



## McCullough Research

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### Memorandum

Date: April 12, 2005  
To: McCullough Research Clients  
From: Robert McCullough  
Subject: Enron's Per Se Anti-trust Activities in New York

In June, last year, our review of Enron's emails found an important set of material pertaining to Enron's per se anti-trust activities in Alberta. This "game" – called Project Stanley – involved a simple market division arrangement between Enron and Powered. During high load periods, off-system imports from make Powered the "pivotal supplier" in Alberta. Enron's John Lavorato devised a simple scheme to disguise the pivotal supplier by allowing Enron to make the price setting bid in Alberta. Since Enron clearly was not the pivotal supplier, this disguised the arrangement from Alberta's market surveillance officials.

The price Enron set in Alberta – \$990/MWh – was the same that ERCOT's mysterious "Mr. \$990.01" uses to set prices in Texas. This has led us, as well as others, to presume that graduates of Enron Canada's trading floor have been using the same techniques to disguise pivotal supplier manipulations in Texas.<sup>1,2</sup>

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<sup>1</sup>Until TCE filed its anti-trust case in 2003, Texas ratepayers often paid \$990.01/MWh in the real time market. The price was set during periods when bids into the real time stack were exhausted. Mr. \$990.01 is the bidder who set the prices. His identity remains hidden behind a loophole in ERCOT rules that allows a QSE to submit a bid for an unidentified third party.

<sup>2</sup>A number of Enron traders from the west coast were active in Texas. The most notorious, John Forney, also figured in the Project Stanley evidence.

A useful source on Enron schemes is a document from Richard Sanders, Enron's litigation manager, which identifies the active files in his litigation library. Entries include Tim Belden's problems in California, John Lavorato's problems at Project Stanley, and an East Power Trading anti-trust case concerning Kevin Presto.<sup>3</sup>

Kevin Presto's role at Enron roughly paralleled Timothy Belden's. He started in Portland but relocated to Houston and managed the East Power Trading desk. His involvement in the anti-trust file from Richard Sanders office was probed by Kim Bruno, a FERC lawyer, during the July 24, 2002 deposition of Elizabeth Sager.<sup>4</sup>

Q Who is Kevin -- there appears to be a name at the top of the document that's -- do you see that name?

A Kevin Preston.

Q Who is Kevin Preston?

A He at that time, I believe, was head of the East Trading Desk or area.

Q Would he be the person in charge of traders in the New York ISO?

A Yes.

Q Below there, there appear to be some schematics; do you see those?

A Yes.

Q Can you read what the schematics apparently are labeled? It looks like there are two circles there. It appears to be PJM; is that right?

A That's what it looks like.

Q And then to the right, it looks like N-Y. Could that be New York ISO?

A Yes.

Q Over on the right-hand side, can you read what's written there?

A "Real-time numbers at the ... I can't read the next word or the next word, and then "points."

Q Could it be primary points?

A It could be.

Q And below there, can you read what it says?

A Maybe proxy bus.

Q Or could that be the name of an actual bus within the New York ISO?

A Maybe. I don't know.

Q And below there, can you read that?

A It's send to market structure.

Q Was there another word to the right of 2?

A Oh, yes. Send to go? Market structure.

Q And then underneath the diagram indicating New York, apparently there are some numbers there. Do those have any meaning to you?

(Pause.)

MR. INGOGLIA: Just to clarify, you're talking about the numbers within the circle or below the circle?

MR. BRUNO: I'm sorry. We can actually do both, to the extent that you're able to elucidate or clarify. There are some numbers that are indicated within a circle in the circle that has NY indicated. Below the circle are some numbers beginning with looks like minus 20,000 inside of a box, the next line 100. The next line it looks like 100 and then D or something next to it. Do those numbers have any meaning to you?

A Nothing that I can think of now or recall.

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<sup>3</sup>Richard B. Sanders file listing (attached).

<sup>4</sup>Confidential Deposition of Elizabeth A. Sager, Washington D.C., July 24, 2002.

- Q At the meeting you just described where maybe Mr. May attended, do you remember if Mr. Presto attended?
- A I don't recall.
- Q Do you remember if anybody went to a white board and wrote out diagrams such as this?
- A I don't recall.
- Q And directing to your attention written in large almost cursive script, can you read what it says there?
- A Antitrust risk collusion.
- Q And then underneath that, can you read that?
- A Don't talk about the market direction, only -- it may say only talk about the trades.
- Q At the meeting, was the issue of antitrust or risk or collusion raised?
- A Not that I recall.

Although the questions were addressed to Elizabeth Sager, it seems more likely tht the actual meeting was with Mark Haedicke, the chief lawyer of Enron North America:

FROM: Tamara Jae Black  
DATE: 12/21/2000  
TIME: 14:00:00 GMT  
ORIGIN: PRESTO-K  
SUBJECT: Mtg. w/Mark Haedicke reg. Trading Strategies your office<sup>5</sup>

The cited exhibit is available on the FERC web site, but is difficult to find. In addition, Aspen System's primitive scanning equipment has lost much of the detail of the handwritten document. A copy of the document is reproduced on the next page. Where possible, difficult to read sections have been entered as text.

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<sup>5</sup>Email from Tamara Jae Black to Kevin Preston, 12/21/2000.

