trained teacher that every child deserves.

But now, my friends, we come to the critical moment. Now we face the acid test which will determine whether our actions will truly live up to our words. We are all for reform. We are all for accountability. But will we do what it takes in a practical sense to make reform and accountability work? I believe we must. We are all for holding everyone else responsible—the classroom teachers, school principals, district superintendents, Governors; everyone else in this process—but will we hold ourselves, this institution, accountable? Will we hold this President and this administration accountable to doing what it takes to give meaning to the words that we speak? I believe we must.

Last week I visited schools across my State, in Evansville, in South Bend, in Fort Wayne, in Indianapolis, in Floyd County. I saw the difference the Title I dollars are making in the lives of our children and in the quality of instruction taking place in our classrooms. It was a wonderful thing to behold. I compliment those teachers and principals and school superintendents who are using those dollars to give those children hope and educational opportunity.

But as I visited those schools and saw what was working and making a difference, I was also saddened to remember that 6.8 million children—6.8 million of our young people—who are qualified to receive that assistance are instead receiving none. What about them? Will they be left behind? If we do not rise to this challenge, I am afraid they will.

President Bush, during the campaign last year, pledged to leave no child behind. I commend him for that pledge. Now it is up to us and to him to redeem it. And so we must. We will enact a system of standards adopted by the States, assessments to determine how each and every one of our children are doing. We will insist upon results.

But what do we do with the results of those assessments when they tell us so many of our children need to do better? Do we simply pat them on the head, wish them good luck, and say: Now you are on your own? Of course we must do better than that.

Throwing dollars at our schools without accountability is a waste; but accountability without the means to truly improve the quality of instruction our children are receiving is nothing but a cruel hoax.

I call upon my colleagues in this Chamber and our new President to join with us, to join with us in a historic effort of improving the quality of instruction for our children who need it most, to join with us in embracing reform, but also what it means in a tangible, practical dollars-and-cents way of making reform work.

Our actions in this great Chamber must be more than a facade of reform. The bill that we enact and that the President signs must offer more than an illusion of progress. We must not individually or collectively participate in perpetuating a hoax upon America's schoolchildren. It is important for me to acknowledge that from time to time on this side of the aisle there has been a diversity of thought on this subject. But when it comes to the commitment of resources to make the reform work, to make progress become a reality, we stand united and determined.

This debate is not about accountability versus spending. We are all for accountability. We are all for reform. This debate is a question of priorities and whether we will do what the American people have been asking of us for so very long now; and that is, to make the quality of our children's education our No. 1 priority. I believe we must.

The President's tax package this next year calls for devoting $68 billion to the cause of tax relief.

That is a cause which I embrace, as do many of my colleagues. We believe some tax relief for the hard-working taxpayers of America is in order for a variety of reasons, but it is not our only priority.

The President's proposal, as it currently stands, calls for investing $2.6 billion in improving the quality of education, 25 times more for reducing taxes than investing in the quality of our children's education. I support tax cuts. I support tax relief, but it is not 25 times more important than our children's education. We can and should have both. We should not be forced to make this unnecessary choice between two alternatives, both of which can be accommodated if the administration will be more forthcoming with resources.

In conclusion, this debate is about education reform, and it is about the resources to make education reform work. More important than that, it is about the credibility of this institution and those of us who are privileged to comprise it. Will we do more than read the polls and put together a construct to satisfy our constituents, to make them believe we are doing something about improving the quality of education for our children, when, in fact, we are not; or will we make the difficult decision and allocate the resources that are necessary to live up to the challenge we face, to fulfill the expectations they have a right to expect of us? I believe we should.

I call upon the Members of the Senate and the administration and this President to join with us to redeem the pledge he made in the campaign, the pledge that all of us embrace of leaving no child behind and to devote the resources to our schools to make accountability, reform, and progress be more than empty words but a reality in the daily lives of our schools.

I am privileged to be in the Chamber with my colleague from California with whom I have worked on this issue and so many others. I yield the floor.

The PRESIDING OFFICER (Mr. ENSIGN). The Senator from California.

