Bush Blinks on Calif. Energy Crisis

by Suzanne Rose

Senate Democrats and California Gov. Gray Davis (D) responded to an order by the Federal Energy Regulatory Commission (FERC) on June 18, to extend limited price controls throughout the Western region, with a demand that the FERC order the energy pirates to refund $9 billion to the state of California. Under energy deregulation in California, which allows the cartels to set the price, prices have gone up to as high as $3,800 per megawatt-hour, and have risen, on average, more than ten times the previous rate of $30 per MWh. On June 18, the Bush Administration-controlled FERC (two of the five commissioners were appointed by Bush, and the chairman, Curtis Hebert, is a fanatical free-market ideologue) issued the order, because momentum is building in both houses of Congress for a showdown over energy prices, which the administration and its energy cartel backers would lose.

House Democrats had dubbed the week of June 18-22 "energy week," and intend to get enough signatures (218 are required) on a discharge petition. This would force a bill, H.R. 1468, sponsored by Rep. Jay Inslee (D-Wash.), to return California energy prices to "just and reasonable" levels, out of a Republican-controlled committee, where it is bottled up, and out onto the House floor.

So far, the House Republican leadership, in league with the Bush Administration, has refused to entertain any limitation on the profits of energy pirates, such as Enron, Dynegy, and Reliant—the so-called "Houston Cartel"—who have reaped, in some cases, 1,000% increases in profits by gouging California residents. Since 1999, expenditures on energy in the state have increased from $7 billion to an expected $60-70 billion this year. These proceeds have been pocketed by the cartel.

Behind the Republican refusal to move such legislation, was the fear that House Republicans, who are concerned about their re-election in 2002, would defy their leadership and support price caps in an open floor debate. According to *The Hill,* this fact of life was relayed to Bush in early June by Majority Whip Tom DeLay (R-Tex.).

Republicans have been on shaky ground ever since they lost control of the Senate, and Democratic committee chairmen vowed to examine the issue of price gouging in public hearings. At the same time, Governor Gray Davis began attacking the energy cartels aggressively, by name. The attack has been fuelled by a grassroots lobbying campaign in the state legislatures, and other public events led by Lyndon H. LaRouche, Jr.'s Presidential campaign committee, which has been demanding the re-regulation of energy in California and other states.

'Congress Will Act'

On June 19, at a hearing convened by Senate Energy Committee Chairman Jeff Bingaman (D-N.M.), Sen. Dianne Feinstein (D-Calif.) said that she regarded the FERC order as a "giant step forward." Feinstein, together with Sen. Gordon Smith (R-Ore.), is the author of the major energy crisis legislation on the Senate side, S. 764, requiring the FERC to exercise its mandate under existing law to ensure that energy prices are just and reasonable. She said that she is holding back her bill for the time being, to see if the FERC will enforce its order, given the loopholes which are already apparent. She noted that her bill was helpful in "urging it along," and exhorted the FERC to step in if the ongoing settlement conference between the state and energy suppliers does not result in refunds to California.

But, as Feinstein has noted, "little money has changed hands." Indeed, the FERC has determined that less than $200 million in overcharges is owed, and it has done nothing to get this pittance released. Its recent order that Williams Energy return the $8 million it gouged in May 2000, is waiting to be enforced. Testifying after Feinstein, Smith said that his and Feinstein's legislation, which goes much further than the FERC order in curbing the cartels, would have won large majorities in both houses. Sen. Barbara Boxer (D-Calif.) introduced a bill on June 20, with Rep. Bob Filner (D-Calif.) sponsoring it in the House, which demands that the energy companies refund their ill-gotten gains. She said that if the FERC does not enforce its orders against the cartels, and issue refunds, Congress will act legislatively.

Governor Davis was the featured witness at a June 20 hearing convened by Sen. Joseph Lieberman (D-Conn.), chairman of the Senate Government Affairs Committee, to determine whether the FERC has obeyed its mandate to enforce just and reasonable prices. He said that while the FERC did grant some relief in its June 18 order, it was "too late and more needs to be done." He called on the FERC to do its job and order refunds of $9 billion in overcharges imposed by out-of-state electricity companies. Lieberman and Sen. Richard Durbin (D-Ill.) quoted from the 1935 Federal Power Act, which obligates the FERC to order refunds when prices haven't been just and reasonable.

