



Dow Jones & Reuters

The Washington Post

washingtonpost.com

Financial

Overcharges in Calif. Estimated; Energy Firms Faulted, but \$1.8 Billion Sum Is Less Than Sought

Peter Behr

Washington Post Staff Writer

517 words

13 December 2002

The Washington Post

FINAL

E03

English

Copyright 2002, The Washington Post Co. All Rights Reserved

A federal regulatory judge ruled yesterday that **energy** companies overcharged California utilities by \$1.8 billion during the worst of the power crisis two years ago, far less than the \$8.9 billion in refunds sought by the state.

The finding by Bruce L. Birchman, an administrative judge at the Federal **Energy** Regulatory Commission, did not consider the still emerging evidence of alleged price manipulation by gas and electricity suppliers serving California and neighboring states. FERC officials have said a final refund figure will not be fixed until the investigations are concluded.

"This is a score at a point in time. It isn't over yet," said FERC spokesman Kevin F. Cadden. He said the agency expects the matter to be resolved by March. The refunds are due from Enron Corp., Duke **Energy** Corp., Williams Cos. and other generators.

One lawyer representing California interests called Birchman's ruling "a reasonable starting point," given the limits on the evidence the judge had to consider.

Yesterday's ruling adds to the legal and political battle between California officials and utilities and FERC, which is accused by the California side of ignoring the crisis when it began in the summer of 2000 and then making little effort to investigate its causes.

"Week after week, new revelations of widespread manipulation of the California **energy** market come to light," Sen. Dianne Feinstein (D-Calif.) said yesterday in a statement. Her office released unofficial copies of taped conversations between power company officials, discussing how prices could be driven up if a power unit in the state was kept out of operation.

"This is what happens when federal regulators are not adequate enough, when regulators are asleep at the wheel, and when Congress does not take an active oversight role," Feinstein said.

FERC commissioners had initially ruled that refunds for overcharging before October 2000 would not be considered. Now, California utilities and agencies have until February to find evidence of overcharging before that date. They are also trying to determine whether **energy** companies deliberately shut down generating plants during the crisis, adding to the power shortages that helped drive up prices tenfold. The companies have denied doing so.

Birchman's decision did not consider a dispute now before FERC over whether El Paso Corp. deliberately withheld natural gas from California in 2000, contributing to a huge spike in prices for gas used to fuel power plants. El Paso has denied manipulating **energy** prices.

While FERC is reviewing refund issues in California, a different FERC judge has ruled that refunds are not due to utilities in Oregon and Washington state, which experienced comparable price surges during the crisis.

Robert McCullough, a **Portland**, Ore., **energy** consultant who is aiding utilities' investigation of the California crisis, said the FERC judge's ruling is another example of a scattershot, uncoordinated investigation by the commission. "We have completely inconsistent rulings from different cases," McCullough contended. "This is Keystone Kops at its worst."

<http://www.washingtonpost.com>

Document wp00000020021213dycd0001p

© 2004 Dow Jones Reuters Business Interactive LLC (trading as Factiva). All rights reserved.