Mrs. FEINSTEIN. Mr. President, I begin by thanking the junior Senator from Indiana for those remarks. He stands in the leadership of this body in terms of his views on education. I, for one, am very appreciative of them.

ENERGY CRISIS IN CALIFORNIA

Mrs. FEINSTEIN. Mr. President, I will use my time in morning business to update the Senate on the status of the electricity crisis in California.

April is typically the best time of year for California when it comes to meeting its energy needs. Winter has ended in northern California, and the southern part of the State has not yet begun to get hot. Thus, the demand for energy is low throughout the State, and California has always had more than enough power to meet its needs. As a result, electricity is usually very cheap. So this is as good a time as any to provide an update of where the State is and to see how this year is different from all other years. The last ten months provide a gloomy picture of what may well happen this summer.

The average cost of electricity for California this month has been about $300 a megawatt hour. This is more than 10 times higher than the average for last April, right before the crisis began. The average price for electricity in the States of Washington and Oregon is even higher, and the price for electricity bought in the futures market for this summer is now averaging more than $750 a single megawatt hour.

The State Department of Water Resources, which since January has been purchasing all of California's power needs, has now spent $5.2 billion purchasing power just in the first months of this year. It is spending at a rate of $73 million a day. This is having a serious financial impact on the State's credit standing. Yesterday's Standard & Poor's downgraded the State's credit rating two notches from AA to A-plus.

It is important to point out that the money the State is spending to buy electricity is gone. It does not buy a textbook or a computer for a school. It won't repair a bridge or road. It will not build a highway. It doesn't go for law enforcement. It is money that simply disappears. As a result, the State could well be out of money.

At the same time, the Northwest is experiencing what may well be its driest year on record. Consequently, California will not be able to rely on the 7,000 to 8,000 megawatts of power it typically imports from the Northwest in the summer—usually enough for 7 to 8 million homes. There will not be enough power in the Northwest to even meet its own energy needs this summer.

Meanwhile, natural gas prices in most of the United States are about three times higher than their historic average, and in southern California they are eight times higher. Independent analysts, such as the Brattle Group, have raised significant questions about malfeasance on the part of the few companies that have an oligopoly on the natural gas pipelines. Meanwhile, it has been more than 5 months since the Federal Energy Regulatory Commission, the FERC, found that electricity rates were ''unjust and unreasonable'', and still they have not acted to fulfill the mandate of the Federal Power Act which directs the FERC to set reasonable rates when the market is not functioning properly.

Allow me to read from the language of the Federal Power Act.

Whenever the Commission, after a hearing had upon its own motion or upon complaint, shall find that any rate, charge, or classification, demanded, observed, charged, or collected by any public utility for any transmission or sale subject to jurisdiction of the Commission, or that any rule, regulation, practice, or contract affected such rate, charge, or classification is unjust, unreasonable, unduly discriminatory or preferential, the Commission shall determine the just and reasonable rate, charge, classification, rule, regulation, practice, or contract to be thereafter observed and in force, and shall fix the same by order.

That is the Federal Power Act. The Federal Power Act very clearly says: FERC, once you find that rates are unjust and unreasonable, you must then fix reasonable rates or charges.

The FERC has not done its duty.

The problems in California began in 1996, when the State became the first to pass a comprehensive energy deregulation bill. That bill was known as AB 1890. The bill passed very quickly at the end of the legislative session. It enjoyed nearly unanimous bipartisan support.

AB 1890 was supposed to increase supplies of energy and decrease prices for consumers, but the exact opposite happened. The bill assumed that increases in energy supply, competition, and efficiency would drive down energy prices. This assumption turned out to be badly flawed, and as a result the State was burned by several provisions of the bill.

First, the bill forced the utilities to purchase at least 95 percent of their electricity in the day-ahead and spot market and did not permit utilities to hedge their bets with long-term, bilateral contracts. That is a huge problem because if 95 percent of the power is bought on the spot market, and those spot market prices go up, the State is in the pickle that it is in today.

