

The Energy Watchdog Finally Barks. But Will It Bite?

When an administrative law judge at the Federal Energy Regulatory Commission ruled on Sept. 23 that El Paso Corp. ([EP](#)) had manipulated California natural-gas supplies, it was sweet vindication for Governor Gray Davis. All along, the beleaguered Democratic incumbent had insisted that market-rigging, not his own incompetence, lay at the heart of the 2000-2001 electricity crisis--a charge Republicans dismissed as whiny desperation.

But the El Paso bombshell has done a lot more than breathe life into Davis' reelection bid. The ruling could herald tougher oversight by the traditionally industry-friendly folks at FERC, including a probe of possible price-gouging by electricity companies across the nation. It also could be the catalyst for billions in refunds to aggrieved consumers and deficit-strapped states--an idea GOP pols ridiculed as grandstanding when Davis first broached it.

Like many California-inspired convulsions, the case is a trendsetter. Says Peter Navarro, a business professor at the University of California at Irvine: "You have to look at it as part of a broader pattern involving companies that manipulated the markets at enormous expense" to ratepayers.

The prospect that market-rigging isn't unique to deregulated California has the potential to transform FERC, traditionally more pussycat than watchdog. "If we find bad behavior, we've got to respond," pledges FERC Chairman Patrick H. Wood III. "The market should have a cop who knows what's appropriate." Indeed, agency insiders say that FERC is now actively looking for new hints of wrongdoing. After the Enron Corp. fiasco, "the landscape changed so much that FERC felt it had to bring back a head on a stake," says one.

In the short run, the agency will intensify efforts to ferret out more market games in the West. In mid-August, FERC found that several companies--

Avista, El Paso Electric (not related to El Paso Corp.), and three Enron affiliates--may have manipulated California electricity prices. Experts say the finding that El Paso withheld supplies to drive up prices increases the chances that California will get back at least \$1 billion of the \$9 billion in refunds Davis has sought. "The El Paso case is the first domino in quite a chain," says Robert McCullough, managing partner at McCullough Research, an Oregon energy consultant that works for refund-seekers. Among the potential beneficiaries: businesses, consumers, and municipalities.

In the post-El Paso world, electricity deregulation--already staggered by the Enron scandal--seems even more farfetched. There's little sentiment on Capitol Hill for national deregulation, long an industry priority. And some 20 states that were thinking about freeing up their energy markets have become wary in recent months amid allegations of corporate abuse, according to ***Ken Malloy, CEO of the Center for the Advancement of Energy Markets, a pro-competition think tank.***

Wall Street is also getting skittish. Even before the El Paso ruling, investors were growing increasingly bearish about the future of the energy-trading industry. The latest decision sent shares of the entire energy sector even lower, although El Paso officials dismissed the ruling and predicted they will eventually get it overturned.

For now, however, the only stock that hasn't been battered by the case against El Paso is that of Davis. He's leading Bill Simon by 10 points in the latest *Los Angeles Times* poll and gloating over the fact that his GOP opponent owns shares worth up to \$100,000 in--you guessed it--El Paso.

By Laura Cohn in Washington and Christopher Palmeri in Los Angeles