

**DEPARTMENT OF ENERGY****Federal Energy Regulatory Commission****[Docket Nos. EL00-95-000 and EL00-98-000]****Order Announcing Expedited Procedures for Addressing California Market Issues**

October 19, 2000.

Before Commissioners: James J. Hoecker, Chairman; William L. Massey, Linda Breathitt, and Curt Hebert, Jr.

San Diego Gas & Electric Company, Complainant, v. Sellers of Energy and Ancillary Services Into Markets Operated by the California Independent System Operator and the California Power Exchange, Respondents; Investigation of Practices of the California Independent System Operator and the California Power Exchange.

On August 23, 2000, in the consolidated dockets listed above, the Commission issued an order initiating hearing proceedings under section 206 of the Federal Power Act<sup>1</sup> to address matters affecting bulk power markets and wholesale energy prices in California.<sup>2</sup> The Commission held the hearing in abeyance, however, pending the results of a separate staff fact-finding investigation, ordered by the Commission on July 26, 2000, of the conditions in electric bulk power markets (including volatile price fluctuations) in various regions of the country.<sup>3</sup> In the August 23 Order, the Commission directed staff to focus its fact-finding investigation on California and the Western region as soon as possible; the Commission stated that it intended to issue a further order in the captioned dockets after it reviews the outcome of the staff investigation related to California markets to take into account the staff investigation findings, as appropriate, and to address or further refine the issues it was setting for hearing, as appropriate.

Because of the need for expeditious action to address the serious issues affecting California electric power markets and California consumers, and to provide guidance to persons whose interests may be affected by decisions in these dockets, the Commission is taking the unusual step of announcing in advance the procedures it expects to follow over the coming weeks to move forward in these proceedings:

<sup>1</sup> 16 U.S.C. 824e (1994).

<sup>2</sup> San Diego Gas & Electric Company, *et al.*, 92 FERC ¶ 61,172 (2000), *reh'g pending* (August 23 Order).

<sup>3</sup> Order Directing Staff Investigation, 92 FERC ¶ 61,160 (2000). The order directed staff to complete the investigation and report the findings to the Commission by November 1, 2000.

- On November 1, 2000, the Commission plans to hold a special meeting for purposes of considering the issuance of a proposed order in the captioned dockets that proposes specific remedies to address the issues set for hearing in the August 23 Order and that directs any further procedural steps deemed necessary or appropriate. The Commission also will place in the public record of these dockets the staff investigation report on California and the Western region.

- The Commission will give all interested persons approximately three weeks to intervene<sup>4</sup> and to comment on the Commission's proposed remedies or on other remedies that they believe should be adopted, and to provide any additional factual information or arguments to supplement the record. Comments filed may also address any facts or issues discussed in the staff investigation report that is placed in the public record of the captioned dockets.

- On November 9, 2000 (during the comment period on the proposed remedies), the Commission expects to hold a public conference to discuss proposed remedies. A transcript of the conference will be placed in the public record of the captioned dockets. A separate order will be issued to specify time of the conference and the manner for seeking participation in the conference.

- The transcript of the Commission's September 12, 2000 public conference conducted in San Diego, California, in Docket No. EL00-107-000, and any written comments filed in that docket, will be placed in the public record of the captioned proceedings.

- Based on the record developed in the captioned dockets, including the staff investigation report and all comments and additional facts and information placed in the record, the Commission anticipates issuing, by the end of this calendar year, an order adopting and directing remedies (to the extent those remedies are within our jurisdiction) to promptly address to the extent possible the identified problems adversely affecting competitive power markets in California and, if necessary, ordering any further proceedings to develop remedies to other identified problems.

The Commission reminds all interested persons that this is a contested, on-the-record proceeding, and that the Commission's regulations concerning ex parte communications

<sup>4</sup> Parties that intervened in the SDG&E complaint, Docket No. EL00-95-000, are considered to be parties in the consolidated hearing proceeding. See August 23 Order at 61,608.

apply. Generally, this means that no person may make any off-the-record communication to a Commissioner or to any other Commission decisional employee in this proceeding. An off-the-record communication means any communication relevant to the merits of the proceeding that, if written, is not filed with the Secretary and served on the parties or, if oral, is made without reasonable prior notice to the parties in the proceeding and without the opportunity for such parties to be present when the communication is made. *See* 18 CFR 385.2201 (2000).

By the Commission. Commissioner Hebert concurs with a statement attached.

**David P. Boergers,  
Secretary.**

Hebert, Commissioner concurring:

I support this order because it gives the people of California an indication of the timetable for FERC action following our staff's investigation of this past summer's prices. In a democratic society, government owes citizens the duty to account for its actions and the means for them to affect policy. I would go a step further, however. Rather than wait for November 1 to release the findings of our staff's investigation, I urge the Chairman to release the completed report now. Open government requires it; fairness does as well. The people of California should have as much time as possible to digest our staff's findings and consider the options presented.

Justice Brandeis often remarked "Sunshine is the best disinfectant." Let the sun shine on our staff's report. It can only help heal the raw emotions rampant in the State of California. I hope that the Commission will proceed in the right path from now on. I, therefore, concur.

Curt L. Hebert, Jr.,  
*Commissioner.*

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**DEPARTMENT OF ENERGY****Federal Energy Regulatory Commission****[Docket No. GP01-1-000]****Shell Deepwater Development Inc., et al.; Notice of Petition for Declaratory Order**

October 19, 2000.

Take notice that on October 16, 2000, in Docket No. GP01-1-000, Shell Deepwater Development Inc., Shell Deepwater Production Inc., and Shell Offshore Inc. (collectively: Shell Producers) filed a petition for a Declaratory Order from the Commission finding that the services rendered through 15 offshore production complexes (see list below) are exempt