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BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

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IN THE MATTER OF: :
PRESS CONFERENCE :
----- x

Federal Energy Regulatory
Commission
888 First Street, N.E.
Washington, D.C.

(The following transcript was transcribed from a
Video Cassette tape provided by the Federal Energy
Regulatory Commission to Ace Federal Reporters.)

1 PROCEEDING

2 COMMISSIONER: No they go back to the customer,
3 ultimately through the same process that all the other
4 refunds we're talking about are, yeah.

5 SPEAKER: Can you give us now a new number for
6 what you think California is entitled to, given the market
7 disruptions in 2000 and 2001?

8 COMMISSIONER: We're not through. As you've
9 heard today, we've still got some other evidence to review.
10 I do not have a solid number for the change in the gas and
11 for the Birchman (phonetic) hearing, I do know that the
12 number will be up but I'm not going to -- I don't have
13 numbers on which I can give you a solid answer so I'd
14 rather not speculate. Yes sir.

15 SPEAKER: In a sense it's two questions. For
16 people in California who are watching this and are
17 wondering what, you know, the bottom line of what you found
18 about their market, could you summarize that and explain it
19 to them in a way that they're going to get and also, I
20 think one of the Commissioner, Commissioner Brannel
21 (phonetic) said that no one was on the side of the angels
22 here, I was hoping she could explain what she meant by
23 that.

24 COMMISSIONER: She can go to that. I'll take my
25 little question first cause it's not little and it's a

1 simple question and I think when we started on this back
2 in, gosh a few months after I took over as chairman, we
3 initiated the process that lead to the Julianis (phonetic)
4 Report that came out today and I do encourage you to read
5 it, at a minimum, the executive summary but there is a lot
6 in that report that -- particularly those of you who cover
7 this a lot, I think there is an intense amount of
8 information that's very, very helpful but the bottom line
9 is, we had a market where there is a supply and demand
10 crunch, certainly, a lot of demand was there, the economy
11 was hot at that time, the weather was hot, the supplies
12 were down, notably due to the fact that the high growth
13 power was as low as anybody could remember in the summer of
14 2000. So you had some supplies/demands fundamental issues.
15 A state of which we saw this last winter with those -- the
16 natural gas, you know, intense cold weather, we've got an
17 infrastructure that's packed to the max. So that was kind
18 of an underlying issue. Big one. Market rules on top of
19 that but did not provide an incentive for companies or
20 customers or any of the above to fix the supply problem or
21 address the demand problem by giving customers some price
22 signals on when to reduce demands so you've got some
23 infrastructure issue and the market rules together with big
24 negatives beside them and as the team concluded, that
25 created a fertile environment for companies to twist, turn

1 and perhaps break the rules to their financial advantage
2 but to the customers' disadvantage. And that's really,
3 that third chapter. The commission before, actually before
4 Nora and I even got here, I think Bill was here with three
5 other colleagues at the time but really analyze and I think
6 and because the time was proven that analysis on those
7 first two prongs was -- wasn't remain pretty solid
8 underpinnings for what happened here but the taking
9 advantage of the situation part is what we were committed
10 to address in setting up the staff investigation and I feel
11 like we got a lot out of that, again, the work still
12 continues due to the fact that we gave the parties as we
13 were instructed to do, a similar opportunity to secure all
14 the evidence from the same things that our staff was
15 looking at over the last year. We did find some issues
16 that we even took some action on some today and we'll take
17 action on others in the future but -- so the answer is
18 three things, two things big created the third thing which
19 altogether added to a real big negative. The
20 infrastructure, the market rules, which led to ability to
21 manipulate gas and power markets, which collectively led to
22 lot higher prices than people should have paid.

23 SPEAKER: A lot of people think it's the twisting
24 and the turning that was the biggest problem. I think
25 that's probably a view that a lot of people in California

1 have. Is that a fair assessment? Was that the main
2 problem that cause this fight?

3 COMMISSIONER: The twisting and the turning
4 meaning what?

5 SPEAKER: The market manipulation?

6 COMMISSIONER: No, I think that was a consequence
7 of the other two but again, you have the ability to have
8 market power and to do these things when the market is
9 really at the edge. So as I think Mr. Gilanis (phonetic)
10 pointed out, if there had been ample supply in this market,
11 it would have been impossible to process from these
12 (inaudible) gain. And you had a question for Commissioner
13 Brannel.

