
FEDERAL ENERGY REGULATORY COMMISSION



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NEWS RELEASE

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COMMISSION REPORTS TO CONGRESS ON REFUND CASE STATUS; NOTES FINAL REFUNDS AFFECTED BY \$6.3 BILLION IN SETTLEMENTS

The Federal Energy Regulatory Commission, in its response to the energy crisis that affected California and other Western states in 2000 and 2001, has facilitated more than \$6.3 billion in settlements, and brought to a close all but one of 60 investigations of market manipulation, the agency said in a report submitted to Congress today.

The report noted the Commission's response to the energy crisis in California and the West would have been different if the agency had the civil penalty and market manipulation authority provided by Congress in the Energy Policy Act of 2005.

"The Commission lacked the necessary statutory authority to respond more robustly with meaningful civil penalties and express anti-manipulation authority. The Commission played a weak hand rather well, in my opinion," commented Commission Chairman Joseph T. Kelliher.

The Commission expressed its frustration with how long the California Refund Proceeding is taking to conclude, while providing an explanation regarding the complexity of the proceeding – made more complicated by extensive litigation, including more than 100 petitions for review of Commission orders arising out of the California and Western energy crisis.

The report also noted that the final refunds will be affected by settlements reached with California parties, which among other things settled the refund obligations of several large electricity generators. Further, the extent of the Commission's final refund order was limited by a recent appeals court decision barring the Commission from ordering refunds by government-owned utilities, which accounted for about 30 percent of sales in California in 2000 and 2001.

"No one can dispute that the California Refund Proceeding has gone on far too long. The lack of closure contributes to uncertainty in California – some refunds are still

owed and owing; investment, and recovery of that investment, is unclear; and the state of the transmission grid and electricity markets remains vulnerable,” the Commission report said.

“The Commission and its staff have worked diligently with the California parties (and others) to address the many issues in the California Refund Proceeding, to reach settlements, and to address flawed rules that were in place in the California ISO electric energy markets during the California energy crisis; and we remain committed to doing so to ensure that there is not a repeat of the California crisis,” the report said, noting the California ISO has experienced 12 system emergencies since the crisis ended in June 2001.

Bringing closure to the refund case is a clear priority, but not at the expense of due process, the Commission said. “It is very important that the Commission-adopted procedures for addressing refund issues strictly adhere to the due process principles, to ensure that the Commission’s determinations withstand judicial scrutiny on due process grounds. Otherwise, we may have to revisit decisions already made, which could delay the issuance of refunds by years. We are committed to progressing as quickly as the law will allow,” the Commission reported to Congress.

The report, *The Commission’s Response to the California Electricity Crisis and Timeline for Distribution of Refunds*, was prepared and submitted to Congress as required under the Energy Policy Act of 2005.