

**UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION**

San Diego Gas & Electric Company,
Complainant,

v

Docket No. EL00-95-045

Sellers of Energy and Ancillary Service Into
Markets Operated by the California
Independent System Operator Corporation
and the California Power Exchange,
Respondents.

Investigation of Practices of the California
Independent System Operator and the
California Power Exchange

Docket No. EL00-98-042

ORDER CONCERNING DISCOVERY RULINGS

(Issued February 25, 2002)

Consistent with 18 C.F.R. § 385.403(b), please be advised that at the prehearing conference held on February 21, 2002, and upon consideration of the matters urged by the participants, I denied the motion filed on January 23, 2002, by PPL Montana (PPLM) for requests for admissions, Appendix 2 to the motion, requests 5,6,8 through 14, and 16 through 22, and PPL-ISO discovery requests 6 through 21, concerning whether and the prices at which the California Independent System Operator (ISO) agreed to purchase energy from PPLM under section 202(c) of the Federal Power Act, 16 U.S.C. § 824b(c) (DOE Sales or § 202(c) sales). Essentially, I ruled that the information sought was not relevant and did not appear to be reasonably calculated to lead to the discovery of admissible evidence. Transcript (Tr.) at page 983-984; 995-996; 1003-1004; 1009-1010. The rulings recognized that the DOE Orders at issue spoke for themselves, that the

Commission's July 25¹ and December 19 Orders found that rates for § 202(c) transactions are outside the scope of this proceeding and not subject to mitigated pricing, and that the scope of the evidentiary hearing was limited to the Commission's refund methodology.

Bruce L. Birchman,
Presiding Administrative Law Judge

¹ In the July 25 Order, mimeo at 35, the Commission stated, "We agree that rates for transactions entered into under § 202(c) in compliance with the Secretary's orders are outside the scope of this proceeding. The Secretary has not referred any sales to this Commission for a rate determination; if any had been referred here, they would have been reviewed in a separate proceeding." In the December 19 Order, mimeo at 56, the Commission found, *inter alia*, "Nothing the ISO argues convinces us that these transactions are to be brought within the scope of this proceeding."