14 COMMISSIONER: Yeah, and starting with
15 Commissioner Matthew's point to his undying credit was the
16 first and the loudest to continue to say that this Agency
17 did not respond that the market rules were inadequate, that
18 the response in California was inadequate and life was a
19 continuous series of unpleasant surprises from the reaction
20 of the public policymakers but more importantly as I said,
21 dysfunctional market breed dysfunctional responses and
22 everyone I think, at one point or another, look for
23 opportunities to exercise judgment that may or may not have
24 been guilty of anything that we know of but allowed them to
25 leverage their own position. Some of the people

1 complaining about the long-term contracts were selling into
2 the marketplace at very, very high prices. Some of the
3 people who were complaining about the contracts actually
4 had some pretty good deals in the early years where the
5 seller took the risks and then wanted to get out of them
6 when in fact the seller was recouping their cost. There
7 was response to the chronic under-scheduling by the
8 incumbents which caused people to over-schedule. In a
9 market at equilibrium that might be viewed as inappropriate
10 gaining. In this case, it actually brought value to the
11 marketplace because it offset the under-scheduling that was
12 going on by the incumbent. So, I guess my point is, people
13 were scrambling with responses. Some of which were in fact
14 dysfunctional responses to a dysfunctional marketplace that
15 we will now either preclude in a rulemaking or in fact
16 would not be able to take place as Pat rightly pointed out
17 if you didn't have these other elements. And the challenge
18 for us going forward is to sort through what were the
19 behaviors that were clearly illegal and clearly had some
20 intent to manipulate or harm the market and what were in
21 fact, as I used an example, the over-scheduling to the
22 under-scheduling, what were, you know, responses that were
23 in fact workable solutions to market that was falling
24 apart. So the answer alas for people in California is not
25 as easy as some people would like it to say. The answer is

1 also bound by a record of facts. It is not sufficient for
2 us to stand up and say, we think the following 27 things
3 happened. We have to prove them and then we have to prove
4 causality, and that's what you're seeing today in terms of
5 the work that is been done and that's what you will see
6 going forward.

7 SPEAKER: Can you explain a little bit about the
8 next steps in terms of the companies whose profits may end
9 up adding to California's refund that go outside the
10 designated period. Kind of what happens now and what you
11 think the extent is of those illegal process, of fuel.

12 COMMISSIONER: You're talking --

13 SPEAKER: I'm talking about the possible
14 disgorgement, you know, that has come --

15 COMMISSIONER: The disgorgement issue again --
16 we've asked for briefing on that issue, on the tariff
17 provisions that the staff recommended we took (inaudible).
18 I mean you've got to have a law that people break before
19 you can disgorge the profits. So that's what we're doing
20 but more importantly, we're also looking at all the
21 evidence that came in from the Hunter Bay discoveries which
22 has evidence on both sides that somebody did something
23 wrong and then that person kind of respond, well, here's
24 what I did what I did or I didn't do it at all with a lot
25 of specificity. And that's what I think, with what came in

1 last week, it was, you know, double what came in two weeks
2 before. That's what kind of made us stop and said wait, we
3 need to really look this through. So I will give you an
4 answer that will be unsatisfactory for you, which, we're
5 going to take that up in April because we need to digest
6 this data. We ask (inaudible) to do the Hunter Bay
7 discovery, which they wanted to do and -- but we owe it to
8 them and to the public before we (inaudible) that evidence
9 and to look at it before I could give you a solid answer to
10 that question.

11 SPEAKER: But to just follow up. As far as what
12 you know so far and as far as what the staff report said,
13 you believe there is some legalities and you believe there
14 will be some process that will need to come back?

15 COMMISSIONER: I personally do but the Commission
16 is not acting. Yes sir, then I'll go back over here.

17 SPEAKER: Do the Julianis (phonetic) Report leave
18 open the possibility of any criminal charges? And if so,
19 would FERC pursue them or is that something that would be
20 referred to other agencies?

21 COMMISSIONER: If there are criminal charges,
22 they would be addressed under our law by the department,
23 yes sir. Let's go here in the middle.

24 SPEAKER: Pat are you also -- the report also
25 concluded that you should be looking at the period prior to

1 October 2000.

2 COMMISSIONER: We are yes. And again, a lot of
3 that came in as well not just from report but from the
4 Hunter Bay evidence.

5 SPEAKER: So the Commission now is -- not quite
6 sure how to about this but changing its view that it's only
7 proper to look from October 2000 to June 2001?

