

[RESCINDED]

DEPARTMENT OF ENERGY
DELEGATION ORDER NO. 0204-4
TO THE ADMINISTRATOR OF THE ECONOMIC
REGULATORY ADMINISTRATION

Pursuant to the authority vested in me as Secretary of Energy (“Secretary”) and by the Department of Energy Organization Act (Pub. L. 95-91) (the “DOE Act”), the Administrator of the Economic Regulatory Administration (“ERA”) is hereby directed to provide by rule for a separation of the regulatory and enforcement functions of the Economic Regulatory Administration, in accordance with Section 206(a) of the DOE Act; and

There is hereby delegated to the Administrator of ERA the authority to adopt rules, issue orders, licenses and allocations, collect fees, and take such other action as may be necessary and appropriate to administer the following functions:

1. The allocation and pricing of crude oil, residual fuel oil, and refined petroleum products, pursuant to the provisions of the Emergency Petroleum Allocation Act of 1973 (Pub. L. 93-159), as amended;
2. The importation of crude oil, unfinished oils and finished products, pursuant to the provisions of the Trade Expansion Act of 1962 (Pub. L. 87-794) and Proclamation No. 3279, as amended;
3. The prohibition of powerplants and major fuel burning installations from the use, as a primary energy source, of natural gas or petroleum products; requiring that powerplants and major fuel burning installations in the early planning process be designed and constructed so as to be capable of using coal as a primary energy source; and the allocation of coal, pursuant to the provisions of Section 2 of the Energy Supply and Environmental Coordination Act of 1974 (Pub. L. 93-319), as amended;
4. The prescription of energy conservation and rationing contingency plans, pursuant to the provisions of Sections 202 and 203 of the Energy Policy and Conservation Act (Pub. L. 94-163), as amended;
5. The development of proposals for improvement of electric utility rate design and advising the Secretary of such proposals for the transmittal thereof to Congress; funding of electric utility rate demonstration projects; and providing financial assistance to State offices of consumer services to facilitate presentation of consumer interests before such commissions, pursuant to the provisions of Title II of the Energy Conservation and Production Act (Pub. L. 94-385), as amended;
6. The exportation and importation of natural gas, pursuant to the provisions of Section 3 of the Natural Gas Act (Pub. L. 688, 75th Cong. 2d Sess.), as amended, and Executive Order No. 10485, except with respect to those pending cases assigned by rule to FERC;

7. The exportation and importation of electric energy, pursuant to the provisions of Section 202(e) of the Federal Power Act (Pub. L. 280, 66th Cong., 2d Sess.), as amended, and Executive Order No. 10485;
8. The establishment and review of priorities for the curtailment of deliveries of natural gas, under the authority of the provisions of Sections 1(b), 4, 5, 7 and 16 of the Natural Gas Act and pursuant to the provisions of Section 402(a)(1)(E) of the DOE Act;
9. The assembly of information with regard to State compacts, proposed and approved, dealing with the conservation, production, transportation or distribution of natural gas; and advising the Secretary with respect to legislation recommended to carry out the purposes of such State compacts and to aid in the conservation, and orderly, equitable and economic production, transportation and distribution of natural gas, pursuant to the provisions of Section 11 of the Natural Gas Act;
10. The establishment and modification of regional districts in the country for the voluntary interconnection and coordination of facilities for the generation, transmission and sale of electric energy, and the promotion and encouragement of such interconnection and coordination within each such district and between such districts, pursuant to the provisions of Section 202(a) of the Federal Power Act;
11. To order the temporary connections of facilities, during times of war or national emergency, for the generation or transmission of electric energy and such generation, delivery, interchange, or transmission of electric energy as in the Administrator's judgment will best meet the emergency and serve the public interest, pursuant to the provisions of Section 202(c) of the Federal Power Act;
12. To approve or deny applications to make permanent connections for emergency use only by persons engaged in the transmission or sale of electric energy where the applicant is not otherwise subject to the jurisdiction defined by Section 201 of the Federal Power Act, with any public utility that is subject to such jurisdiction, pursuant to the provisions of Section 202(d) of the Federal Power Act;
13. The investigation and determination, upon the Administrator's own motion or the request of any State commission, of the cost of production or transmission of electric energy by means of facilities that are subject to the jurisdiction defined by Section 204 of the Federal Power Act, as the Administrator determines is necessary and appropriate to perform his functions, pursuant to the provisions of Section 206(b) of the Federal Power Act;
14. The conduct of investigations regarding the generation, transmission, distribution and sales of electric energy, however produced, throughout the United States and its possessions, including the generation, transmission, distribution and sale of electric energy by any agency, authority or instrumentality of the United States, or of any State or municipality or other political subdivision of a State, and advising the Secretary of the results of such investigations for his report thereof to Congress, as the Administrator determines is

necessary and appropriate to perform his functions, pursuant to Section 311 of the Federal Power Act;