Second, the State forced its investor-owned utilities to sell off their generating assets, allowing out-of-State energy generators to purchase the plants and sell the electricity back to the utilities at market rates.

Let me give you an example of that. For Southern California Edison, when it divested of a generating facility, at the time Southern California Edison was selling its power at $30 a megawatt hour. As soon as it sold it to a generating facility, the out-of-State generating facility turned around to sell the power back to Southern California Edison at $300 a megawatt hour. That is part of the problem.

Third, the bill immediately deregulated wholesale prices, but left retail rates regulated until March of 2002, or until a utility has sold off all of its generating units, creating a half-regulated, half-deregulated system. So the free market that we heard so much about can't function as a market should because it is broken. The price on the wholesale end is deregulated. The utility cannot pass that price through to the consumer—or has not been able to.

Incidentally, that is going to change because the State will pass more than a 30-percent rate increase that should go into play in either May or June of this year. So some of that will be corrected.

Fourth, the State set up a power exchange as a product of that bill that aimed to attract sellers by promising the highest clearing price of energy to all bidders. So no matter what you bid your power in for, you are guaranteed the highest price paid to any other bidder. That proved to be fatal.

Energy suppliers realized that simply withholding power from the power exchange and from the California energy market would drastically drive up the prices. And they did.

Spot prices increased dramatically. The costs could not be passed on to consumers. The State's largest investor-owned utility filed for bankruptcy, and the State's second largest investor-owned utility, Southern California Edison, remains on the brink of bankruptcy. The result has been this crisis, and this crisis could well become an economic disaster not only for California, but for the entire West.

Now, what has the State done? I am the first to admit that California has been slow to address the crisis. I think part of this was an actual disbelief that the situation could have gotten this bad this fast. Let me speak about supply because there had not been much supply—very little supply, less than 2,000 megawatts actually—added to the State's power supply in the last decade. But since the first of the year, the State has licensed and approved 14 new gas-fired plants and 8 new peaker plants, which will all be on line within the next 2 years. The State expects to add 9,810 megawatts—that is enough power for 9.810 million households—and have that power on line by the summer of 2003. And the State, in total, will add 20,000 megawatts, enough to power 20 million homes, and have that on line by the end of 2004.

I ask unanimous consent to have printed in the RECORD a chart which lists the plants that have been approved, plant by plant, by the State, and the expected dates they will come on line.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CALIFORNIA POWER PLANTS COMING ONLINE

Plant name	Capacity	Location—(Peaker?)	Online by
By the end of this summer:			
1. Alliance Century Substation	40 MW	Colton (peaker)	
2. Alliance Drews Substation	40 MW	Colton (peaker)	
3. Indigo Energy Facility*	135 MW	Palm Springs (peaker)	
4. Larkspur Energy Facility*	90 MW	San Diego County (peaker)	
5. Ramco Chula Vista	57 MW	San Diego County (peaker)	
6. Calpine King City	50 MW	Monterey County (peaker)	
7. Hanford Energy Park	95 MW	Kings County (peaker)	
8. Sutter Power*	500 MW	Sutter County	
9. Los Medanos*	559 MW	Contra Costa County	
10. Sunrise Cogeneration*	550 MW	Kern County	
11. United Golden Gate*	51 MW	San Mateo	
Subtotal	2,167 MW		
From November 2001 to June 2003:			
12. La Paloma*	1,048 MW	Kern County	Nov. 2001
13. Moss Landing*	1,060 MW	Monterey	June 2002
14. Delta Energy Center*	880 MW	Pittsburg	July 2002
15. Elk Hills*	500 MW	Kern County	July 2002
16. High Desert*	720 MW	Victorville	Winter 2002
17. Western Midway-Sunset*	500 MW	Kern County	March 2003
18. Blythe Energy*	520 MW	Riverside County	March 2003
19. Mountainview*	1,056 MW	San Bernardino	April 2003
20. Hanford*	99 MW	Kings County	April 2003
21. Otay Mesa*	510 MW	San Diego County	April 2003

CALIFORNIA POWER PLANTS COMING ONLINE—Continued

Plant name	Capacity	Location—(Peaker?)	Online by
22. Pastoria*	750 MW	Kern County	June 2003
Subtotal	7,643 MW		
Total	9,810 MW		

*Approved by the California Energy Commission.