8 COMMISSIONER: No, no, no, we've actually said
9 the legal basis on which we can look prior to the dates of
10 the refund so in other words, the running of the
11 (inaudible) is where it is. What we can do, and I think
12 we've said actually said back in July '01, in that order
13 where we set up the (inaudible) that we do have and I think
14 we said on both gas and electric for a little while so that
15 means it's not the first thing you ever read, that we can
16 go back for violations of the tariff and seek disgorgement
17 of profit and we've done actually a couple things already -
18 - we're relying on for example was based on that, that
19 philosophy and so anything else that we look at, would be
20 based on that same philosophy and that is encompassed in
21 the Judge Birchman. Toward the end there is a discussion
22 about that but paragraph 149 if you care to look but that
23 kind of explain the different legal basis for our ability
24 to go back but that's why we looked from the onset. From
25 January of '00 to he end of '02 because we know that even

1 though it's a different legal basis, we can look at any
2 violation (inaudible) that happened in that period. Yes
3 sir and then I'll come over the table. This gentleman here
4 in the second row.

5 SPEAKER: The staff report cites about three
6 dozen entities that were involved in Enron-type trading
7 activities. Can you characterize the evidence that we'll
8 see at 5:00 o'clock (inaudible) website. I mean some of
9 them are in California? Are they trying to off-set what
10 Enron was doing? I'm just curious what was going on there.

11 11

12 COMMISSIONER PAT: I think the best thing that
13 you might want to look at, which is available now actually,
14 is the California ISO January 6 report of this year, with
15 that 36 or so, is largely -- is drawn from that. So that
16 report is on the CAL-ISO (phonetic) website today and I
17 would just recommend -- and I'm sorry I don't have the
18 exact site but you could find that there right now. But
19 that report is been out and kind of might have been subject
20 to somebody's story two months ago but that's largely drawn
21 from that.

22 SPEAKER: Pat, can you on the contracts two
23 questions. First, can you give kind of a rough idea of the
24 dollar amounts at issue in the contracts that are before
25 you that you're deciding and second, I would anticipate

1 that some critics would look at -- with the discussion
2 today and say that on the one hand, the (inaudible) we
3 found that manipulation and misconduct played a role in the
4 high dollar contracts that the State of California and
5 others signed and then on the other hand, if I heard you
6 all correctly, it looks like two out of the three
7 Commissioners are pretty clearly signaling they're not
8 going to abrogate those contracts although I understand
9 that didn't today. But is that -- are those two things in
10 conflict and if not, can you kind of succinctly say kind of
11 why that is?

12 COMMISSIONER(PAT): First of all the dollar mount
13 of involvement here, I think the California contracts were
14 about 4100 mega-watts in the varying prices I think. I
15 mean, I'm looking more at (inaudible) the percentage of
16 overall market. The (inaudible) contract was about 5% of
17 its total supply. The Nevada were a lot of shorter-term
18 contracts that were a larger percentage of those supply and
19 then the SCWC, I'm sorry I don't know the answer to that.
20 So I don't have a dollar amount but just the mega-watt
21 percentage of the portfolio and for me that was a
22 dispositive matter. You might have -- what is not before
23 the Commission are all the other contracts. The ones that
24 may be a little low and so you, you know, quite frankly in
25 my view of the standards and this is why we ask for a lot

1 of evidence, to be brought in to the cases which we've been
2 plowing through, that you do have to look at the totality
3 of the circumstances here because they're quite a few
4 contracts that are not before us and it's the overall
5 picture and the overall balancing that you've got to look
6 at here in looking at the overall market. I don't know if
7 my colleagues -- since we just had that discussion, might
8 want to add anything.

9 COMMISSIONER(FEMALE): I just like to add, part
10 of the difference of opinion is also the interpretation of
11 the staff report which came to some conclusions that are
12 not necessary representative of others and some of the
13 other evidence that I've looked and so I don't know think
14 it's fair to say that the absolute correlations between the
15 evidence of manipulation and the long-term contracts has
16 been made. But that's really secondary I think to the
17 larger totality of issues.

