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Draft Fact Summary – Based on meeting between Tim Belden and Mary Hain

The California Power exchange (PX) has instituted an investigation into what it alleges are "dramatically increased zonal prices" occurring on May 25. It apparently believes that EPMI caused this increase, by allegedly violating the PX tariff. It has suggested that it may receive requests for ADR that would apparently implicate EPMI. A brief summary of the facts follows. These facts are not based on a full internal investigation of this event and so they may be flawed, incomplete and are subject to correction. The tariff provisions herein have not been researched. Also note that this summary uses terminology used in the industry that may not precisely follow the terminology used in the tariff.

To understand this situation requires an understanding of how the market operates in California. As shown by the following table, there are two types of customers that interact with the California ISO in the day ahead market, those customers who are themselves "Scheduling Coordinators" (SC) who do "SC Transfers" directly into the California ISO and those customers who use the PX as their Schedulin

PX Scheduling Coordinator	
Utilities (e.g., PG&E)	
QFs	
Munis	
EPMI	
External Generation (e.g., BPA)	

- We had higher Adj Bid?
- ~~What did we make?~~
- Others doing it? - No
How is it dealt with
- How does that effect the price
- ~~Mid to late day Weds~~
- Facts together?
- Any better reas for what we did

Why didn't this happen in Jan

The important difference between these two c
SC Transfers may not submit "adjustment bids
as the Scheduling Coordinator may.

Adjustment bids work as follows. At 7 a.m., cus
which they are willing to sell a certain amount of
and publishes its price based on the market cleari
customers can indicate that they are willing to sel
(so-called "adjustment bids"). The ISO uses these
management purposes.

For example, assuming the published price is $25, a
indicating they are willing to sell 200 MW at $30, 1
The PX submits the schedule and adjustment bids to
adjustment bids. Then, if based on the $25 price, the

EC 071216376

so that the transmission line is congested (i.e., not all the power can flow), based on the adjustment bids, the ISO will "manage" the congestion by doing transactions at these adjustment bid prices that maximize value (so-called "increments and decrements" or "incs. and decs"). For example, it will not buy ("back-off") the most expensive generation and buy the least expensive. The ISO uses adjustment bids in a similar manner to maximize throughput if there is less demand than transmission capacity.

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On May 24, 1999, the West Desk was "short" June at the California Oregon border (COB). So, they figured out a way to sell a lot of power into the PX and then back out. where Specifically, they scheduled 2900 MW (in the day ahead market for May 25) ~~with no~~ supply to back it into the California PX at the Silver Peak tie, a tie ~~with~~ only 15 MW of transmission capacity was available. The PX determined that the price was $27. EPMI scheduled 2900 MW at a $26.99 decrement. Sierra Pacific had scheduled 12 MW at a 26.98 ~~$26.99~~ decrement. The ISO saw 2912 MW scheduled where 15 MW of transmission capacity was available. They called EPMI and we verified the schedule. The ISO determined that 2897 MW would be curtailed because EPMI had the higher adjustment bid. It accepted 3 MW, which we bought from Sierra Pacific and sold into the PX.

Apparently in-state customers had difficulty incrementing on the other side of the curtailment because they were all SC Transfers that could not submit adjustment bids.

According to Tim Belden, the PX's COO (John Yurkinin (S.P.?)) contacted him to alert him that the PX started an investigation of the above event. According to the announcement of the investigation (see attached) on May 24, an unusually large volume of energy was scheduled through a low capacity delivery point for delivery in CalPX's Day ahead market which resulted in the need for extensive adjustment bids to resolve the congestion, which dramatically increased zonal prices beyond amounts that are ordinarily expected at this time of year. The COO alleged that EPMI's behavior violated Section 3.3.2 of the PX tariff, which the PX claims, requires the customer "to have effective generation and that EPMI did not have the 2,900 MW of effective generation." Section 3.3.2 of the tariff provides as follows.

> Bids submitted into the auction that leads to the PX's initial Preferred Schedule need not be attributed to any particular Demand, Generating Unit or System Resource. Such a bid is referred to as a portfolio bid, and the entry submitting is as a portfolio bidder. If any part of a portfolio bid is accepted into the PX's initial Preferred Schedule, it shall be that portfolio bidder's responsibility to convert the portfolio bid into a schedule of Demands, Generating Units, and System Resources which yields Demand and effective Generation equal to the quantity the PX has accepted from the portfolio bid. The PX shall submit the resulting schedule to the ISO as part of the initial Preferred schedule.

EC 071216377

The PX's COO indicated that several customers had called the PX and claimed damages totaling $6 million. He did not know whether they would seek ADR. There is no statute of limitations, at least in the ADR section of the PX's tariff. The PX believes that if Section 3.2.2. was followed, it would have avoided the "inordinate" congestion experience in the May 25 market. Accordingly, the PX has begun an investigation using the Market Monitoring Committee.

Tim Belden advised me that the trading floor had used a similar technique back in January and that no one was upset by it. Accordingly, he wanted to call the PX and use this as a defense. I advised against divulging this information to the PX at this time, especially since they have yet to ask EPMI for any discovery and have told Tim they are viewing this as an isolated event.

The investigation takes place under the Power Exchange Marketing Monitoring and Information Protocol, which begins at sheet No. 225 of the PX's tariff.

Tim and I called Yurkinin and then the PX's general counsel (Scott Rasmussen) to obtain information about the investigation. Although the investigation procedure is set forth in the tariff, the PX is new at this and so it sounds like they're making the process up as they go along. They will be reviewing their software, the participants, the events and the market impact. They will look at what might be done in the future and what remedies and possible penalties might be proposed to FERC. They may also propose remedies in this case such as a regulatory or antitrust enforcement referral. There are no monetary penalties currently in the tariff but I will verbally suggest some other potential remedies.

Although no ADR disputes have been submitted, I would also point out that PX participants indemnify the PX under section 9.3 of the tariff.

John Yurkinin's number is 626-537-3124 and Scott Rasmussen's number is 626-537-3127

Potential defenses:

- Isolated event

- We didn't cause the price increase, rather its was caused by a market design flaw that adjustment bids are not allowed by certain parties and we don't know whether those parties are in the market at any given time.

- The load was not harmed by the price in the day ahead market. Rather they were harmed by their own choice. They could have protected themselves from the price increase by submitting lower bids in the day ahead market, (i.e., saying they'll cap the amount they are willing to pay for the power) and then taking their bids to the real

EC 071216378

time market. Tim says he will get together information showing that the real time market had lower prices.

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