
FEDERAL ENERGY REGULATORY COMMISSION

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NEWS RELEASE

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FOR IMMEDIATE RELEASE

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Docket Nos. EL03-137-000, et al.
and EL03-180-000, et al.

COMMISSION ISSUES SWEEPING SHOW CAUSE ORDERS TO COMPANIES ALLEGED TO HAVE GAMED WESTERN ENERGY MARKETS; HEARINGS SET TO EXPLAIN ACTIONS, ADDRESS REMEDIES

The Federal Energy Regulatory Commission today issued two broad show cause orders to over 60 power trading companies that are alleged to have engaged in manipulative practices that disrupted the western energy markets in 2000-2001.

The Commission also defined specific practices that it views as gaming, distinguishing them from other practices that have been called manipulative but instead are legitimate business practices.

The show cause orders require each company to "show cause" and submit all relevant information pertaining to specific actions and transactions which occurred in the California electricity market between January 1, 2000 and June 20, 2001. If, after a hearing before a Commission administrative law judge, a company is found to have violated the California Independent System Operator (CAISO) or Power Exchange (PX) tariffs, the cited company may be ordered to disgorge any profits gained from the gaming transactions from January 1, 2000 to June 20, 2001. This would be in addition to any refunds owed for the period since October 2, 2000 that are pending in the California refund proceeding (Docket EL00-95). The judge may also determine if additional remedies are warranted, such as revocation of market-based rate authority.

The Commission explained that since 1998, the CAISO and PX tariffs in the Market Monitoring and Information Protocol (MMIP) have had provisions that identify and prohibit "gaming" and "anomalous market behavior" in selling electric power.

R-03-25

(More)

The Commission's determination as to which activities can be considered gaming and/or anomalous market behavior is based on the tariffs' provisions, an ISO study, the FERC investigative Staff Report issued March 26, along with the "100 days evidence" and comments submitted by market participants on March 3, 2003.

The practices found to have violated the tariffs are rooted in deception or misrepresentation. The false export practice involved exporting power out of California and repurchasing it for sale into California, thus avoiding the California price cap.

Another practice entailed false scheduling of load or energy, where a market participant appeared to "relieve" congestion and received a congestion relief payment.

In the sale of ancillary services, false representations here generally involved the sale of ancillary services that were not available, or the same capacity sold into multiple markets.

The Commission noted that certain practices, such as over-scheduling or under-scheduling load in the California markets, were also deceptive and violated the tariffs, but they were widely practiced and recognized. The combination of over- and under-scheduling helped to lower electricity prices in California and protected reliability. Thus while these practices violated the tariffs, the Commission will not prosecute those who did these acts. These practices were often necessitated because of the market rules in place in the ISO and PX, and the practice of utilities like PG&E, Southern California Edison and San Diego Gas & Electric of under-scheduling load.

Certain arbitrage practices did not violate the MMIP and must be recognized as appropriate business practices, the Commission said. Included in this category is the export of power in the California day-ahead market at or below the price cap for sale outside the state at a higher price. This type of arbitrage is not prohibited, to the extent it does not involve collusion with other market participants, the Commission said.

To resolve these complex issues in an expeditious manner, the Commission encouraged the use of settlement.

In a second order, the Commission issued show cause instructions to Enron Power Marketing and those entities which worked through alliances and partnerships to engage in manipulative market schemes that had a profound adverse impact on the western power markets (Docket Nos. EL03-180, et al.). Enron created a marketing program based on

R-03-25

(More)

(3)

other entities' assets, avoiding large capital expenditures and the risk of owning its own resources. Using these alliances, Enron gained market share, acquired commercially

sensitive data, secured decisionmaking authority, and promoted reciprocal dealings, the Commission concluded.

The other market participants allegedly involved in partnership gaming with Enron are: City of Glendale, California; City of Redding, California; Colorado River Commission; Las Vegas Cogeneration, L.P.; Modesto Irrigation District; Montana Power Company; Northern California Power Agency; Powerex Corporation; Public Service Company of New Mexico; and Valley Electric Association, Inc.

Separately, other market participants are alleged to have employed some of the same strategies and formed their own strategic alliances. The entities included: Sempra Energy and Eugene Water and Electricity Board; Coral Power; PSNM; City of Glendale, California; Aquila, Inc.; Constellation Power Source; El Paso Merchant Energy; Enron Power Marketing; Idaho Power Company; Koch Energy Trading; MIECO; Morgan Stanley Capital Group; PECO; Pacificorp; Powerex; and, TransAlta Energy Marketing.

As part of the show cause process, the Commission ordered Enron and all the above listed companies to: inventory all revenues from their partnerships, alliances or other arrangements; and file these revenue figures along with all related correspondence, e-mail, tapes, phone logs, etc. In addition, within 30 of the date of the order, the entities must file their show cause responses.

In a separate order today, based on findings of market manipulation, the Commission revoked Enron's market-based rate authority and limited six Enron-related companies' blanket natural gas marketing certificates to winding down current positions (EL03-77-000 and RP03-311-000).

In addition, the Commission, in a separate action, directed the Office of Market Oversight and Investigations (OMOI) to conduct an investigation into bidding behavior and practices in the short-term energy markets, operated by the CAISO and the California PX during the period May 1, 2000 through October 2, 2000 (PA02-2). The Commission is seeking additional data that may be required to focus on individual market participants. The order adopts a screen of bids over \$250/MWH as the *prima facie* screen to identify prohibited bidding over the five-month period of interest.