Congress of the United States
House of Representatives
Washington, D.C. 20515

March 30, 2001

The Honorable George W. Bush
The President
The White House
1600 Pennsylvania Ave, NW
Washington, DC 20500

Dear Mr. President:

We are writing because our constituents and millions of Americans across the West need your intervention at the Federal Energy Regulatory Commission (FERC) in order to address serious problems with the Western energy market.

As you know, California has been experiencing an electricity crisis that has resulted in blackouts throughout the state, inconvenienced millions of citizens and businesses, and disrupted the state's and region's economy. Indeed, this crisis seriously threatens to cause long-term damage to the economy of California, the Western region, and perhaps the entire country.

The crisis is the result of a dysfunctional energy market where wholesale prices of electricity have spiked exorbitantly. For example, wholesale prices on December 15, 2000, ranged from $429 per Mwh to $565 per Mwh, compared to prices from $12 per Mwh to $29 per Mwh one year earlier. Wholesale prices have jumped as high as $1400 per Mwh. In fact, the California Independent System Operator (ISO), the state's power grid operator, has projected that electricity which cost $7 billion in 1999 will cost $70 billion this year. These skyrocketing prices can only partly be explained by natural gas price increases and increased energy demand.

These exorbitant price spikes have led FERC Commissioner William L. Massey to state on February 8, 2001:

> These high prices serve only to continue a massive wealth transfer out of the region. Is it worth dragging down an entire regional economy, or perhaps even the national economy, for the theoretical purity of unfettered price signals? I say no. I call on my fellow commissioners to consider a time out now. It's our statutory obligation. . . . FERC's timidity and hands-off approach is eroding consumer confidence and destroying the consensus that heretofore supported a market based approach.

The dysfunctional nature of the market has apparently allowed it to be manipulated. The California ISO last week presented FERC with findings of a comprehensive study of pricing data in California's wholesale electricity market over the last 10 months. According to the *Los Angeles Times*, the ISO's study found "evidence of market manipulation and consistent patterns of bidding far above costs" and that "suppliers commonly offered electricity at twice their costs." The ISO has estimated the cost of the potential overcharges between May 2000 and last month are high as $6.3 billion.

Unfortunately, FERC actions have fallen far too short. To date, FERC has not aggressively worked to address market manipulations, despite finding last fall that wholesale prices were not "just and reasonable." Nor is FERC apparently willing to seriously consider addressing runaway wholesale rates.

The state of California is taking heroic measures, but this is an issue California cannot address alone. In a February 28, 2001, meeting with the California delegation, FERC Chairman Curt Hebert confirmed the widespread understanding that the California market is not working. He called the California market "broken," and acknowledged the regional problems posed by the market. Additionally, Chairman Hebert stated that "I don't think there is any way California can pull itself out of this thing alone." As Mr. Hebert knows, California has no authority over wholesale electricity sales. These sales fall solely within the jurisdiction of the federal government.

Despite FERC's recognition that California cannot address this problem alone, FERC seems unwilling to assist California and the West. FERC's March 9th order sets the arbitrary expectation that unjust and unreasonable prices cannot occur in the absence of a Stage 3 Emergency. Energy economist Severin Borenstein has stated that this expectation "defies economic logic." The March 9th order is also inconsistent with FERC's December 15 order and ignores the fact that when market power exists, prices can be unreasonable even when supply is not within 1.5% of demand.

Mr. President, you have the authority to rein in the impacts of this dysfunctional market and protect the citizens of California from exorbitant wholesale price spikes. In October 2000, when you were in California, you stated, "I believe so strongly that part of this region is going to suffer unless you have a president who is willing to tell the FERC to do what is right for the consumer." Now, we are respectfully calling upon you to do just that.

This is not a partisan issue. There is widespread support in both the U.S. House of Representatives and the U.S. Senate for wholesale price caps throughout the region. Governor Davis of California, Governor Kitzhaber of Oregon, and Governor Locke of Washington have now requested that FERC implement a short-term pragmatic proposal that will preserve adequate incentives to attract additional generation.

We believe that electricity generators should make a reasonable profit and that these profits should be sufficient to encourage the development of needed generation. Federal action to temporarily intervene in California's failed wholesale market can accommodate these needs. Governors Davis, Kitzhaber, and Locke have referenced Commissioner Massey's suggestion of a temporary cost-based price cap on spot market sales in the Western interconnection, combined with an exemption for new generation sources to ensure that new sources of energy are encouraged. Such an approach could reinstate consumer confidence in wholesale sales, ensure generators receive sufficient market signals, and prevent future economic hemorrhaging in the West.

Mr. President, we request that you help protect California's economy, and indeed that of the Western region and the nation. Please support the Governors' request on wholesale rates, investigate the recent allegations of overcharges, and act to prevent a dysfunctional electricity market from damaging our constituents and a major engine of the nation's economy.

Sincerely,

Henry A. Waxman

Anna G. Eshoo

Lois Capps

Jane Harman

Mike Thompson

Joe Baca

Sam Farr

Robert T. Matsui

Brad Sherman

Nancy Pelosi

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Signatories to the March 30, 2001 letter to the President regarding FERC

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