
FEDERAL ENERGY REGULATORY COMMISSION

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NEWS RELEASE

NEWS MEDIA CONTACTS:

Barbara Connors, Celeste Miller,
Hedley Burrell, Bryan Lee
(202) 502-8680

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COMMISSION READIES TOUGH ACTION BASED ON STAFF REPORT CITING MARKET MANIPULATION, OTHER VIOLATIONS

After an exhaustive 13-month investigation into behavior that may have caused dramatic price spikes in the California energy markets in 2000 and 2001, the staff of the Federal Energy Regulatory Commission today concluded that an underlying supply-demand imbalance and flawed market design combined to make a fertile environment for market manipulation. The Commission reacted to the report by taking strong additional enforcement actions.

Chairman Pat Wood, III commented: "This is all part of our role as the cop on the beat. We have said from the beginning that a belief in the free enterprise system goes hand in hand with a responsibility to see that the playing field is level and that everyone plays fair. If there was ever any doubt that this was part of our core philosophy, that doubt should now be dispelled."

The Commission said it would make public most of the material obtained in the course of the staff investigation. The more than 2 terabytes of material compiled is the equivalent of 1.5 million floppy diskettes or 3,341 compact diskettes. It will be placed on the Commission web site – www.ferc.gov – under "What's New" at 5 p.m. EST today.

The staff reported there was clear evidence of market manipulation in the western markets. But the manipulation was effective largely because of an underlying supply shortage, flawed market design and inconsistent rules, which exacerbated the impact of manipulation on high prices.

The Commission has consistently emphasized that standard market rules, adequate infrastructure and appropriate market monitoring and enforcement are the foundation for strong competitive energy markets.

In response to the Final Staff Report, the Commission announced today it will be taking
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strong additional enforcement actions against a number of electric and gas market participants. The first steps, issued today, are orders initiating proceedings to revoke market based rate authority for certain marketers of gas and electricity.

The Commission today also announced a series of aggressive upcoming actions it will undertake to ensure that problems such as those California experienced will not happen in energy markets in the future.

On February 13, 2002, the Commission moved quickly to address concerns that Enron Corp. may have used its market position to distort electric and gas markets in the West. The Commission directed staff to begin a fact-finding investigation into whether any entity manipulated short-term energy prices in electric or natural gas markets in the West, or unduly influenced wholesale prices since January 1, 2000. In conducting this broad investigation, staff was directed to "obtain information on any and all matters relevant to potential market manipulation in the West . . ." In August 2002, the Staff released its initial report and, acting on the report's recommendations, the Commission launched three company-specific investigations into possible misconduct by energy companies (EL00-113; EL00-114; EL00-115).

Today the Commission is releasing the Staff Final Report and the following include the Commission actions based on the Staff findings.

Future actions based on staff recommendations

1. Alleged manipulation of natural gas markets
The Commission, in the near future, will initiate a generic proceeding to consider whether to change the Commission's regulation to require monitoring and reporting that would mandate companies disclose behaviors within certain defined limits or risk losing their certificates to trade gas. Power marketers would have to meet similar requirements.

2. Reporting of Price Indices
Staff states that five entities admitted that their traders provided false information on natural gas transactions. Based on data requests, other entities may also have engaged in similar behavior. The Staff concluded that the publishers of gas price indices lack systematic reporting procedures and internal verification processes.

The Commission intends to establish generic and company-specific proceedings to implement Staff recommendations. Among the recommendations are:

- condition all electric market-based rates and natural gas blanket marketing certificates on the companies providing complete, accurate and honest
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information and retaining all relevant data needed to reconstruct published price data for three years.

- require that any published price indices for Commission-jurisdictional transactions be subject to audit.
- encourage standard product definitions for published natural gas and electricity prices indices and standard methods of calculation.

In addition, staff recommended that the reporting companies demonstrate that their internal processes for reporting have been corrected. Staff recommended that:

- the employees who participated in the manipulations be disciplined.
- energy companies have a clear code of conduct.
- all trade data reporting be done by an entity within the company that does not have a financial interest in the published index.

3. Enron trading strategies

As a result of Enron's various strategies which exploited the California market rules, including the use of false information, the Commission will issue show cause orders and initiate investigations.

4. Wash trading

The Commission will establish specific rules banning any form of prearranged wash trading and prohibiting the reporting of any affiliate trading activities through industry indices.

5. Electronic trading platforms

The Commission plans to condition blanket gas marketing certificates, as well as electric market-based rates, to require that sellers who use trading platforms use only those trading platforms that agree to provide the Commission with full access to trade reporting. The trading platforms must also agree to appropriate monitoring requirements.

In a November 20, 2002 order the Commission allowed parties in the California refund proceeding to conduct additional discovery into market manipulation (Docket No. EL00-95, et al.) during the period January 1, 2000 to June 20, 2001. The new material submitted by the parties indicates that the generators may have engaged in physical withholding of generation. Today the Staff will be sending a data request to the relevant entities regarding allegations of physical withholding.

The staff report is available on the Commission's website at www.ferc.gov under "What's New."

