

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

California Cogeneration Council, et al. Docket No. EL01-64-000

Tractebel Power, Inc. Docket No. EL01-67-000

v.

California Public Utilities Commission

NOTICE OF INTENT NOT TO ACT

(June 4, 2001)

On April 5, 2001, in Docket No. EL01-64-000, California Cogeneration Council (Cogeneration Council), Applied Energy, Inc., Carson Cogeneration Company, Mojave Cogeneration Company L.P., PE Berkeley, Inc., and United Cogen, Inc. (collectively, Cogeneration Council) filed a petition for enforcement pursuant to section 210(h)(2)(B) of the Public Utility Regulatory Policies Act of 1978 (PURPA).¹ On April 18, 2001, in Docket No. EL01-67-000, Tractebel Power, Inc. (Tractebel) filed a petition for enforcement action pursuant to PURPA and a motion to intervene and comments supporting Cogeneration Council's petition in Docket No. EL01-64-000, as well as a motion to consolidate these two dockets.

Cogeneration Council states that on March 27, 2001, the California Public Utilities Commission (California Commission) issued an order, Decision 01-03-067 (Decision)² that failed to implement the avoided cost provision of PURPA and that the Decision thus violates PURPA and the Commission's implementing regulations. Cogeneration Council thus asks the Commission to institute an enforcement proceeding against the California Commission to prevent implementation of the Decision. Alternatively, Cogeneration Council requests that the Commission provide guidance as to whether the Decision conforms with PURPA. Tractebel states that it adopts and incorporates by reference the factual and legal discussion and the relief requested in Cogeneration Council's petition.

¹16 U.S.C. §824a-3(h)(2)(B) (1994).

²Order Instituting Rulemaking on the Implementation of the Public Utilities Code Section 390, D.01-03-067 (March 27, 2001) (Decision).

Notice is hereby given that the Commission declines to institute an enforcement action under section 210(h)(2)(A) of PURPA because these matters are still pending before the California Commission.

By direction of the Commission.

David P. Boergers,
Secretary.