

## **Protest of PX filing**

- FERC should reject the PX's price caps because
  - Energy Markets are competitive in the West – 20 loads and 40 sellers.
  - Say what we and EPSA said in San Diego case and say that high prices are not due to exercise of market power, they are the product of scarcity and the failure of the IOUs to hedge in the forward market and their underscheduling in the PX day ahead market.
  - FERC had to administer the price caps for the gas industry and they caused terrible problems – list a few of FERC's nightmares FERC as reminders.
  - The Cal PX shouldn't be able to do this on a whim and indefinitely.
  - Cal PX should have to substantiate the request, which they haven't. ISO and PX haven't had the same prices as the ISO for years and they didn't have the problems described in the filing. PX proposed this for political reasons.
  - If two parties want to agree – why shouldn't PX match – they have to be willing buyers, have the ability to go to the ISO real time market. Parties should be able to buy outside of the PX – we don't want to create a monopoly for the bilateral market.
- Recognize that the FERC may allow price caps, if they do
  - FERC should have same cap they allow for New York, PJM. Inconsistent with other markets, including Canadian markets over which Commission has no jurisdiction.
  - \$250 Price cap in California is not enough to incent generation to be built because it does not allow a return on an investment in generation
  - FERC should consider allowing a cap based on the price at which interruptible load is willing to be cut - \$1,500.
  - Could we make the argument that capping the price in the PX will drive up the price by making participants bid up to the cap? Isn't this what happened in California? Ask for Seabron to help?

## **Protest of the EOB filing**

- FERC should reject it
- Cross reference anything we said with respect to the PX filing that applies
- Analysis – provided by Seabron Adamson of why we can't exercise market power the way the EOB says we have.
- The EOB's filing confuses bid and price caps. After all, who would buy in the bilateral market if they can go to the ISO and the PX get power for less?
- Attach the joint resolution telling the ISO to show cause why it should not lower the price caps to \$100/MW. Attach the EOB vote not to reaffirm directors. Of ISO and PX. If in response to the EOB's show cause order, the ISO lowers prices to \$100/MW and the PX follows suit - as they have indicated they will in their filing and as the EOB vote on their directors would force them - California generators will stop producing because if they generate they will not be able to recover their variable costs. Generators outside of California will not sell into

California markets because they would not recover their variable costs and they could sell their power elsewhere and recover their variable costs. Therefore, the liquidity of the California market will dry up and reliability problems will occur.

- We “told you so” FERC
  - the EOB thinks they have much more power than you allowed them to have as illustrated by their issuing orders to show cause to the ISO to lower the price cap and
  - the EOB is now making the ISO and PX un-independent by not reaffirming Board members because they won’t vote for lower price caps. This is ultra vires in that the EOB’s power is supposed to relate to retail jurisdiction, not setting wholesale price caps (not just bid caps) for the entire California market.