



Statement by Senator Feinstein on Court Filing Over  
Market Manipulation and the Energy Crisis  
May 12, 2004

*Washington, DC – Concerned that federal energy regulators are improperly limiting refunds due California from the energy crisis and shutting California out of the process, Senator Dianne Feinstein today joined with the California Democratic Congressional Delegation to file an amicus brief in support of California Attorney General Bill Lockyer’s filing before the Ninth Circuit Court of Appeals.*

*The following is a statement by Senator Feinstein:*

**“In the aftermath of the California Energy Crisis, the Ninth Circuit Court of Appeals ruled that the California parties must be provided discovery of information being considered by the Federal Energy Regulatory Commission (FERC) and be able to file new evidence in cases related to energy market manipulation.**

**Attorney General Lockyer, in a brief filed with the Court, has charged that FERC is improperly limiting California’s access to proceedings, and has thus asked the Ninth Circuit to intervene. He also has charged that FERC has short-changed Californians through piecemeal settlements with energy companies that unacceptably limit California’s recovery.**

**I agree wholeheartedly. FERC has established a pattern of entering into settlements in private proceedings without adequate input from California and the end result is that FERC is settling claims that will amount to far less than the \$9 billion owed to California.**

**FERC has also blatantly ignored the Court’s wishes by separating out cases related to the market games employed by Enron, such as ‘Fat Boy,’ ‘Ricochet,’ and ‘Death Star’ from the original, underlying action that was subject to the Ninth Circuit ruling. The effect of removing these cases from the original action -- after the Ninth Circuit required that FERC consider California’s views -- is to deny California’s right to participate in the newly separated cases. In other words, the Ninth Circuit told FERC to let California in the room, so FERC took many of the cases under consideration into different rooms, and shut those doors to California. This is simply unacceptable.**

**As a result, the California parties, who provided the material to FERC that brought to light evidence of widespread manipulation and gaming of the California market in the first place, cannot review the evidence being presented by FERC or the defendants, cannot add evidence that would be useful to determining the settlement amounts, and do not have a seat at the table to determine what the settlements should be.**

**Finally, FERC's actions seem even more dubious since the result of preventing the California parties from participating in the process is that no one can determine if the settlements FERC has made are appropriate or fairly compensate Californians for their losses.**

**FERC is not above the law—it must act in accordance with the Ninth Circuit's decision. I am pleased to join my colleagues on this amicus brief.”**

**###**