15. Exercise of the authority under the acts listed below to confirm and approve power or transmission rates of federal power marketing agencies, and exercise of the cost-allocation authority contained in Section 7 of the Bonneville Project Act cited below: Section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), the Bonneville Project Act of 1937 (Pub. L. 329, 75th Cong., 1st Sess.), as amended; the Federal Columbia River Transmission System Act of 1974 (Pub. L. 93-454), the Eklutna Project Act of 1950, as amended, (64 Stat. 382); the Act of June 18, 1954 (68 Stat. 255), as amended by the Act of December 23, 1963 (77 Stat. 475) (Falcon and Amistad Dams);
16. The final decision as to rate adjustments, pursuant to Section 10 of the rules entitled “Procedures for Public Participation in General Adjustments in Power Rates”, set forth at 40 F.R. 34431-32 (August 15, 1975), which were promulgated pursuant to the Reclamation Act of 1902, as amended and supplemented by subsequent enactments, particularly Section 9(c) of the Reclamation Project Act of 1939, 43 U.S.C. 485h(c), and the acts specifically applicable to the project in question;
17. Exercise of the authority under Section 11 of the Clayton Act (15 U.S.C. §21) as related to the transportation of oil by pipeline, pursuant to the provisions of Section 306 of the DOE Act;
18. To propose rules, regulations and statements of policy of general applicability to the Federal Energy Regulatory Commission (“FERC”) with respect to any function within the jurisdiction of FERC under Section 402 of the DOE Act and set reasonable time limits for the completion of action by FERC on any such proposal, pursuant to the provisions of Section 403(a) of the DOE Act;
19. To intervene or otherwise participate in any proceeding before FERC, pursuant to the provisions of Section 405 of the DOE Act;
20. To intervene or otherwise participate on behalf of the Secretary in any proceeding before any federal or state agency or commission whenever it is determined that the interests of the Secretary should be represented in such proceeding;
21. To issue Notices of Probable Violation (NOPV) when there is reason to believe that a violation of any regulation or order having the effect of a rule promulgated pursuant to the Emergency Petroleum Allocation Act of 1973 has occurred, is continuing or is about to occur, and conduct proceedings incidental thereto;
22. To issue proposed remedial orders and remedial orders (including matters involving remedial orders for immediate compliance and orders of disallowance) for the violation of any regulation or order having the effect of a rule promulgated pursuant to the Emergency Petroleum Allocation Act of 1973, advise FERC as to any such remedial order that is

contested, and set reasonable time limits for FERC to complete action on any such proceedings referred to it, pursuant to the provisions of Section 503 of the DOE Act;

23. To issue appeal decisions with respect to remedial orders (including remedial orders for immediate compliance and orders of disallowance) relating to NOPV's that were issued by the Federal Energy Administration prior to October 1, 1977;
24. To suspend or revoke allocations and licenses, conduct proceedings incidental thereto, issued pursuant to the functions described in paragraph 2;
25. To provide for the making of adjustments to any rule, regulation or order having the effect of a rule, issued under the statutory authorities vested in and transferred to the Secretary pursuant to the DOE Act and which are not delegated by the Secretary to the Federal Energy Regulatory Commission, consistent with the other purposes of the relevant statutory authority, as may be necessary to prevent special hardship, inequity, or unfair distribution of burdens, and to provide by rule for procedures for any person to seek an interpretation, modification or rescission of, exception to, or exemption from any rule, regulation or order having the effect of a rule issued under such statutory authorities, pursuant to the provisions of Section 504(a) of the DOE Act;
26. To initiate and conduct investigations, when necessary and incidental to the exercise of any authority delegated herein, in response to complaints or other information; conduct conferences, hearings or public hearings with respect to the functions delegated hereby; administer oaths and affirmations to any person, and suspend or disqualify any person appearing at such conference or hearing; issue subpoenas, make payment, if appropriate, of witness fees and mileage to any witness appearing in response to such subpoenas; and take such other action as may be necessary and appropriate to assure and determine the extent of compliance with DOE rules and regulations described herein and any order having the effect of a rule issued thereunder;
27. To take such other action as the Secretary or his authorized delegates may, from time to time, direct or authorize.

The authority delegated to the Administrator of ERA may be further delegated, in whole or in part, as may be appropriate provided that the Administrator shall not further delegate, in whole or in part, the authority delegated to him to propose or adopt rules.

The Administrator of ERA shall consult with the Administrator of the Energy Information Administration ("EIA") with respect to the exercise of functions under Paragraphs 13 and 14, as EIA considers appropriate.

In exercising the authority delegated by this Order or as redelegated pursuant thereto, the delegate(s) shall be governed by the rules and regulations of DOE and the policies and procedures prescribed by the Secretary or his delegate.

All actions pursuant to any authority delegated prior to this Order or pursuant to any authority delegated by this Order taken prior to and in effect on the date of this Order are hereby confirmed and ratified, and shall remain in full force and effect as if taken under this Order, unless or until rescinded, amended or superseded.

This Order is effective October 1, 1977.

_____/s/
James R. Schlesinger
Secretary of Energy