Mrs. FEINSTEIN. Mr. President, I tell you that because the problem is in this initial period; the problem is going to be for the next 2 years. After that, it is expected that the State will have adequate power supply to begin to create a functioning free market.

The PRESIDING OFFICER. The Senator's time has expired.

Mrs. FEINSTEIN. I ask unanimous consent to proceed for another 10 minutes.

Mr. DOMENICI. Mr. President, not desiring to object, I just want to make sure that I follow that time and that there is time for me. I was scheduled at 10:15 was my understanding.

The PRESIDING OFFICER. Under the previous order, the time from 10:15 to 11 was under the control of Senator THOMAS.

Mr. DOMENICI. I am pleased to yield 10 minutes to the Senator from California so long as 10 minutes is added to our side.

The PRESIDING OFFICER. Without objection, the Senator is recognized for an additional 10 minutes.

Mrs. FEINSTEIN. I thank the Senator from New Mexico for his generosity.

Mr. President, the State is adding additional power. The problem comes in the next 2 years. What can be done and what is the appropriate Federal role in the next 2 years? I submit that the appropriate Federal role is to provide a period for liability and stability until the State has brought on line enough additional power to have a functioning free market where supply and demand functions in an appropriate manner.

The State has also planned an $850 million conservation package that will aim to reduce energy demand across the board by 10 percent or more. So in the immediate future, conservation is the best way for California to avoid days of rolling blackouts this summer. But, in my opinion, it is going to be impossible to achieve enough conservation to avoid all blackouts.

Additionally, the Governor of California has issued a series of executive orders authorizing increased output at existing facilities and ensuring that environmental regulations are not posing any barriers to maximum energy production.

I ask unanimous consent to have printed in the RECORD at this time a letter from Winston Hickox, the Secretary of the California Environmental Protection Agency, asserting that there are no energy plants idling in the State because of environmental reasons, with the exception of those State plants that are being retrofitted so that they can operate cleaner, more efficiently, and more often this summer.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATE OF CALIFORNIA,
ENVIRONMENTAL PROTECTION AGENCY,
Sacramento, CA, March 28, 2001.

Hon. DIANNE FEINSTEIN,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR FEINSTEIN: It has been alleged that air quality regulations are a major contributor to California's current power shortage crisis and are constraining energy supplies. In his March 22, 2001, testimony before the House Energy and Air Quality Subcommittee (enclosed), Dr. Alan Lloyd, Chairman of the California Environmental Protection Agency's Air Resources Board (ARB), refuted those statements. The situation in California has not changed. No essential power generation is off-line due to air quality constraints.

As you know, on February 8, 2001, Governor Gray Davis issued a series of Executive Orders to comprehensively address power generation. The Orders boosted generating capacity by authorizing increased output at existing facilities, accelerated power plant construction, streamlined the review process for new facilities, and provided incentives for distributed and renewable generation.

California regulatory agencies are quickly and successfully expediting permits for new generating units. Since April 1999, nine major power projects (including one expansion) totaling an additional 6,300 megawatts (MW) have been approved. Six plants are under construction with four expected to be on-line this year between July and November. Another 14 projects (new sitings and expansions) are under review for an additional 7,700 MW of capacity. All of these projects include the necessary environmental offsets and required emission controls. The State has also realized the need for short-term supply and is expediting permits for smaller peaking plants. These peakers will be on-line for the 2001 summer peak season.

With regard to existing capacity, the ARB is continuing its coordination with the California Independent System Operator (Cal-ISO), local air districts, California Energy Commission (CEC), and plant personnel to identify generating units that may be constrained by air permit limitations and to remove barriers to summer time operation. Governor Davis' Executive Orders dealt with this matter as well, authorizing additional compliance mechanisms to keep both power generation and environmental protection on track. The U.S. Environmental Protection Agency, Region IX, is working closely with California regulatory agencies and has indicated support for this approach.

