.S.C. 824a(c)) and 10 C.F.R. § 205.370, in this order I consider the question of whether an emergency exists in California by reason of a shortage of electric energy or of facilities for the generation or transmission of electric energy, or of fuel or water for generating facilities, or other causes, and whether to require by order such temporary connections of facilities and such generation, delivery, interchange, or transmission of electric energy as will best meet the emergency and serve the public interest. Because of a shortage of currently operational electric generation facilities, a shortage of water used to generate electricity, unusual volatility of electricity and natural gas markets, and for other reasons, California is experiencing an unexpected shortage of electric energy. Therefore, pursuant to Section 202(c) of the Federal Power Act, I find an emergency exists in California by reason of the shortage of electric energy.

Accordingly, I hereby order the entities listed in Attachment A to make arrangements to generate, deliver, interchange, and transmit electric energy when, as, and in such amounts as may be requested by the California Independent System Operator (California ISO), acting as agent for and on behalf of Scheduling Coordinators (as that term is defined in the California ISO tariff on file at the Federal Energy Regulatory Commission), consistent with the terms of this orders. On December 14, 2000, I issued a similar emergency order, subsequently amended, under Section 202(c) of the Federal Power Act due to a shortage of electricity in California on December 14, 2000¹ The entities listed in Attachment A

¹ That emergency order was extended and modified on December 20, 2000, extended again on December 27, 2000, and further extended and modified on January 5, 2001. The original December 14, 2000, emergency order and the December 20, 2000, amended order were published in the Federal Register on December 29, 2000 (65 FR 82989). The December 27, 2000, and the January 5, 2001, amendments have not been published to date. The December 14, 2000, as amended,

are only required to sell electricity to the California

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ISO that is available in excess of electricity needed by each entity to render service to its firm customers.

This order is effective immediately and expires at 3:00 a.m., EST, January 18, 2001, unless altered or revoked by further order. However, the entities in Attachment A are not required to deliver energy or services under the terms of this order until eight hours after the California ISO has filed with the Department of Energy (DOE), pursuant to Ordering Paragraph D of this order, a signed certification that it has been unable to acquire in the market adequate supplies of electricity to meet system demand, and, as a consequence, it has, or reasonably anticipates, an "inadequate fuel or energy supply" as defined in 10 C.F.R. § 205.375.

Although I find by this order that an emergency exists in California which needs to be addressed immediately, I am concerned that requiring emergency deliveries of energy or services to California will put severe strains on electric resources in the western United States and may adversely effect the ability of these resources to provide service to consumers outside of California. It is imperative that the State of California and all California consumers make the maximum effort to reduce electricity use and conserve power. Therefore, the now expired December 14, 2000, emergency order, as amended, required the California ISO to submit to the Department of Energy a certification by a responsible official of the State of California that the state will initiate a program to reduce peak load electricity consumption by at least 5 % by 3:00 a.m., EST, January 16, 2001. On January 11, 2001, the Secretary of the California State and Consumers Services Agency submitted a certification that the state "will initiate a program to reduce peak load electricity consumption by at least five percent by 3:00 a.m., EST, January 16, 2001." This submission satisfies the initial requirement contained in the December 14, 2000, emergency order, as amended. In addition, I am requiring the California ISO to submit a progress report on the state program to reduce peak load electricity use from a responsible state official by 5:00 p.m., EST, January 16, 2001. Further, I am requiring the California ISO, at the time it submits a certification under Ordering Paragraph D of this order, to notify the Department of Energy (DOE) that it has implemented for the twenty-four hour certification period the conservation measures, not including curtailments of interruptible customers, specified for Stage One and Stage Two emergencies as defined in the California ISO's tariff on file with the Federal Energy Regulatory Commission.

In order to continue to avail itself of this order, the California ISO is required to submit to DOE a further certification of inadequate fuel or energy supplies, and implementation of conservation measures, as set forth above, every twenty-four hours until the expiration of this order. The California ISO shall provide a signed copy of all certifications to the entities in Attachment A at the time it provides them to

emergency order expired at 3:00, a.m., EST, January 11, 2001.

DOE.