18 COMMISSIONER: With great respect to my
19 colleague, I don't know who -- you asked this question -- I
20 do think that the two notions are kind of at war with each
21 other. The -- a lot of evidence of manipulation of gas and
22 electric markets and somehow we are going to confine the
23 remedy to the short-term markets meaning, spot markets,
24 either hourly, daily, monthly, spot markets and I do think
25 that you raise a good point which I raised in my comments

1 as well and I think, at least based on the table
2 discussion, my colleagues and I, respectfully part company
3 on this point. Let me just say that the way I see what we
4 did today was, I think it was important because it was the
5 first time that the Commission had actually underscored and
6 actually found evidence of manipulation occurring before
7 the October 2nd date and, well it's not the first time but
8 the report focused on that period of time. I think that's
9 important to understand that this report goes back before
10 the October 2nd date and says, beginning in May, June,
11 July, August, September, of 2000, there may have been bad
12 behavior that may have violated tariffs and the report lays
13 out some of the tariff provisions that were in effect, the
14 anti-manipulation provision and we're seeking comment on
15 whether those are actual tariff violations that we can
16 remedy. But the Commission, the report says we think there
17 was market manipulation occurring back then and we think
18 the Commission ought to remedy it. So I think that's
19 important. Then you've got the refund period that began
20 October 2, 2000 and extended through June of 2001 and the
21 Commission changes the refund formula, number one to
22 California, number two, the three of us agreed at the table
23 that we would try to provide remedies for the northwestern
24 spot markets as well during their refund period, which is
25 roughly December 25, 2000 extending to June of 2001. So

1 that's new information as well and the third big bucket of
2 issues involve the long-term contracts and you've heard the
3 debate on that.

4 SPEAKER: Just one quick follow up. I was a
5 little confused about what Commissioner (inaudible) said
6 about which contracts are affected here. Does your
7 eventual decision on the contracts not affect the 30 or 40
8 billion dollars, which I think is the number, in total of
9 long-term contracts that the State of California and others
10 signed at the peak of the prices?

11 COMMISSIONER: It could affect those contracts
12 that were actually challenged or they could be challenged
13 in the future I suppose too but certainly those complaints
14 that are before us, the debate on long-term contracts and
15 how we resolve that certainly applies directly to those
16 cases that are before us and they encompass some of the
17 contracts that you mentioned, although I don't think all of
18 them. So yes, those contracts are at issue. A number of
19 contracts in the pacific northwest are at issue, long-term
20 contracts. Hold on.

21 SPEAKER: On the long-term contracts. I just
22 want to make sure I understand where each Commissioner
23 stands on these issues. The first question was that --

24 COMMISSIONER: We've got three commissioners here
25 I think --

1 SPEAKER: (inaudible).

2 COMMISSIONER: This doesn't count.

3 COMMISSIONER: That would be easy.

4 SPEAKER: We can ask them privately and that's
5 about it.

6 SPEAKER: Yeah, that would be easy. Let's do
7 that.

8 SPEAKER: (inaudible). But it's very difficult
9 under the Sunshine Act --

10 COMMISSIONER: If you're reporting on what we
11 find, what we did.

12 SPEAKER: To put them basically, asking them to
13 deliberate.

14 COMMISSIONER: Yeah, let's talk about what we did
15 today and not what we're going to do. It would be easier
16 to do that.

17 SPEAKER: Okay.

18 COMMISSIONER: All right, I'll do you and then
19 I'll do Cathy.

20 SPEAKER: Okay, this may sound -- I mean this may
21 sound completely weird but, is it possible that we can talk
22 to you afterwards? Yeah, I mean so that -- I mean in other
23 words, it sounds totally rude, but I mean so what we could.

24 COMMISSIONER: (inaudible)

25 SPEAKER: But we can have Pat and Nora -- we can

1 talk to you guys afterwards?

2 COMMISSIONER: Next question -- we'll finish,
3 we'll come back to that.

4 SPEAKER: Mr. Chairman, I wanted to ask about the
5 gas price input change. Is there anyway that you're
6 actually setting a gas price or do you have the authority
7 to do that under current statute? How are you not
8 regulating a price or re-regulating the gray market?

9 COMMISSIONER: The gas price input change for the
10 California refund formula?

11 SPEAKER: Uh huh.

12 COMMISSIONER: That refund formula is the formula
13 we design as a remedy to a (inaudible) plan. Something
14 we've got very broad jurisdiction to fashion any sort of
15 remedy (inaudible) court. So no, I don't do that and I
16 don't think that the (inaudible) should do that as an
17 attempt to regulate the gray market. I think it's a -- it
18 is our best attempt to really, as the order says,
19 compensate for the fact we can't separate out market
20 manipulation and scarcity so we bring it down to the bottom
21 level and then we allow, which is production area basement,
22 which are reported and have strong correlation to the Henry
23 Hub so we didn't find those suspect enough to worry about
24 using those plus the fully allocated cost of transportation
25 from the basement to the (inaudible) point so that would be

1 the intern in trust (inaudible) tariff rates. Those are
2 described and the numbers you brought out are in the
3 Julianis Report. And then giving the companies the
4 opportunity to come show that their gas cost were greater
5 than that and in fact they may well be. Just come show us
6 and then we'll give you, basically like we did for the
7 knots (phonetic) credit from the other things during the
8 refund period. Just basically cuts out against your refund
9 obligation.