This spring, a number of generating units are off-line for routine maintenance. Many of them are taking advantage of this downtime—and available labor—to install air pollution controls. Please note, these installations have been carefully coordinated with Cal-ISO. They were only authorized upon a finding that sufficient supplies and reliability of the power grid system would be maintained.

In summary, air quality agencies realize the seriousness of the State's energy situation and have been working diligently, and effectively, to site new power plants and increase existing capacity while still addressing air quality concerns. Existing state and federal laws provide significant flexibility to make these adjustments. Governor Davis' Executive Orders provide additional means and flexibility to keep generation on-line and quickly permit new power plants. The air quality regulatory system works. We believe that California can increase energy supply while, at the same time, protecting public health and the environment. California citizens expect nothing less.

Sincerely,

WINSTON H. HICKOX,
Agency Secretary.

Enclosure.

TESTIMONY OF DR. ALAN C. LLOYD, CHAIRMAN, CALIFORNIA AIR RESOURCES BOARD, BEFORE THE HOUSE SUBCOMMITTEE ON ENERGY AND AIR QUALITY, MARCH 22, 2001

Thank you, Mr. Chairman and Members of the Subcommittee. My name is Alan Lloyd, and I serve as Chairman of the California Air Resources Board (ARB). I welcome the opportunity to provide an overview of California's electricity challenge with respect to air quality issues.

Over the past several months, Governor Davis has embarked on a comprehensive strategy to address the electricity situation in California. One of the major components of the State's plan centers around increasing energy supplies by expediting the construction of power plants and other sources of generation. Specifically, we are in the midst of an aggressive effort to bring 5,000 megawatts on line by this summer and 20,000 megawatts by 2004 in order to meet anticipated energy demand this summer and beyond.

Mr. Chairman, my main message is this: We can accomplish this goal within the existing framework of California's air quality regulations. Furthermore, environmental laws do not pose a barrier in terms of our ability to bring new generation on line and ensure that existing power plants can operate at maximum capacity. In short, we can increase energy supply in an expedited manner while at the same time maintaining our commitment to the environment.

Air pollution controls have been identified as a major contributor to California's current energy challenge. That perception is not accurate. Air quality issues are a very small part of the State's overall power production problem. Where air quality rules have affected or might have potentially affected the ability to create essential power, state and local regulators have moved swiftly and successfully to keep needed plants on line. Simply put, no essential electricity generation has been curtailed due to air emission limitations. California's programs to protect public health are not a major factor in the electricity shortages experienced to date.

No single factor can explain the current energy crisis. The matter is far too complex. However, it can be said with certainty that environmental laws are not to blame. Under existing environmental programs and the policy direction of Governor Davis, state and local air regulators have had, have used, and will continue to use, the considerable flexibility included in California's regulatory programs to ensure that power generating sources remain in operation under environmentally sound conditions. While the review process and decision making timelines have been streamlined, substantive environmental standards and mitigation requirements have not been compromised.

Over the last several months, there has been an increasing focus on environmental laws as contributors to the energy crisis. This concern has taken two distinct forms:

1. The charge that environmental laws have prevented maximum utilization of existing electrical generation facilities; and

2. The allegation that environmental laws have prevented bringing new electrical generation facilities online.

There have also been charges that the State of California has not be responsive enough in addressing the power issues, and has not been willing to take the extraordinary actions needed to deal with how environmental requirements have affected electricity production.

Mr. Chairman, I submit to you that these statements have diverted attention from the true and complex causes of the current energy situation. As a result, they have not contributed to productive efforts to resolve it. I would like to briefly address each of these issues.

Although existing laws and regulations provide mechanisms for addressing our power needs, they can also require substantial time and process. Governor Davis, through the exercise of his emergency powers under state law, has significantly expanded state and local agencies' ability to apply flexibility and common sense to act quickly to ensure that power generation will continue.

