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# FEDERAL ENERGY REGULATORY COMMISSION



WASHINGTON, D.C. 20426

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## NEWS RELEASE

FOR IMMEDIATE RELEASE

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### FERC ACCEPTS SETTLEMENT BETWEEN DUKE AND COMMISSION STAFF

The Federal Energy Regulatory Commission today accepted a settlement between the Commission's enforcement staff and Houston-based units of Duke Energy that resolves outstanding matters relating to the Western electricity crisis in 2000 and 2001. The \$2.5 million Duke has agreed to pay resolves pending issues stemming from a FERC staff investigation of the West's energy problems.

The settlement agreement addresses allegations regarding potentially manipulative bidding practices in the California markets, known as economic withholding, as well as physical withholding of generation supplies. It also terminates and resolves any issues before the Commission involving Duke's "wash" trading of natural gas.

A separate settlement between Duke and FERC trial staff, involving allegations of market gaming practices, was filed today for the Commission's approval. That proposed settlement is expected to result in a payment of \$550,000, with the potential for an additional \$1.5 million. It would resolve a show-cause proceeding involving allegations that Duke engaged in market-gaming practices the Commission deemed to violate the California Independent System Operator's FERC-approved tariff.

The agreements do not resolve any liabilities Duke may incur in the overall California refund case, which is an ongoing proceeding before the Commission (EL00-95).

The settlement accepted today with Duke is the second involving one of California's large electricity generators. On October 2, 2003, FERC accepted a similar settlement agreement involving Houston-based Reliant Energy Services, which is expected to net as much as \$50 million, depending on energy market conditions. FERC Chairman Pat Wood, III said he expected other companies to follow in the footsteps of Reliant and Duke and settle allegations of market manipulation in California rather than engage in costly litigation.

To arrive at today's settlement agreement, FERC's Office of Market Oversight and Investigations (OMOI) investigated anomalous bidding practices by Duke in 2000 that could

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have represented economic withholding. OMOI's investigative staff found a de minimis economic impact from such economic withholding.

On August 1, 2003, OMOI provided the Commission with its initial report on an investigation of alleged physical withholding by Duke and other generators in California. At the time, OMOI concluded that Duke had adequately explained its generation outages during California's energy crisis in 2000 and 2001. Since then, OMOI has reviewed additional data filed with the Commission regarding allegations Duke withheld power. In today's settlement, OMOI affirms its initial finding in August and finds no credible evidence that Duke intentionally withheld generation to influence prices in California's power market.

Duke did not admit to the violations in agreeing to today's settlement agreements. Settlement funds will be deposited into a special U.S. Treasury fund set aside for the benefit of California and other Western-state customers. The Commission will decide disbursement of those funds in a future proceeding.

R-03-51

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