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# FEDERAL ENERGY REGULATORY COMMISSION



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## NEWS RELEASE

FOR IMMEDIATE RELEASE

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Docket No. EL00-95-031, et al.

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### COMMISSION ORDERS HEARING ON CALIFORNIA POWER REFUNDS

Acting on the recommendation of its chief administrative law judge, the Federal Energy Regulatory Commission today ordered an expedited fact-finding hearing to calculate refunds for spot market transactions in California.

An earlier, two-week attempt to mediate a global settlement among the California participants was unsuccessful. Today's order calls for a hearing, before Administrative Law Judge Bruce L. Birchman, with findings of fact due to the Commission no later than 45 days after the California Independent System Operator (ISO) provides necessary historical data.

In his July 12 report to the Commission on the mediation attempt, the Chief Judge, Curtis L. Wagner, Jr., said that refunds owed to purchasers of electricity "amount to hundreds of millions of dollars, probably more than a billion dollars," but not the \$8.9 billion claimed by the state.

The Commission endorsed the chief judge's core recommendation to apply, in large part, the methodology set out in the June 19 price mitigation order from October 2, 2000 through June 20, 2001 to determine the best way to calculate refunds to buyers or reductions in amounts owed sellers. The Commission ordered the California ISO to recreate the mitigated prices that result from using this methodology.

The Commission also ordered an evidentiary proceeding to discuss refunds for the Pacific Northwest. This proceeding will last no longer than 30 days, with the judge reporting to the Commission within seven days after the end of the discussions.

Chairman Curt L. Hébert, Jr. stated as follows: "At some point, regulatory and

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investment uncertainty in California and the West must end. Today's order helps to end that uncertainty and bring some sense of order to a chaotic market. The Commission purposefully has defined the methodology for calculated refunds or offsets with specificity, and has limited the scope of the evidentiary hearings, in order to speed the day when market participants, finally, can settle accounts for past electricity sales."

### **Summary of Order on Western Refunds**

- Directs refunds for the period from October 2, 2000 through June 20, 2001.
- Applies the refund liability to spot sales through California's organized markets operated by the ISO and the PX.
- Imposes the refund obligation on all utilities making spot sales in these markets. This includes both public and non-public utilities.
- Largely adopts the Chief Judge's recommendation to use the approach from the Commission's June 19 price mitigation order to calculate refunds (with some modifications).
- Establishes a hearing, to be completed within 45 days from the date the ISO provides certain critical data, for the purpose of developing the factual basis needed to implement the refund methodology and order refunds.
- Directs the ISO to provide the Administrative Law Judge with a re-creation of the mitigated prices using the refund methodology within 45 days.
- Places the Pacific Northwest on the same footing as California by establishing a separate preliminary evidentiary proceeding, to be completed in 30 days, for the purpose of exploring whether there have been excessive charges for spot market sales and whether there is a sufficient factual basis for the Commission to take further action.

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