



Department of Energy  
Washington, DC 20585

January 5, 2001

**Amendment No. 3 to Order Pursuant to Section 202(c) of the Federal Power Act**

On December 14, 2000, because of a shortage of currently operational electric generation facilities, a shortage of water used to generate electricity, unusual volatility of electricity and natural gas markets, and for other reasons, I determined that California was experiencing an unexpected shortage of electric energy. Therefore, pursuant to Section 202(c) of the Federal Power Act, I found an emergency existed in California by reason of the shortage of electric energy, and issued an order requiring entities listed in the order to make arrangements to generate, deliver, interchange, and transmit electric energy when, as, and in such amounts as may be requested by the California Independent System Operator (California ISO). On December 20, 2000, I issued an amended order extending the emergency order until 3:00 a.m., EST, on December 28, 2000, and modifying certain provisions of the original order. On December 27, 2000, I issued a further amendment extending the order until 3:00 a.m., EST, January 6, 2001.

I find that the circumstances which led to my previous determinations that California was experiencing a shortage of electric energy continue and hereby extend the Section 202(c) emergency order until 3:00 a.m., EST, January 11, 2001. In addition, as discussed below, I am prescribing a condition of service under which the California ISO and the entities subject to this order enter arrangements pursuant to this order, and am modifying the circumstances under which the California ISO can certify it has, or reasonably anticipates, an inadequate fuel or energy supply as required under Ordering Paragraph D of the original December 14, 2000, order.

The condition of service I am prescribing to any and all energy or service arrangements entered into under this order is as follows: the terms of any arrangement made between the entities subject to this order and the California ISO pursuant to this order are to be as agreed to by the parties, but the California ISO cannot agree to a rate above \$64 per megawatt hour. If a rate at or below \$64 cannot be agreed to by the parties, then the requested energy or service will nevertheless be provided, and the rate issue will be referred to the Federal Energy Regulatory Commission (FERC) pursuant to 10 C.F.R. §205.376.



The \$64 amount was determined based on the California Public Utilities Commission's (CPUC) "Interim Opinion Regarding Emergency Request for Rate Increases," Decision 01-01-018, issued on January 4, 2001. That is the per megawatt hour rate the California ISO, acting as agent for and on behalf of Scheduling Coordinators (as that term is defined in the California ISO tariff on file at the FERC), can pay for electricity and recover its costs under the CPUC decision. I want to be absolutely clear that in prescribing this condition of service, I am in no way predetermining the rate issue or endorsing \$64 as a just and reasonable rate. The purpose of the condition of service is this: if the California ISO and the entities subject to this order cannot agree to a wholesale rate pursuant to which the California ISO, or those on whose behalf it is acting, can recover the costs under the CPUC retail rate, then the rate issue should be referred to FERC for a determination of just and reasonable rates in a public proceeding.

If arrangements made pursuant to this order are referred to FERC for a determination of the rate issue, I urge FERC to consider that what is a just and reasonable rate under normal market conditions may not be just and reasonable during times of emergency supply constraints. On the other hand, the rate cannot be confiscatory. Suppliers of energy or services must be allowed to recover the reasonable costs incurred in providing the energy or service, plus a reasonable rate of return.

I am also modifying the circumstances under which the California ISO can certify it has, or reasonably anticipates, an inadequate fuel or energy supply as required under Ordering Paragraph D, as amended, of the original December 14, 2000, order in the following way. By 12:00 noon, EST, January 9, 2001, the California ISO must submit to the Department of Energy a certification by a responsible official of the State of California that the state will initiate a program to reduce peak load electricity consumption by at least 5 % by 3:00 a.m., EST, January 16, 2001. After 12:00 noon, EST, January 9, 2001, the California ISO cannot issue a certification under Ordering Paragraph D, as amended, unless it has submitted such a peak load reduction certification to the Department of Energy.

All other terms of the December 14, 2000 order, as amended, remain the same and in effect.

#### ORDER

For the reasons set forth above, pursuant to Section 202(c) of the Federal Power Act, it is ordered that:

- A. Ordering Paragraph C of the "Order pursuant to Section 202(c) of the Federal Power Act," dated December 14, 2000, is amended to read as follows: "This order is effective immediately and expires at 3:00 a.m., EST, January 11, 2001, unless altered or revoked by further order."
- B. Ordering Paragraph D, as amended, is further amended by adding the following at the end:

"By 12:00 noon, EST, January 9, 2001, the California ISO must submit to the Department of Energy a certification by a responsible official of the State of California that the state has initiated a program to reduce peak load electricity consumption by at least 5 % by 3:00 a.m., January 16, 2001. After 12:00 noon, EST, January 9, 2001, the California ISO cannot issue a certification under Ordering Paragraph D, as amended, unless it has submitted such a peak load reduction certification to the Department of Energy."

- C. Ordering Paragraph F is amended to read as follows: "The terms of any arrangement made between the entities subject to this order and the California ISO pursuant to this order are to be as agreed to by the parties, but the California ISO cannot agree to a rate above \$64 per megawatt hour. If a rate at or below \$64 cannot be agreed to by the parties, then the requested energy or service will nevertheless be provided, and the rate issue will be referred to the Federal Energy Regulatory Commission pursuant to 10 C.F.R. §205.376 .".

Issued in Washington, D. C., on January 5, 2001



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Bill Richardson  
Secretary