

## **Restructuring in the Rearview Mirror – a 10-Year Retrospective of California’s Doomed Experiment with Electric Deregulation. By The Energy Overseer**

### **The Great Detectives Crack California's Market Power Mystery**

The scene: An executive conference room on the first floor of the State Capitol Building in Sacramento. Attorney General Bill Lockyer has gathered together the world's most prominent television detectives in an effort to prove that electric generators and power marketers illegally conspired to drive power prices to astronomical levels.

“Welcome, ladies and gentlemen.” Lockyer begins to speak but is interrupted by a cat tugging at his leg. “Yes, yes, and you, too, Mrs. Murphy. As you know, Governor Davis has been very supportive of law enforcement efforts and the television crime industry, both of which are important segments of the California economy and great contributors to the Democratic Party. But we feel that the economy and our very way of life are being threatened by the actions of several very powerful corporations that have taken the energy market hostage. We have been conducting several investigations and have come up with many theories as to how they have manipulated the market for their own profit and at the expense of hard-working Californians . . .”

“Cut the political speeches,” interjected Detective Andy Sipowicz in his typically brusque New York manner. “You got jack on these guys and you need us to find something you can pin on them.”

“In a word, yes. A smoking gun, a coded e-mail message shared among power traders. Almost anything that will support our allegations.”

“Perhaps a confession from some lower-level associate who found himself on the short end of a deal?” queried the British inspector Jane Tennison as she poured tea for her civilian colleagues Jessica Fletcher and Hetty Wainthropp.

“You got somebody we can take into a room and work over?” It was Spenser, a lumbering hulk of a man, rugged and handsome even well into his sixties. His testosterone had been stirred by both that pushy New York cop and the attractive Brit inspector, and he didn’t want to seem like a bit player in this cast.

“I would imagine we need to be more subtle than that,” opined Father Dowling with a wry smile. “Intimidation will not stand up in a court of law or under the glare of media attention.”

“Amen to that, Father,” added his companion, Sister Steve. “Perhaps an undercover mission? Some of us could pose as novice power traders, get somebody to spill their secrets.”

“There’s not much time to develop a case,” Lockyer responded. “Unfortunately, we have a deadline to bring our information to the Federal Energy Regulatory Commission. If we have nothing to show, the federal agency may just let these criminals get away. You have a suggestion, sergeant?”

The man snapped to attention and a full salute, impressive in his Royal Canadian Mountie uniform--even if he was a cartoon character. “Yes, sir,” Dudley DooRight began. “In coordination with the Alberta Ministry of Energy, we have just conducted a raid of the offices of two of these power marketers and have uncovered some evidence.”

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“What kind of evidence?” The AG perked up.

“It’s a consultant’s report, sir. It clearly advises the Enron power traders on ways to manipulate prices on the Alberta Power Pool to their own advantage. We’ll be using it in our own investigation of market collusion. If you wish, sir, I will ride my faithful steed, Steed, to the provincial offices and obtain a copy for you.”

“Must be a pretty fast horse to get to the North Pole in time,” Sipowicz rolled his eyes. “This, ah, steed wouldn’t happen to be a flying reindeer, would it?”

“I know these Enron characters from back home,” contributed Cordell Walker, the Texas Ranger. “They’re slick, and they have a whole skyscraper filled with lawyers. It will take more than a kick in the gut to bring them down.”

“Yes, but the wicked must be brought to justice--however rough,” intoned Friar Cadfael. “The mighty shall be brought to their knees by the Almighty.”

Special Agent Dana Scully took the floor. “I have reviewed the evidence to date and it appears to be little more than circumstantial. Essentially, you are basing your case on a belief that a competitive power market should result only in prices being set by the marginal cost of the most efficient resources on the system. And yet your market structure has been designed to be easily circumvented by those seeking to maximize profits in entirely legal ways. The imbalance between supply and demand, increasing costs for fuel and environmental compliance at what are obviously obsolete power plants, certain meteorological phenomena--plus what I would call a ‘panic-buying mentality’--have all contributed to the price run-ups that you allege result from market-power abuse. The most common ways to prevent sellers’ market power have been ignored by a heavy reliance on spot markets and limits on buyers’ ability to contract at fixed prices. Honestly, sir, the FBI is of the opinion that there is less to this situation than you suspect.”

“The FBI has an official opinion,” countered her partner, Fox Mulder. “But I have an alternative explanation.”

“Little green men chasing big green bucks?” scoffed Spenser.

“This isn’t a case of extraterrestrial entrepreneurs,” Mulder retorted. “Not even one of out-of-state generators taking unfair advantage of a captive populace, as has been promoted in the media. The real case here is of a government conspiracy meant to undermine a competitive power market before it can take hold.”

“Oh, my word,” Mrs. Wainthropp dropped her cup of tea to the floor. The cat moved over to lick up the spill but turned away in disgust. “Darjeeling. Really,” Mrs. Murphy sniffed. “Humans never think to offer a nice pot of catnip tea.”

“Watayamean?” Sipowicz squinted at Mulder.

“I think my American friend may be right.” After standing quietly in the corner through the debate, Hercule Poirot finally overcame his natural shyness and began to speak in a clipped Belgian accent.

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“It would seem to me that what we have here is a conflict between two political, or if you prefer, regulatory philosophies. A new order has taken control in the great state of California, and this administration feels the need to refute and undermine the previous market-based ideology. N’est pas?”

“But all the money?” implored Jessica Fletcher. “And all those poor people in San Diego who cannot pay their power bills.”

“Yes, yes. They have my greatest sympathy, I can assure you,” Poirot continued. “Most important, though, is the money. This is, after all, America.”

“Get to the point, Frenchie,” Sipowicz glared.

Poirot sighed at the misplaced insult. “The real crime here is not that electricity has become too expensive, but that the proceeds of sales are now flowing like a river out of California and away from the native utilities.”

“Who are big corporate contributors to the governor,” Mulder added, impressed that someone finally understood what he was getting at.

“Under the traditional system, the local utilities are very much beholden to the administration in power and respond kindly with their financial support. In turn, the appointed regulators, although they put up a show of independence, are keenly aware and protective of the financial interests of the utilities they regulate. It is, how shall we say, a cozy relationship.”

“So what you are suggesting, Monsieur Poirot, is that we will never find real evidence of market manipulation.” Inspector Tennison leaned forward with interest. “That this entire case has been fabricated to return utilities to power so they will donate money to the governor?”

“It is true that the balance of energy company campaign contributions have favored Republicans over the past decade,” Scully offered. “You see this as a way to reverse the trends? To either squeeze more money from the out-of-state entities or to put them out of business?”

“You are both very perceptive and intelligent women,” Poirot flattered them. “It is all rather obvious, n’est pas?” **[Arthur O’Donnell].**

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