By using his emergency powers and issuing Executive Orders, Governor Davis has added substantially to the state's ability to deal with our current energy situation. Executive Orders D–24–01, D–26–01, and D–28–01 ensure that where statutory and regulatory impediments exist—related to either the continued operation of an existing plant or the construction of a new clean facility—they will be swiftly addressed and resolved. The Executive Orders also provide that these actions will be accomplished without sacrificing needed air quality protections.

State and local agencies now have both the direction the authority they need to expeditiously review and approve permits. Under the Governor's Executive Orders, they are:

Allowing the continued operation of existing facilities that might otherwise face limits on hours of operation.

Expediting the review and permit approval for new peaking facilities that have acquired the needed control technology and mitigation, but need rapid processing to come on line quickly.

Enabling new peaking plants to obtain emission credits needed for permitting through the state, rather than arranging for them through private transactions.

Completing permit reviews and approvals for new large facilities in as little as four months to enable new capacity to begin construction expeditiously.

The Governor's Executive Orders maintain all substantive environmental protections. For example, existing units must continue to utilize all of the required emission control equipment, and must provide funds to mitigate the impact of their increased hours of operation. Similarly, new units must utilize the best available control equipment and must continue to provide emission reduction credits to mitigate their emission increases. Permitting will take less time, but will not be less protective.

All central station electrical generating facilities are permitted by local air pollution control districts under rules incorporated in the State Implementation Plan (SIP). These permits reflect operator-provided information, including factors such as intended hours of operation and fuel type. This information has a direct bearing on the facility's anticipated emissions. Based on operator-provided data, emission limits are established through the air permits. It is these operator-defined limits that have been at issue. In many cases, these facilities are now in a position of having, or wanting to generate additional electrical power in excess of the time periods assumed in the original permitting process.

Despite this unanticipated high level of operation, through the joint efforts of local air districts, the Air Resources board (ARB), and the California Energy Conservation and Development Commission (CEC), as well as the assistance of the U.S. Environmental Protection Agency (U.S. EPA), needed electrical generation has not been interrupted. State law and local regulations provide several means to address permit limitations without disruption of electrical generation or unmitigated damage to air quality.

The ARB has assisted local air districts in addressing any potential issues arising out of their efforts to maintain power generation. ARB has maintained close coordination with the U.S. EPA to ensure that state and local response to the energy situation does not raise concerns at the federal level. We have approached the electricity shortage with an environmentally sound balance of need awareness and impact concern. U.S. EPA has indicated its understanding of the complexities California is facing and has indicated a continued willingness to assist.

At the Governor's direction, the ARB and air districts have been able to balance the State's energy needs with the public's right to clean air. Existing air quality regulations have provided the flexibility to address expeditiously the unexpected power demands of the State without material harm to air quality. These accommodations have been completed in very short time frames and have ensured continued power generation. This flexibility has been used numerous times over the last six months to enable continued power production. These have affected both large and small plants are summarized in Attachment 1.

The additional grants of authority to the Governor under the Emergency Services Act augments existing statutes and increases the ability of state and local agencies to work together in significantly reduced time frames. Whether it is providing for an existing source to operate beyond its permitted hours of operation of streamlining certification of new peaking sources, the Governor's emergency Executive Orders provide even greater flexibility in responding to source specific generation issues than previously existed.

All new proposed power plants must be constructed and operated in compliance with applicable federal, state, and local air pollution requirements. Within California, the 35 local air districts are responsible for regulating emissions from stationary sources, including power plants. At the state level, ARB is the agency charged with coordinating efforts to attain and maintain federal and state ambient air quality standards and comply with the requirements of the federal Clean Air Act. To this end, ARB coordinates the activities of all the districts in order to comply with the Clean Air Act.

Some have cited California's environmental laws as the reason new power generation has not been built in recent years. However, a review of CEC data demonstrates otherwise. Since April 1999, CEC has approved 13 major power projects (including one expansion) totaling over 8,400 MW of additional capacity. Six of these plants are under construction and four of those six are expected to be on line this year, with start dates spanning from July through November. Another 15 projects (new sitings and expansions) are currently under review for an additional 6,700 MW of capacity. Lastly, there is still an additional 7,960 MW of capacity that has been publicly announced and for which the CEC anticipates receiving applications this year.

