

UNITED STATES OF AMERICA 100 FERC ¶ 63, 030  
FEDERAL ENERGY REGULATORY COMMISSION

San Diego Gas & Electric Company,  
Complainant,

v.

Docket Nos. 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 REQUIRING APPROPRIATE SERVICE OF CERTAIN CARE PLEADINGS,  
CONCERNING ANSWERS TO CERTAIN CARE PLEADINGS AS THEY CONCERN  
ISSUES BEFORE ME, AND REJECTING CARE'S APPEAL OF MY AUGUST 2, 2002  
ORDER

(Issued September 6, 2002)

1. In the captioned dockets and numerous other proceedings, on September 2, 2002 CARE filed two pleadings: (a.) a pleading styled as an Appeal of my Order issued August 2, 2002, 100 FERC ¶ 63,011 (2002), as corrected on August 5, 2002, which denied a CARE motion insofar as it sought reconsideration of my Order issued on July 23, 2002 and granted its request to be placed on the restricted service list which I adopted on August 21, 2002, (b.) a pleading setting forth its objections and protests of alleged violations of procedural due process requirements at the hearings convened between August 19 and August 23, 2002 in San Francisco, California, and (c.) a pleading filed on September 3, 2002, which sets forth a stipulation of facts litigated at the August 19 to 23 hearing.
2. Under the governing procedures applicable to the restricted service list, concurrent with the filing of pleadings with the Commission, participants on the restricted service list are required to serve on and by "listserv", an internet feature established by the

participants to the restricted service list, copies of pleadings that are filed with the Commission. Each of the three CARE pleadings contains a certification that the pleading was served on each participant on the official restricted service in the above-captioned proceedings before me. However, the Bonneville Power Administration has advised me that it and other participants on the official restricted service list were not served with the three CARE pleadings. Service on listserv of pleadings that are filed with the Commission apprises each of the participants on the official restricted service list with notice of the filing of a pleading with the Commission.

3. Because CARE apparently failed to serve via listserv all participants that are on the official restricted service, CARE is directed promptly to serve via listserv each of the participants on the official restricted service list with copies of its pleadings under 1.(b.) and (c.) above. Service via listserv of its Appeal listed under 1. (a) is unnecessary in light of the rejection of the Appeal as discussed below.

4. As concerns matters that have been set for hearing before me in these captioned proceedings, as distinct from matters in the captioned proceedings which remain before the Commission, any interested participant may file an answer to the CARE pleadings under 1.(b.) and (c.) with me no later than September 12, 2002, and should provide me by e-mail with a courtesy copy of the answer. To the extent that these pleadings raise matters that are pending **before the Commission** and have not been set for hearing before me, answers to those pleadings should be **filed with and directed to the Commission**.

5. I note after I issued my Order on August 2, 2002, CARE filed on August 13, 2002 a request for expedited consideration of its motion for reconsideration of its July 29, 2002 Motion to reopen the refund hearing records for evidence of “inappropriate or fraudulent practices”, and/or in the alternative, for continuance of refund hearings to a future date to be located in San Francisco, California. I denied that further motion for reconsideration by an Order issued on August 15, 2002 because the issue of “fraudulent practices” was not among the issues set for hearing by the Commission and concerned issues that are before the Commission.

6. CARE’s Appeal of my Order issued on August 2, 2002, which denied its July 29, 2002 motion, is rejected for failure to comply with 18 C.F.R. § 385.715(b.). Subparagraph (b) of this rule requires that CARE’s motion must be made within 15 days of the ruling of the presiding officer and must state why prompt Commission review

is necessary under the standards of subparagraph (a) of this rule. In these respects, CARE's pleading is untimely and also failed to reference and/or establish the requisite standards under subparagraph (a) of the rule. Consequently, CARE's Appeal is not properly before me and is rejected.

Bruce L. Birchman  
Presiding Administrative Law Judge