FEDERAL ENERGY REGULATORY COMMISSION

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NEWS RELEASE

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COMMISSION ADOPTS CALIFORNIA PRICE REMEDIES AIMED AT FIXING MALFUNCTIONING ELECTRIC MARKETS

The Federal Energy Regulatory Commission today adopted remedies for the seriously flawed electric power markets in California by providing strong directives to the markets to self correct and to stem the level of current price volatility in the state's spot electricity markets. In the long run, the order will restore the benefits of a competitive and well-coordinated marketplace, protect consumers, ensure creditworthiness of market participants and work to facilitate additions to generation and transmission capacity.

Citing the fundamental need to reduce reliance on spot markets while balancing the need for generation investment to ensure adequate power supplies, the Commission stood firm on, and enhanced, its price mitigation measures. Today's action will allow the state's investor-owned utilities to protect themselves and encourage market participants to develop longer-term contracts for power to avoid the volatility of the spot price market. Today's measures include ending the California Power Exchange's (PX) buy/sell requirement, penalizing underscheduling of loads, and monitoring spot prices above $150 on an interim basis. The PX is the scheduling coordinator for the state's three large investor-owned utilities as well as other market participants.

The Commission said its intention is to enable the markets to catch up to current supply and demand problems and not to reintroduce command and control regulation that has helped to produce the current crisis.

In addition, the Commission announced plans to hold conferences with market participants to resolve key issues, including establishing new governance of the California

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Independent System Operator (ISO), development of appropriate market monitoring measures, and negotiation of protective orders associated with data collection. Because this order was formulated to deal with the western electricity crisis at hand and future measures that must be put in place, the Commission deferred until later, consideration of retroactive refund issues linked to protective orders associated with the volatile prices experienced in California this past summer.

Chairman James J. Hoecker said: "Today's order is an effective response to a continuing energy crisis. It includes many complex directives, incentives, and plans but the bottom line is this--the Commission is exercising its informed judgment to get the current California electricity crisis under control. Let me be clear: there are no easy answers and there are trade-offs in all cases. I know that those who would have us dictate the price of power in this vast market will complain. Yet, I believe that these actions will achieve the results everyone seeks, if they are allowed to work and if they are supported by sound decisions by state regulators.

"What this Commission has done is to respond in a meaningful way to the technical and financial demands of the industry as well as the suffering consumers in California. Our order is a first step to staunch the bleeding but there is much rehabilitation ahead."

Included in the key actions announced by the Commission today are:

Elimination of the mandatory PX buy-sell requirement.

- 25,000 MWs immediately returned to state regulation. On the date of this order, 25,000 MW of the generation owned by or under contract to the IOUs, which the state had required to be sold at wholesale into the PX, may be sold directly at retail by the IOUs, subject to California regulation.

- Release of load to bilateral markets and prudent risk management. The release of all 40,000 MWs from mandatory exposure to the spot market. This will allow IOUs to move their purchase power needs to bilateral, long-term contracts of two years or more and adopt a balanced portfolio of contracts to mitigate cost exposure.

- Termination of the PX's rate schedules effective at the close of business on April 30, 2001.

Benchmark price for wholesale bilateral contracts.

- Adoption of a price benchmark for assessing prices of five-year energy supply contracts. The Commission will use this benchmark in assessing any complaints regarding justness and reasonableness of pricing long-term contracts.

Penalties for underscheduling load.

- Market participants must schedule 95 percent of their transactions in advance of real time, to reduce the reliance on the ISO's real-time market to meet supply. A penalty charge will be assessed when load exceeds the prescheduled amount by more than five percent, thus removing the financial incentive for load to favor the real-time market.

Market monitoring and price mitigation for ISO and PX spot markets.

- Commission staff is directed to hold a technical conference to develop a comprehensive and systematic monitoring and mitigation program which incorporates appropriate thresholds, screen and mitigation measures. A proposed plan is to be submitted by March 1, 2001, so that measures can be in place by May 1, 2001.

- Establish an interim $150 modification of the single price auction so that bids above $150 per megawatt hour (MWh) cannot set the market clearing prices paid to all bidders. Bids above the $150 level will trigger certain reporting requirements and Commission monitoring.

- Refund condition. Certain refund conditions will continue to apply; however, unless the Commission issues written notification to the seller that its transaction is still under review, refund potential on a transaction will close after 60 days.

Independent ISO Board.

- The board must be replaced with a non-stakeholder board. Its members must be independent of market participants.

- In a later order, the Commission will set procedures for discussion with state representatives on the process for selection of ISO Board members.

Interconnection procedures.

- The ISO and California's three IOUs are directed to file generation interconnection procedures.

On November 1, the Commission issued a series of proposed remedies for the California markets. These proposals were based on the findings from an intensive staff investigation of the California and western markets in addition to a series of public meetings the Commission held in Washington and California with legislators, power producers, and residential and commercial customers.

Based on these findings and filed comments, the Commission concluded that, among other actions, moving significant amounts of wholesale transactions into forward markets will reduce reliance on spot markets, improve reliability and increase the prospect of new generation because of stable revenues.

Price Mitigation Measures

The key element of the Commission's price mitigation measures is the elimination of the requirement for the investor-owned utilities (IOUs)–SDG&E, SoCal Edison, and PG&E–to sell all of their generation into and buy all of their energy needs from the PX, which results in over reliance on spot market purchases. The current PX buy/sell requirement distorts the spot market and allows unjust and unreasonable rates, the Commission said. By eliminating this restriction, the IOUs' 40,000 MW of peak load are essentially released from the PX's restraints.

Giving the IOUs added flexibility will allow them to mitigate their own spot price exposure. IOUs will no longer be required to bid their own resources at zero price and buy the same energy back at the market clearing price.

The Commission cautioned that the IOUs need to act on this opportunity to use their considerable portfolio of owned generation to serve their load and develop contracts in the forward markets. The Commission strongly urged the IOUs to move much of their load to contracts of two or more years. To ensure that this market reform proceeds expeditiously, the Commission said that it will end the PX rate schedules at the close of the trading day on April 30, 2001.

To facilitate prompt negotiation of longer term power contracts at reasonable rates, the Commission also announced that it will hold a settlement conference with market participants.

ISO Governing Boards

Concerned about the independence of the ISO Governing Board, the Commission directed that the ISO board disband.

On January 29, 2001, the ISO Governing Board members must relinquish their decision-making power and operating control to the ISO management, although they may continue as a stakeholder advisory committee. This committee will provide input to ISO management until there is a new board, or until April 27, 2001, whichever occurs first. The Commission delayed a final decision on the manner of selection for the new board to allow further input from the California on the selection process. The Commission will issue a further order with details on upcoming discussions with state representatives on the selection process for the new ISO board.

The non-profit ISO began operation in California in 1998. The ISO operates and controls most of the transmission system in California.

Market Monitoring

The Commission will continue to monitor the California markets to ensure there is no abuse of market power. The monitoring will rely on several threshold elements including: the outage rates of sellers' resources; the failure to bid unsold megawatts into the ISO's real-time market; and, variations in bidding patterns for the same or similar resources. The monitoring will continue until a more comprehensive approach can be developed.

The Commission also reaffirmed the longer term measures proposed in its earlier order. Among these are the submission of a congestion management design proposal. The Commission directed the ISO to submit its proposal by April 2, 2001.