The California ISO may request, at the time of certification from the entities from which it is seeking energy and services, information on the availability of resources subject to the order. This information must be supplied to the California ISO within 6 hours of certification. In making requests for power pursuant to this order, to the extent feasible, the California ISO is directed to

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allocate those requests among the entities listed in Attachment A in proportion to each entity's available excess power.

The terms of any arrangement made between the entities subject to this order and the California ISO pursuant to this order are to be as agreed to by the parties. If no agreement as to terms can be reached, I will immediately prescribe the conditions of service and the rate issue will be referred to the Federal Energy Regulatory Commission (FERC) pursuant to 10 C.F.R. §205.3760.²

If arrangements made pursuant to this order are referred to FERC for a determination of the rate issue, I urge FERC to consider that what is a just and reasonable rate under normal market conditions may not be just and reasonable during times of emergency supply constraints. On the other hand, the rate cannot be confiscatory. Suppliers of energy or services must be allowed to recover the legitimate and verifiable costs incurred in providing the energy or service, plus a reasonable rate of return.

ORDER

For the reasons set forth above, pursuant to Section 202(c) of the Federal Power Act, it is ordered that:

- A. Consistent with the requirements set forth below, the entities listed on Attachment A will make arrangements to generate, deliver, interchange, and transmit electric energy when, as, and in such amounts as may be requested by the California Independent System Operator (California ISO), acting as agent for and on behalf of Scheduling Coordinators (as that term is defined in the California ISO tariff on file at the Federal Energy Regulatory Commission).
- B. The entities listed in Attachment A are only required under the terms of this order to sell electricity to the ISO that is available in excess of electricity needed by each entity to render

² I am eliminating the condition of service, prescribed in the January 5, 2001, amendment to the December 14, 2000, emergency order, that the rate the California ISO can agree to under any arrangement made between the entities subject to this order and the California ISO cannot exceed \$64 per megawatt hour in order to allow maximum flexibility under the current circumstances.

service to its firm customers.

- C. This order is effective immediately and expires at 3:00 a.m., EST, January 18, 2001, unless altered or revoked by further order.
- D. The entities in Attachment A are not required to deliver energy or services under the terms of this order until eight (8) hours after the California ISO has filed with the Department of

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Energy (DOE) a signed certification that it has been unable to acquire in the market adequate supplies of electricity to meet system demand, and, as a consequence, it has, or reasonably anticipates, an "inadequate fuel or energy supply" as defined in 10 C.F.R. § 205.375. In addition, the California ISO at the time it submits a certification under this Ordering Paragraph D must notify the Department of Energy (DOE) that it has implemented for the twenty-four hour certification period the conservation measures, not including curtailments of interruptible customers, specified for Stage One and Stage Two emergencies as defined in the California ISO's tariff on file with the Federal Energy Regulatory Commission. Further, the California ISO is required to submit a progress report on the state program to reduce peak load electricity use from a responsible state official by 5:00 p.m., January 16, 2001. In order to continue to avail itself of this order, the California ISO is required to submit to DOE a further certification as set forth above every twenty-four hours until the expiration of the order. Certifications and other required submissions should be sent to Paul Carrier, Department of Energy, Office of Energy Emergencies, Office of Policy, PO-5, 1000 Independence Avenue, S. W., Washington, D.C. 20585, (202) 586-5659, fax: (202) 586-5391, e-mail: Paul.Carrier@hq.doe.gov. The California ISO shall provide a copy of all certifications to the entities in Attachment A at the time it provides them to DOE.

- E. The California ISO must seek information on the availability of energy or services from entities subject to the terms of this order, from which the California ISO seeks to obtain energy or services, at the time of certification and the entities must respond within 6 hours. In making requests for power pursuant to this order, to the extent feasible, the California ISO is directed to allocate those requests among the entities listed in Attachment A in proportion to each entity's available excess power.
- F. The terms of any arrangement made between the entities subject to this order and the California ISO pursuant to this order are to be as agreed to by the parties. If no agreement as to terms can be reached, I will immediately prescribe the conditions of service and the rate issue will be referred to the Federal Energy Regulatory Commission (FERC) pursuant to 10 C.F.R. §205.3760.

Issued in Washington, D. C., on January 11, 2001

Bill Richardson
Secretary

Attachment