10 SPEAKER: The report going forward has series of
11 recommendations. How quickly should we be looking for you
12 guys to act on that and how are you going to prioritize it?

13 COMMISSIONER: Well they're all important.
14 That's a great question that I quite frankly don't have an
15 answer for you today but it is kind of on the matter of
16 days and weeks, not months that we're going to really move
17 forward on those. I think when you've got an authoritative
18 report like that, it's really incumbent upon us to listen
19 to the good folks we ask to come work for us. We had a lot
20 of outside help on this from consultants we hired and paid
21 good money to to come help analyze a lot of these
22 (inaudible) of data and learning new stuff for things I
23 never thought we'd have to deal with but soon, soon,
24 definitely. I mean the remedial orders certainly that are
25 on a fast track but the perspective change and the

1 (inaudible) also and they're all important.

2 SPEAKER: Would it be fair to say before this
3 summer or you're going to stretch out a little longer?

4 COMMISSIONER: Stretch out, me? No way. But
5 thanks for asking. You set a low bar for me but I was
6 thinking about maybe next month. In the back there, yes
7 sir.

8 SPEAKER: Two quick ones if I may. When do you
9 anticipate ruling on the long-term contracts and on the
10 question of the 100-day evidence, how is that evidence
11 going to be treated going forward? Is it going to be
12 subject to some kind of hearing or cross-examination
13 procedure? Can you give us any idea of how that's going to
14 go?

15 COMMISSIONER: The answer to the first thing, I
16 don't have a specific date. I think we've got to still,
17 you know, this is an unusual instant -- actually one I
18 actually enjoyed a lot because before we kind of get ready
19 to vote, it's nice to talk collectively and do that. So I
20 wish we could do that more often. I enjoy it but we still
21 have some issues to work through on that even though we
22 might ultimately disagree, there are a lot of things that
23 are in those records that we've got to finish working with
24 so I'm not going to say next week or tomorrow but I mean
25 certainly it's important to do those soon. And as to the

1 second question, what we said in the -- I'm trying to think
2 hat we said -- we said this in the -- no we didn't, yes we
3 did -- in the open meeting that we would take together the
4 Julianis Report and the Hunter Bay evidence and consider
5 those two things together. We've got a developed body but
6 it overlaps a lot with the Julianis Report. I think we've
7 all come to that conclusion but there are some new things
8 also from the Hunter Bay evidence and I think we've got to
9 decide how we get -- what legal standard applies, what
10 policy guidance we want to give and do we have to deal with
11 this before a judge or can we deal with it on a paper
12 hearing at the Commission. And you know, I'm sorry I don't
13 have specific answers on that but that's the process we'll
14 go through to get to some conclusion there. Yes, here in
15 the front row.

16 SPEAKER: It's a little unclear to me what you
17 did with the Pugit (phonetic) case where it's --

18 COMMISSIONER: Again, we discussed it for the
19 first time together and we'll be issuing an order in the
20 near future that I think if I can fairly characterize what
21 we just talked that would reinstate the complaints filed by
22 Pugit, deny Pugit's request to dismiss it's own complaints
23 on the basis that we're moving forward because it's
24 effective December 2000 until the (inaudible) mitigation
25 was instituted in June of 2001, that there would be a

1 refund period, that it would be focused on 30-day or less
2 contract that we find is in the public interest to, in
3 fact, abrogate those contracts to think it up with the
4 remedy in the California market for the rough period of
5 time, to keep it focused as the original complaint was on
6 transactions in the pacific northwest, not across the west
7 more broadly and to acknowledge that because a lot of
8 people that was selling power, are not FERG-regulated
9 companies and therefore are not subject to our authority to
10 reform or pay a refund that we've got -- we've got a
11 situation here that as the state commission observed, is
12 right with the potential for (inaudible), so that's why
13 we'd really like to see this kind of more broadly be dealt
14 with as a settlement but I think we, I think I can
15 characterize it, all three of us stated that we think that
16 it is equitable to, dispute those caveats, it's equitable
17 to provide that opportunity for remedy to the spot markets
18 in the pacific northwest just as we have in California
19 because they are all part of the same market.