Some have also argued that costs of compliance with air quality regulations are too substantial and must be relaxed to achieve needed power generation. This argument is also flawed. Today, approximately 15,000 MW of new electrical generation has either been approved or is in the licensing process. All of these projects have included the necessary environmental offset packages and have incorporated all required emission controls. Compliance with these requirements has proven to be both technically and economically feasible.

To bring new, additional peaking facilities on line, Governor Davis has created both a streamlined review process and an ARB-operated emission offset bank. These actions will ensure that all necessary peaking facilities can also be sited.

The CEC's siting process is designed to take 12 months. However, a number of factors, other than environmental regulations, have recently influenced individual project timelines. Over the last two to three years, the actions of local activists, businesses, and others have slowed the pace of some projects. In fact, power generators themselves have utilized the siting process to hold up the licensing of a competitor.

Since 1997, competing companies have intervened in 12 of the 21 projects proposed for licensing. Their participation has slowed the process in at least four cases.

Constraints on electrical generation capacity from central station powerplants have caused increased interest in the use of distributed generation (DG). DG is electrical generation at or near the place of use. Governor Davis supports legislation action that will provide incentives for distributed generation. Last September, the Governor signed Senate Bill 1298, which directs ARB to establish a certification program and adopt uniform emissions standards and general air quality guidelines for DG technologies. By law, this program must be in effect by January 1, 2003. ARB is on a fast track and expects to complete this December—over a year ahead of schedule.

As the foregoing demonstrates, it is not environmental regulation that has prevented the creation of additional power generation. Rather, many factors have contributed to the current crisis. Among those is also the fact that market participants can and do manipulate the electrical power market by

withholding capacity in order to maximize their price of electricity.

Even the Federal Energy Regulatory Commission (FERC) agrees. Although it found insufficient evidence of market manipulation by any individual market participant: ''. . . there was clear evidence that the California market structure and rules provide the opportunity for sellers to exercise market power when supply is tight and can result in unjust and unreasonable rates under the FPA . . . we reaffirm our findings that unjust and unreasonable rates were charged and could continue to be charged unless remedies are implemented.''

The Air Resources Board is continuing its efforts to ensure that California has the maximum electrical power output possible, while still protecting public health and mitigating any adverse effects of increased electrical output. This is being done within the confines of existing law as recently expanded through the Governor's Executive Orders. To quote Governor Davis, California is demonstrating that we can cut red tape, build more power plants and continue to protect the environment.

Our State's history reflects a pattern of success even in the face of unparalleled challenges. California, the most populous state in the nation, has made incredible strides in improving air quality and protecting public health. At the same time, the State has enjoyed immense population and business growth. During this current energy situation, California will maintain its record of achieving a balance among all the issues to ensure that a reasonable and successful solution is achieved.

In sum, the air quality regulatory system works. The Governor's utilization of his emergency powers to expedite the process of power siting while maintaining environmental standards confirms that California can maintain its environmental and economic objectives.

Thank you, Mr. Chairman, for the opportunity to testify this morning.

Mrs. FEINSTEIN. Mr. President, the point I am trying to make is that there is no environmental law that is holding up either the approval or the functioning of any generation facility in the State of California. Also, I have written the CEOs of all of the energy generators that sell power to California and I have confirmation of this. I have not heard of one single example that contradicts Secretary Hickox's statement. So I believe that California is really doing all it can right now to maximize energy supply, to reduce its demand, but it is still not likely to be enough for the summer.

Now, this summer we are projected to have a shortfall on a warm day, with all plants operating, of 2,000 megawatts. On a hot day, with some plants down, the shortfall is estimated to be 10,000 megawatts. That could well be a serious disaster. Because hydropower in the Northwest is also low, there will also be shortages in other Western States as well. Our State has already experienced several days of rolling blackouts, and when a blackout hits, it means traffic lights go out, elevators stop, fuel pumps are down, food begins to rot, and production stops. The economic losses are measured in billions, and there well could be loss of life.

