

## DEPARTMENT OF ENERGY, FEDERAL ENERGY REGULATORY COMMISSION—Continued

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Coral Power, LLC .....	EL03-186-000
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TransAlta Energy Marketing (U.S. Inc. and TransAlta Energy Marketing (California), Inc .....	EL03-202-000
Valley Electric Association, Inc .....	EL03-203-000
	(Consolidated)

(Issued June 25, 2003)

MASSEY, Commissioner, *dissenting in part*:

Today the Commission 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.<sup>1</sup> 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.<sup>2</sup>

<sup>1</sup> 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).

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

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. 03-16822 Filed 7-2-03; 8:45 am]

**BILLING CODE 6717-01-P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. RP02-499-003]

#### Equitrans, L.P.; Notice of Compliance Filing

June 26, 2003.

Take notice that on June 20, 2003, Equitrans, L.P. (Equitrans) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheets to become effective on October 1, 2002:

First Revised Sheet No. 226  
First Revised Sheet No. 227  
First Revised Sheet No. 228  
Second Revised Sheet No. 229  
Second Revised Sheet No. 275  
Substitute Second Revised Sheet No. 276  
Substitute Original Sheet No. 276A  
Substitute Original Sheet No. 276B  
Substitute Original Sheet No. 276C  
Substitute Original Sheet No. 276D  
Second Substitute Fourth Revised Sheet No. 308

Equitrans states that the foregoing tariff sheets are being filed to comply with the Commission's Letter Order, issued herein on April 23, 2003.

Equitrans further states that its filing is being served on all parties to these

proceedings, on all of Equitrans' existing customers and upon the Pennsylvania Office of Consumer Advocate, Pennsylvania Public Utility Commission and the West Virginia Public Service Commission.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with § 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with § 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at <http://www.ferc.gov> using the "FERRIS" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or toll-free at (866) 208-3676, or TTY, contact (202) 502-8659. The Commission strongly encourages electronic filings. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

*Protest Date:* July 7, 2003.

**Magalie R. Salas,**  
*Secretary.*

[FR Doc. 03-16751 Filed 7-2-03; 8:45 am]

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