20 SPEAKER: Could you just say a little more about
21 the staff recommendation on the show-cause proceeding which
22 involve, it looks like a dozen companies. How are you
23 going to pursue that and this is the recommendation that 30
24 entities be directed to show cause, why their behavior did
25 not constitute gaining or other market behavior and why

1 they should not disgorge unjust enrichment. How will that
2 proceed and how does the 100-day evidence tie into that?

3 COMMISSIONER: There is some overlap. From our
4 initial review, the evidence some of the parties found was
5 similar, if not the same as what the CAL-ISO (phonetic)
6 based its January report on. So, there is some non-overlap
7 though and it's really that that we're making sure we want
8 to get this order right, it's kind of a collective bunch of
9 entities together, we want to do it one time and so we're
10 going to take a little bit more time to review this
11 evidence that came in over the last two weeks. While we're
12 doing that, we're going to also ask the parties to brief
13 the legal standard because again, if we're going back
14 before October 2nd, we've got to have a tariff, a
15 regulation or rule that you hang your hat on and so there
16 is a tariff provision that the staff identified, which is
17 the definition of gaining and anomalous market behavior
18 that we're asking the parties, okay, what is the legal
19 import of this for our ability to reach back and get the
20 claim. So that will be going on in the next couple weeks
21 and so this -- well, it's my hope to put an order before
22 the commission by the end of next month on moving forward
23 on the items that the staff identified today that we did
24 not act on.

25 SPEAKER: So a show-cause order --

1 COMMISSIONER: (inaudible).

2 SPEAKER: The show-cause order might appear then
3 in April to carry this next part of this thing forward?

4 COMMISSIONER: Again, it's the Commission's
5 prerogative to disclose but I will have the staff propose
6 that for the Commission's consideration in April. Let me
7 get this gentleman here, he's not asked yet.

8 SPEAKER: Could the gas actual cost part of the
9 refund issue that you're moving ahead with, are you
10 concerned that you're going to be discouraging energy --
11 U.S. energy market participants from hedging? Because it
12 seems with that proposal (inaudible) the spot market would
13 be paid and those that did hedge and actually, you know,
14 success with how you get the strategy in place will be
15 punished.

16 COMMISSIONER: This was an extraordinary event.
17 And it's certainly our hope that the remedies we have
18 pursued here to try to do justice to the customers who pay
19 the rates during this extraordinary event are not types of
20 tools that we will use ever again and that's what we're
21 trying to certainly pursue on the remedies on the forward-
22 looking front by laying out clear rules of the road for
23 markets on the electric side, clarifying the rules that we
24 now discover need to be done on the gas side but what
25 you've got here, certainly if you've got an economic

1 advantage as a electric generator or gas, well electric
2 generators, you have an economic advantage in the spot
3 market and that will not be taken from you and you're costs
4 are lower, and perhaps you're under the market clearing
5 price as a result of that, then you get to keep that
6 difference between the clearing price and your cost. That
7 clearing price now has been lowered however because of our
8 conclusions that the gas prices that were included in the
9 original setting of that but Judge Birchman in this hearing
10 by all orders, were inflated due to manipulation activities
11 in the gas marketplace. It wasn't just the opportunity
12 which we hypothesize why some of it happen, but the
13 actuality that in fact those industries were quite illiquid
14 and as a result had the ability to really be
15 unrepresentative of the price of gas that was actually
16 being sold and bought at the time. So to the extent there
17 is a producer along the way that has that gas price dropped
18 that paid here, we've allowed for that gas price to drop to
19 five to actually get the eight that he paid but we want to
20 see that, we don't want to just assume that because this
21 market was driven very substantially by the cost of gas and
22 so that, I think we all knew that, I think it's just when
23 you look at it in the gas market as the staff did over the
24 last year, and a lot of probing it entails, you discover
25 that it had some anomalies that, that are not things we

1 want to live with either.

2 SPEAKER: It's a one-time thing but aren't some
3 of the ISOs, including AIRCO (phonetic), which I realize
4 you don't regulate but they take their cue from you often,
5 Midwest ISO, the northeast market mitigation procedures
6 that actually come to exactly the same thing currently?