The response from the leaders of the Inslee discharge initiative in the House, is that they will continue to press the FERC to order just and reasonable prices. While limiting prices, the order does not approach imposing "just and reasonable levels." Filner said, "We need a lifeboat out here, and they are going to throw us a fairly frayed rope." Rep. Henry Waxman (D-Calif.) said, "The FERC order does not stop the blackouts."

FERC Will Not Budge on 'Market-Based' Rates

After months of intense political pressure from the California Congressional delegation, LaRouche Democrats, and Republican representatives worried about their re-election chances, on June 18 the Federal Energy Regulatory Commission (FERC) in Washington promulgated an order it claims will mitigate outrageous electricity prices in the West.

The purpose of the order was not to restore critical electricity infrastructure to government regulation, in order to protect the general welfare of citizens. It was, in FERC's words, designed to "provide breathing room for the markets to right themselves," to "stabilize the market in the short-term and permit California time to repair its market mechanisms."

The order includes the following features:

• A benchmark price, or ceiling, for the price of spot market power that can be sold to the state's Independent System Operator (ISO) in a declared emergency, will be set by the price of the most expensive power bid into the ISO's auction during the previous emergency.

This will provide windfall profits for companies whose modern facilities produce power substantially below the set price.

• The price limit will extend to the spot markets of the other ten states in the Western States Coordinating Council during a California emergency, to discourage companies from shopping around for the highest selling price.

This could cause severe disruptions in the price and availability of power in the Northwest, where demand peaks in the Winter, not the Summer, because the price is pegged to California's conditions.

• The ceiling for power during non-emergencies, for all 11 states, will be 85% of the benchmark, highest-cost price.

When there is no shortage, and companies are only running their most efficient and lowest-cost units, setting the price at 85% of the most expensive power will add to the windfall profits.

• The benchmark price will be in force 24 hours a day, not just in emergencies.

While this might curb the incentive for wholesale suppliers to "game" the market and drive up prices even when there is no emergency, it also prevents the price from ever going significantly below the cost of the most expensive power.

• Power generators may sell electricity to the ISO above the "mitigated" set price, but must justify the increase to FERC.

For one year, FERC has had complaints of overcharging from California utilities, the Public Utility Commission, the ISO, and other state officials. Documentation has been presented which shows that there has been more than $6 billion in overcharges by power pirates. FERC states that its investigations have found less than $200 million in overcharges, and not one penny of refunds has been made to the state.

• Public as well as non-public utilities and generators in California must sell excess power into the ISO spot market when it is needed.

There is no enforcement mechanism included in the order, and firms that have been under a must-provide order from the ISO, have found ways to game the market to drive up the price, by simply claiming that units were down for maintenance.—*Marsha Freeman*

EIR Testifies

EIR submitted testimony to the Senate Energy Committee for the June 19 hearing, which placed the California energy crisis in the context of the ongoing breakdown of the financial system. As the system blows, after 30 years of unprecedented speculation, the cartel arms of the financial community are grabbing everything they can get to boost financial profits, which includes the gouging of California by the Enrons, Reliants, etc.

The testimony described the required policy response to the crisis, which goes beyond defensive attempts, such as those led by the Congressional Democrats, to curb the power of the cartels. Overall re-regulation is required—including breaking the power of the energy cartels—to stem the economic and financial collapse. A New Bretton Woods financial system, including bankruptcy reorganization, is required, as a collaborative effort among nations. This action must be taken to write off the world's $300-600 trillion in unpayable debt burden, which the gougers are attempting to get paid.

The testimony concluded with a survey of the nation-serving infrastructure approach, including the approach to energy infrastructure—which many nations are now adopting—required to achieve an economic recovery. The Democratic Party's history in supporting this approach as recently as the 1996 Kennedy-Daschle-Bingaman Report, on the government's responsibility for building infrastructure, was also highlighted.