Chairman Doug Ose
Opening Statement
California Energy Markets: Refunds and Reform
April 8, 2003

The purpose of today's hearing is two-fold: to discuss actions taken by the Federal Energy Regulatory Commission (FERC) on March 26, 2003, regarding the California energy crisis, and to review the progress California has made in reforming its electricity market.

On March 26th, FERC issued a report following its investigation of Western energy markets. FERC concluded that an imbalance of supply and demand, coupled with a flawed market design, created conditions that led to market manipulation in California and other Western markets. Consequently, FERC issued several "show cause" orders that will potentially result in prohibiting violating companies from selling electric power and natural gas at market-based rates. I support FERC's effort to punish those who have been found to manipulate the market. This sends a strong message to future would-be violators. If you break the rules, you not only will have to refund the money but also will not be able to participate in energy markets in the future.

FERC also increased the amount of refunds due to California by taking into account the manipulation that occurred in natural gas markets. The Commission plans to continue to investigate specific acts of market manipulation and make a final ruling on refunds by the end of the summer. I encourage FERC to vigorously, but promptly, complete its investigation. California and its citizens deserve to get back every dollar that was overcharged during the energy crisis. It has been almost three years since the crisis erupted. It is time to refund the overcharges, so Californians can receive the relief they deserve.

The second purpose of this hearing is to discuss efforts to reform California's electricity market. While politicians of all stripes can argue about who owes what to whom, we must not lose focus of one important point. A leading cause of the energy crisis of 2000-01 was a fundamental lack of electricity supply and a flawed market design. Tragically, almost three years later, California has failed to fix this problem and reform its electricity market. In February 2002, this Subcommittee held a hearing to discuss the leading market reform proposal, know as Market Design 2002. At that hearing, I made the following statement:

> In reality, California is not out of the woods yet. Not by a long shot. As the witnesses at today's hearing will tell you, the fundamental factors that exacerbated the energy crisis are still with us today. California still lacks adequate energy supply, our transmission system is old and overburdened and, most importantly, the structure of the electricity market is dysfunctional. The market suffers from inefficiencies in terms of pricing, transparency, transmission and settlement policies.

Unfortunately, this statement is almost as true today as it was then. Since last year's hearing, the California Independent System Operator (CAISO) introduced Market Design 2002 (MD'02), its comprehensive proposal to reform California's electricity market. I applaud the efforts of the CAISO to recognize the serious market flaws in the current system and attempt to solve them.

However, I remain concerned that the reform process is moving too slowly. Already, several implementation deadlines have been pushed back.

I am particularly concerned about the delay in the resource adequacy standards that are central to any market reform. One of the key regulatory failures of California's restructuring was the California Public Utilities Commission's (CPUC) refusal to provide utilities with the ability to enter into long-term contracts. Resource adequacy would return the "obligation to serve" customers to the utilities, by requiring utilities to procure adequate levels of power to serve its customers, plus a certain reserve amount. Utilities could meet these standards by signing long-term contracts with generators, thereby providing financial certainty and incentive to build more energy supply in California.

However, this key component has been pushed back to the final phase of MD'02. The CAISO is currently awaiting a rulemaking by the CPUC before it proceeds. Given the abysmal history of the CPUC regarding long-term contracts, I am concerned about the fate of this crucial issue.

In today's hearing, I have asked the witnesses to discuss the progress of MD'02. I would like to direct the witnesses' attention to a January 2003 report produced by the Public Policy Institute of California entitled, "The California Electricity Crisis: Causes and Policy Options." This report does an excellent job of enunciating the need for electricity market reform. The report states that any market reform must meet the following goals: lower prices, system reliability, efficient use of resources, administrative feasibility, and environmental protection. I wholeheartedly agree with these goals and ask the witnesses to keep them in mind today as we discuss the details of MD'02.

I intend for this to be an opportunity to discuss the details of reform and debate possible alternatives. But, make no mistake about it, this process must go forward. California cannot continue to live in an energy purgatory. The State's economy is soft and energy prices are low. But, this will not continue forever.

We need to keep in mind that it takes years to propose, site, and build a power plant. Up and down the State, power plant construction is being delayed and companies are scrapping plans to build more generation. Energy companies cite political and regulatory uncertainty as the principal obstacle to new energy supply. Wall Street refuses to invest in such an unstable environment. Yet, experts predict that California will experience shortages again in a few short years. It is, therefore, essential that we get on with the reform process in order to encourage investments in energy generation and transmission. A stable marketplace, with clear, rational rules, is the only way to supply the lowest cost, most environmentally clean energy that Californians deserve. We simply cannot afford to wait any longer.

I want to welcome the witnesses today. They include: Patrick Wood III, Chairman, FERC; Terry Winter, President and Chief Executive Officer, CAISO; Karen Tomcala, Vice President, Regulatory Relations, Pacific Gas and Electric Company; Gary Ackerman, Executive Director, Western Power Trading Forum; Jan Smutny-Jones, Executive Director, Independent Energy Producers; and, George Fraser, General Manager, Northern California Power Agency.