7 COMMISSIONER: But their prospective, certainly
8 some producers know going into the market what the rules
9 are going to be as they buy and sell their power and as
10 they bid it in. So I mean, I think that is a substantial
11 and significant difference. I don't believe that we've got
12 those market mitigation plans in the organizing markets
13 across the country that we have set a balance that was
14 actually, as your original question pointed out, discourage
15 people from engaging in proper hedging, in fact, that's
16 kind of the underpinning of our overall market strategy but
17 you should in fact, self help as a buyer and seller by
18 locking in contract the varying links, in fact (inaudible)
19 upside and downside. Somebody else? I'm sorry, I did say
20 Sue next.

21 SPEAKER: The 37 companies that are going to
22 have to show why they should not have to return or disgorge
23 unjust profit, is this a pool of money that California
24 could potentially have access to and do you have an
25 estimate of what the alleged unjust profits are from this

1 group? Are we talking multi-billion dollars?

2 COMMISSIONER: I don't believe -- look -- I think
3 the best thing to do is look at -- because we have not
4 issued an order on that yet. But I do -- but the staff
5 recommendation is based substantially on a public report
6 that the CAL-ISO has on its web page that has a lot of
7 dollar figures in it and I (inaudible).

8 SPEAKER: (inaudible).

9 COMMISSIONER: Yes, so it will be again, as I --
10 again we have not directed that but based on our past, we
11 have directed that refunds for all these activities go to
12 the ISO pool which is where the great kind of netting is
13 going on of who owes who what. Yes sir.

14 SPEAKER: Chairman Wood, in the report, you
15 mentioned that (inaudible) was able to (inaudible) the
16 Southern California (inaudible) of liquidity, at the same
17 time, show Enron was able to actually manipulate the
18 (inaudible) considered one of the most liquid marketplaces,
19 what is the (inaudible) for U.S. gas market, I mean if you
20 can manipulate there, I mean what's to prevent a
21 manipulation from taking place and what can the Commission
22 do to prevent that?

23 COMMISSIONER: As we've been discussing I think
24 for the last three month, probably in both speeches with
25 (inaudible) we had it -- January or so, on the indexing,

1 January 15th, thank you Brian -- there are some steps that
2 in fact today were strongly endorsed from the staff of four
3 that I expect will get a lot of play and I hope support
4 from the broad public, including the industry to bring a
5 lot more transparency into the gas markets. I think there
6 a number of vehicles to get us there and again, we kind of
7 kept an open mind on that, on that road but we need to
8 really start focusing on getting there and I think the
9 there is an auditable trail, broad participations on market
10 players and I hope we've got market players today who are
11 withholding information for fear of getting popped, I think
12 we need to certainly come around the curve on that and have
13 people participate in the industry today, doing good-faith
14 report today, all their activities so that we can get the
15 liquidity back up, even though the system may not be
16 totally back to where or up to where it needs to be, we do
17 need people participating. So that having been said, the
18 having people, different parts of the company respond with
19 the full data in order to (inaudible) or give the data not
20 to trader. There is a discussion out on that, came out of
21 the staff report today, which is something we hear from the
22 (inaudible), something we're hearing from the other parts
23 of the industry as well so I think it does provide
24 (inaudible) move all the way and get the closure on a good
25 transparent market that we can all have faith in.

1 COMMISSIONER: One other point, the Julianis
2 Report focuses on a number of very important issues. The
3 relationship between the gas markets and the electric
4 markets which we know are critical but it lays out a story
5 there of how manipulation in the gas market can affect
6 electric prices. The relationship between the physical
7 market or energy and the financial, the derivative markets
8 for energy and how taking a position in the physical market
9 or an attempt to manipulate the physical market may bring
10 you benefits in the derivative marketplace. That's very
11 important information for the Commission I think to use in
12 moving forward with policy designed to ensure that prices
13 are just unreasonable in the markets that we regulate.

14 SPEAKER: Chairman you had wanted to wrap up most
15 of the California related issues by the end of March and
16 taken a good many steps toward doing that today. I wanted
17 to ask in terms of the companies that you're now issuing
18 show cause orders to the 37 companies that might have
19 participated in the non-trading strategies, the 10
20 companies that might have engaged in withholding, do you
21 feel that you're introducing more certainty into the market
22 now or do you feel that there might be more clouds of
23 uncertainty that are introduced through these actions?

