

DEPARTMENT OF ENERGY, FEDERAL ENERGY REGULATORY COMMISSION—Continued

| | Docket No. |
|---|--------------|
| California Power Exchange | EL03-143-000 |
| Cargill-Alliant, LLC | EL03-144-000 |
| City of Anaheim, California | EL03-145-000 |
| City of Azusa, California | EL03-146-000 |
| City of Glendale, California | EL03-147-000 |
| City of Pasadena, California | EL03-148-000 |
| City of Redding, California | EL03-149-000 |
| City of Riverside, California | EL03-150-000 |
| Coral Power, LLC | EL03-151-000 |
| Duke Energy Trading and Marketing Company | EL03-152-000 |
| Dynegy Power Marketing Inc., Dynegy Power Corp., El Segundo Power LLC, Long Beach Generation LLC, Cabrillo Power I LLC, and Cabrillo Power II LLC | EL03-153-000 |
| Enron Power Marketing, Inc. and Enron Energy Services Inc | EL03-154-000 |
| Florida Power & Light | EL03-155-000 |
| Idaho Power Company | EL03-156-000 |
| Los Angeles Department of Water and Power | EL03-157-000 |
| Mirant Americas Energy Marketing, LP, Mirant California, LLC, Mirant Delta, LLC, and Mirant Potrero, LLC | EL03-158-000 |
| Modesto Irrigation District | EL03-159-000 |
| Morgan Stanley Capital Group | EL03-160-000 |
| Northern California Power Agency | EL03-161-000 |
| Pacific Gas and Electric Company | EL03-162-000 |
| PacifiCorp | EL03-163-000 |
| PGE Energy Services | EL03-164-000 |
| Portland General Electric Company | EL03-165-000 |
| Powerex Corporation (f/k/a British Columbia Power Exchange Corp.) | EL03-166-000 |
| Public Service Company of Colorado | EL03-167-000 |
| Public Service Company of New Mexico | EL03-168-000 |
| Puget Sound Energy, Inc | EL03-169-000 |
| Reliant Resources, Inc., Reliant Energy Power Generation, and Reliant Energy Services, Inc | EL03-170-000 |
| Salt River Project Agricultural Improvement and Power District | EL03-171-000 |
| San Diego Gas & Electric Company | EL03-172-000 |
| Sempra Energy Trading Corporation | EL03-173-000 |
| Sierra Pacific Power Company | EL03-174-000 |
| Southern California Edison Company | EL03-175-000 |
| TransAlta Energy Marketing (U.S.) Inc. and TransAlta Energy Marketing (California), Inc | EL03-176-000 |
| Tucson Electric Power Company | EL03-177-000 |
| Western Area Power Administration | EL03-178-000 |
| Williams Energy Services Corporation | EL03-179-000 |

(Issued June 25, 2003)

MASSEY, Commissioner, *dissenting in part*:

Today the Commissioner takes another step toward addressing the market manipulation that contributed to the extraordinary Western power crisis. I support this show cause order, and applaud the Commission for dealing with these issues. I write separately to express my disagreement with two aspects of the order.

First, I would not limit the monetary penalty for tariff violations to disgorgement of unjust profits. Market manipulation can raise the single market clearing price paid by all market participants and collected by all sellers. The Federal Power Act requires that all rates and charges be just and reasonable. Where the market has been manipulated so as to affect the market clearing price, that price is not just and reasonable and is therefore unlawful. Simply requiring that bad actors disgorge their individual profits does not make the market whole because all sellers received the unlawful price caused by the manipulation. The narrow remedy of profit disgorgement is not an adequate remedy for the adverse effect of the bad behavior on the market price, and may not be an adequate deterrent to future behavior. The appropriate remedy may be that the manipulating seller makes the market

whole.¹ Unfortunately, today's order appears to take this remedy off of the table. I would prefer to wait to see the extent of harm that specific behaviors caused before addressing the remedy issue.

Second, I would not apply the show cause order to non-public utilities that are otherwise not jurisdictional. Today's order uses the same rationale for doing so as was used to extend a refund obligation to non-public utilities in our July 25, 2001 Order.² I disagreed with the rationale at that time, and I still do not believe the Commission has this authority.

For these reasons, I dissent in part from today's order.

William L. Massey,
Commissioner.

[FR Doc. 03-16821 Filed 7-2-03; 8:45 am]

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¹ The Commission has accepted the make the market whole remedy as part of a settlement for withholding generation from the California PX market. See 102 FERC ¶ 61,108 (2003).

² San Diego Gas & Electric Company *et al.*, 96 FERC ¶ 61,120 (2001).

DEPARTMENT OF ENERGY

Federal Energy Regulatory
Commission

[Docket Nos. EL03-134-000 and EL03-135-000]

**Richard Blumenthal, Attorney General
of the State of Connecticut, and The
Connecticut Department of Public
Utility Control v. NRG Power
Marketing, Inc., Connecticut Light and
Power Company; Notice of Initiation of
Proceedings and Refund Effective
Dates**

June 27, 2003.

Take notice that on June 25, 2003, the Commission issued an order in the above-indicated docket nos. initiating proceedings in Docket Nos. EL03-134-000 and EL03-135-000 under section 206 of the Federal Power Act.

The refund effective date in Docket Nos. EL03-134-000 and EL03-135-000