

California Current

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Guest Juice

Crisis Dust Still Settling a Decade Later

By Arthur O'Donnell

Exactly ten years ago, California stood paralyzed in the eye of the hurricane we've come to know as the Western Energy Crisis of 2000-01.

Autumn 2000 offered a brief window of calm between a summer of prolonged system emergencies and a looming winter excursion into stratospheric energy prices and curtailments. Attempts to pull back the state's electric industry restructuring by politicians and regulators were ineffective in preventing a second (and eventual third) wave of price spikes and generation outages during the darkest days to come.

Months of valiant effort by an exhausted California Independent System Operator control staff finally gave way to the state's first full-blown Stage Three Emergency on December 7. Less than one week later, California spot power prices exploded over \$1,400/MWh (more than \$5,000/MW was recorded in the Pacific Northwest).

This triggered an unprecedented federal Department of Energy intervention to direct all available energy into California. It also forced the Federal Energy Regulatory Commission to get serious about imposing a pricing benchmark against which actual transactions would need to be justified or be subject to refunds.

Many still hold a grudge against FERC for its lackluster response to California's situation. But, that agency eventually ordered over \$6.5 billion in refunds.

However, the worst of the crisis was still to come, with 32 consecutive days of Stage Three system emergencies beginning Jan. 17, and a joint declaration of political emergency issued by then-Governor Gray Davis and the Legislature. An ill-prepared Department of Water Resources/California Energy Resources Scheduling division (CERS) took over energy purchases as the two largest investor-owned utilities teetered on the brink of insolvency.

We've never really been able to calculate the full costs of the crisis.

My own best estimate of the regulated utility ratepayers' liability for the costs of the failed restructuring effort topped out at about \$85 billion, including some \$50 billion in total energy purchases made under duress and ill-considered contracts signed by CERS during the crisis, plus billions in utility stranded cost payments. That includes over \$13 billion in excess summer prices incurred by CAISO and a still-lingering debt service liability that runs about \$800 million per year on \$9 billion in outstanding debt.

As far as I can tell, ratepayers will continue to see obscure charges on monthly bills until at least 2022.

While much of that expense must be written off as a financial nightmare, the California Public Utilities Commission, the state Attorney General, DWR, and major utilities (known as the California Parties) continue their efforts to recoup some of the money through litigation and settlements.

Recently, CPUC General Counsel Frank Lindh provided an update on the status of settlement efforts that played to a small audience at the tail end of a commission business meeting. The story deserves wider notice.

For the past decade, the California Parties have been seeking restitution of about \$9 billion in excess energy costs from scores of marketers, generators, and public power entities.

Lindh broke out the calculation into three distinct phases:

- Summer 2000 (May 1 – October 1):\$2.5 billion
- Refund Record Period (October 2 – June 20, 2001):\$3.0 billion
- DWR/CERS purchases (Jan. 17, 2001 – June 20, 2001): \$3.5 billion

More than 60 market players have been identified for restitution, including every seller of power to the Cal-ISO and DWR.

“Our position is that all sellers benefited from high prices and all are liable for refunds,” Lindh said. The estimate for potential refunds is based on FERC’s Mitigated Market Clearing Price, not counting accumulated interest.

Among the latest settlements was Sempra Energy finally reaching terms for \$400 million, Lindh said.

Seventeen of 18 public power entities also have come to terms, leaving only a single hold-out. Even the recalcitrant Los Angeles Department of Water & Power a year ago agreed to refund \$112 million for wholesale power transactions.

The doggedness of the California Parties is evident by the fact that no power seller has been spared, even those that repeatedly provided last-minute energy to the state to prevent blackouts.

The Parties even took the Bonneville Power Administration to a full-blown trial over its liability for cost recovery. All the while, BPA complained that it had broken its own rules on salmon preservation in order to supply California with hydroelectric power.

To date, about 45 parties have settled, leading to \$2.75 billion in refunds, and it is clear that the state will never see the full amount we are owed. The Enron bankruptcy alone evaporated over \$1.5 billion in refund liabilities.

Lindh said that there remain 16 market sellers that have not reached settlement and some are no longer in business.

But no one is being let off the hook.

“We don’t reward sellers who hold out,” Lindh told commissioners this month.

--Arthur O'Donnell is an independent energy writer. Look to www.energyoverseer.com for a compilation of reports documenting the Western Energy Crisis as it unfolded.