24 COMMISSIONER: I think what we've done is
25 significantly narrow the funnel and that's what this

1 process has been about since we began, we haven't broaden
2 that and now we're down to a smaller number of people who
3 are still under-reviewed and I think that that does allow
4 to get more certainty, at least sooner though than later
5 but you know the data request went out on day one of this
6 process, to over 200 people in the marketplace so I think
7 that that's what we set out to do, is find out the truth
8 as best we can ascertain it and to move forward as we
9 legally can do and then bring closure and do some justice -
10 - to both sides because I think certainly the customer
11 issues have been raised that a lot of people who's names
12 have been (inaudible) about, a lot of good people work at
13 these companies that a few rouge traders are tarring the
14 reputation of and I think we need to just kind of be
15 objective about that and say that we've got appropriate
16 remedies for all these behaviors but that turn the company
17 or a person to -- evil person -- we've got those on the
18 other side of the world, I don't know we need to
19 (inaudible) in fear but we will take action as appropriate
20 or refer as needed to other agencies where necessary to
21 bring these issues to closure and I think that will take a
22 little bit longer than the next five days which is the end
23 of the month. Nora.

24 COMMISSIONER NORA: I think it's important to be
25 very, very clear, we're not opening wars on 12 other

1 fronts. We are narrowing the scope of information that we
2 have, we are making determinations as we will when we get
3 comments on the tariffs. You know were behaviors illegal,
4 were they not and then making an application based on the
5 situational circumstances at the time. so I also think we
6 can't leap to the conclusion that just because we issue
7 show-cause orders to some number of companies that we have
8 automatically assumed guilt and I really think that's
9 important in this marketplace where a lot of good companies
10 have been tainted simply by the fact that their names were
11 in the headlines so please, this is process, it's
12 refinement, it is bringing it to closure and it is
13 narrowing the scope, it doesn't sound that way but that is
14 in fact exactly what it's doing.

15 COMMISSIONER: One more question.

16 SPEAKER: One of the things you said in your
17 opening statement Chairman Wood was you had concerns that
18 what we're seeing going into this summer with some of the
19 same circumstances that we saw (inaudible) crisis in 2000.
20 What assurances do you have that the CAL-ISO and their
21 redesign was kind of not exactly on this level moving fast
22 but you wanted it to be on initially -- what are you doing
23 about that? What concerns you have about them getting up
24 to speed besides taking care of the past?

25 COMMISSIONER: Our staff was out last week Ms.

1 Shelton Cannon and others were out last week meeting with
2 the California PUC and (inaudible) and Commissioner
3 leadership to really work with them on trying to get some
4 common ground on the market redesign issue. California is
5 MD02 market design of 2002, unfortunately does not look
6 like it's going to be in place in '03 and certainly a lot
7 of the remedies that were identified by FERC in December
8 2000 and I believe even before, that we supposed relating
9 to congestion management in California have not been
10 remedied yet. I mean we're working certainly with a more
11 mature institution there than we had elsewhere in the west
12 and the CAL-ISO certainly has been through a lot but they
13 are an institution that I think, certainly I've got a good
14 amount of faith in to address these problems. I just think
15 we need to -- we'll continue to work with them, to answer
16 your question. We'll continue to work with the ISO, the
17 leadership there, the regulatory leadership, the market
18 assistance to get that market back in health. Moving out
19 of the 100% spot market was certainly a major step, I mean
20 a huge step and that does provide a lot of more rational
21 design. The Commission is looking at a resource adequacy
22 requirement for the state utilities there now that they are
23 no longer in the retail competition so that easier to make
24 happen. But it's important to get the market redesign
25 finished. The infrastructure issues are still a little

1 frail, across the west, again I was pleased that the
2 (inaudible) kind of ticks up this week instead of tick
3 down, which it was kind of proceeding downward. So it's,
4 you know, it's -- I'm not going to say it's a prayer vigil
5 summer again but we're not done.

6 SPEAKER: Thank you. One of the key findings in
7 the report was the -- that there was a statistically
8 significant relationship between spot and forward pricing.
9 Are you not persuaded of that ascertain or is it more a
10 matter of the way it should be given, that correlation
11 should be given in the overall analysis.

12 COMMISSIONER: For me, and I think we all come at
13 that one a little different. For me, I took that at it's
14 conclusion that the correlation is you're looking to back
15 that's really strong, a .33 correlation but one would be
16 direct correlation, zero would be nothing. In the one or
17 two year contracts it tapers off to, you know, the single
18 digits, .7 or something in a longer contract. So to me, in
19 a very short-term contract, it does weigh in in my
20 balancing of the factors as I laid out a little while ago.
21 But it is one of several factors. Thank you all today.

22 (Whereupon the tape ended.)
23
24
25