Let me put price on the table. This chart shows that in 1999 the total cost for energy in the State of California was $7 billion. In the year 2000, those costs became $32 billion. The cost predicted for energy to the State of California in 2001 is $65 billion.

Look at this cost jump in 3 years. This is the problem—this deregulated wholesale market has run amok, and there are no controls. If the FERC has found these prices to be unjust and unreasonable and refuses to regulate, what happens this year with these prices and no regulation? So the situation we are in is inordinately serious.

I want to make a couple of points about natural gas. Natural gas stocks are low everywhere, and the price for natural gas for most of the country is averaging about 3 times more than the historic average. However, in Southern California, the prices are 8 to 9 times higher. CN&H Sugar, a refiner in Crockett, CA, generally pays about $450,000 a month for its steam generated through natural gas.

During the peaks of this past year, $450,000 a month has risen to $2 million a month. That plant can employ 1,000 to 1,200 people. That plant cannot continue to operate under these conditions.

There is a real problem in the transportation costs of natural gas because they are not transparent and because profits are hidden. The transportation of natural gas, the cost of moving gas from, let's say, San Juan, New Mexico, to San Diego has always been regulated. When it was, that cost was about 70 cents per decatherm.

If natural gas is selling for $5 in San Juan and it costs 70 cents to transport it to southern California, when it gets to southern California it should be selling for no more than $5.70.

The price of natural gas today in San Juan, NM, is $4.80. However, the price in southern California today is $14.71. In northern California it is $9.59. Something is clearly wrong. This price need be no more than $6 per decatherm, not $14.71.

In February of 2000, the FERC decided to experiment, and it removed the cap on the transportation of natural gas for 2½ years, believing the market would actually drive down the price. Clearly, the opposite happened. The absence of transparency allowed companies to withhold parts of that natural gas transportation pipeline just for the purpose of increasing prices, and prices have risen.

Senator GORDON SMITH and I, along with Senator BINGAMAN, Senator CANTWELL, Senator MURRAY, and Senator LIEBERMAN, introduced legislation yesterday directing FERC to do its job. The legislation says that since you, FERC, have found the prices to be unjust and unreasonable, you must now do your job and you must set either cost-based rates on a temporary basis or a rate cap on a temporary basis for the western grid within 60 days.

It requires that those costs must be passed on to the consumer in a manner that the State believes just. The cost can be staggered over years and passed on through real-time pricing, tiered pricing, or by setting a baseline, but it must be passed on, again, to create a functioning marketplace.

The bill also requires that all future orders to sell natural gas or electricity to an affected State must include a reasonable assurance of payment.

We believe this is a bill that must be passed by this body. The Energy Committee has had two hearings on the subject, and I am hopeful this body will pass this bill in a timely manner. The inability or failure to do so I think is going to create a human and an economic disaster in the Western States come summer because these costs, not only of natural gas but electricity, in the hot months are going to be serious and extraordinarily high.

I thank the Chair for the opportunity to give this status report. I end by particularly thanking Senator SMITH of Oregon. He has worked with me in a bipartisan way. He has gone with me to see members of the committees on the House side. He has stood very solid and steady in support of this legislation. I am very proud to have him as a major cosponsor. I also thank the Senators from the great State of Washington and the Senator from Connecticut who also recognize what this problem is and are determined to do something about it.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, the time until 11:10 a.m. shall be under the control of the Senator from Wyoming, Mr. THOMAS, or his designee.

The Senator from New Mexico.

Mr. DOMENICI. Mr. President, as a designee, I ask that I be permitted to speak for up to 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

EDUCATION

Mr. DOMENICI. Mr. President, I rise today to speak about education. Since we are going to seriously consider education reform in this Chamber during the ensuing days, I thought it might be appropriate for me to talk about it before I, and many others, offer amendments.

New Mexicans and Americans agree, from everything I can tell, that improving the educational opportunities available to our children should be our top priority. The issue is whether or not we can reform the school system such that our children will perform better as they are educated in our public school systems in ensuing years.