JPMorgan Chase investigated for manipulating California energy market

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The California Independent Systems Operator (CalISO), the nonprofit organization that coordinates the state's electricity market, has alleged that JPMorgan Chase & Co. manipulated the state's energy market, resulting in at least $73 million in improper payments—costs passed along to the state's energy consumers.

The accusation emerged on July 2 in court filings by the Federal Energy Regulatory Commission (FERC), which oversees CalISO, as part of its investigation into the bank. Normally, ongoing FERC investigations are not disclosed to the public. The case was revealed only after the agency subpoenaed e-mails from JPMorgan relating to the inquiry.

The bank claimed that the e-mails were confidential on the basis of attorney-client privilege. However, under pressure, it released some of the e-mails in non-redacted form to the agency that belied their argument. The bank responded to the petition by arguing that FERC was engaged in an "abusive litigation tactic."

FERC was granted expanded powers in 2005 in the aftermath of the manipulation of California's energy market by Enron, which resulted in energy warnings and rolling blackouts throughout the state. The regulatory overhaul gave the agency the ability to fine companies as much as $1 million a day per violation. These fines, however, in no way discourage companies from gaming the system. JPMorgan's investment arm, which includes its energy group, collects $14 billion annually; in comparison, six months' worth of fines would amount to a paltry $180 million.

"The incentive remains for outfits like JPMorgan," notes a July 18 article in the *Los Angeles Times*, "to stretch the rules to the breaking point—if they get caught, the cost is tolerable; if not, the returns are fabulous."

Responding to the allegations, the bank's spokeswoman Jennifer Zuccarelli said, "We believe we have complied in all respects with the law, as well as FERC rules and applicable tariffs, governing this market." This claim, in fact, is likely true.

JPMorgan was able to take advantage of loopholes built into the regulations governing energy and natural gas markets. The ISO takes bids from power plant owners on energy costs in both the future day-ahead and current real-time markets. To encourage plant owner participation in the auction, the ISO provides a "bid cost recovery," which ensures that the operators receive a guaranteed minimum support for running the plant even if their bid is not accepted.

JPMorgan exploited these rules by placing extremely low bids on the day-ahead markets—sometimes negative bids where the bank would be paying the ISO to take its energy—making them eligible for bid cost recovery payments, then charging electricity prices so high on the real-time market that ISO would never purchase the energy.

As the *Los Angeles Times* reports, "JPMorgan's traders never intended to sell its electricity via these bids. The scheme, [the ISO] says, seems to have been designed purely to capture a bid cost recovery payment the bank didn't deserve, at a rate that was inflated anyway."

Carl Wood, who was on the California Public Utilities Commission in the aftermath of the 2000-2001 energy crisis, commented on the latest allegations that "there is something fundamentally broken about the system."

FERC opened its probe into the bank in August 2011 after California and Midwest grid operators noticed unusual trading patterns and questionable bidding practices between March and June of 2011. The agency has conducted 11 probes of alleged manipulation of electricity and natural gas markets since January 2011. FERC recently reached a record $245 million settlement with Constellation Energy Group Inc. and has issued a preliminary determination that Deutsche Bank AG manipulated the California energy market.

The drive toward privatization and deregulation of energy markets emerged in the 1970s as the postwar boom began to wane and placed pressure on profit rates. Privatization of electricity began first in Chile after the US-sponsored military coup of 1973. In the US, systematic deregulation of the energy market was set off with the Natural Gas Policy Act of 1978 in the aftermath of the 1973 oil crisis, the Public Utility Regulatory Policy Act of 1978 (PURPA), and the National Energy Policy Act of 1992.

California became the first state to deregulate its energy markets, which opened the doors to the criminal activities of Enron. But California is no aberration. Starting in the late 1970s, both Democratic and Republican administrations have worked to remove virtually any legal limitation on the pursuit of corporate profit in every sector of the economy, from finance, to communications, and finally to energy.

Major corporations have been given free rein to supervise their own safety, environmental, and ethics practices. The Obama administration's record on the pursuit of such policies is unequivocal. The BP Gulf oil disaster of April 2010 is a recent example of the results of energy deregulation policies. In his 2012 State of the Union address, President Obama boasted: "Over the last three years we've opened millions of new acres for oil and gas exploration." In the aftermath of the Gulf oil spill, no new regulations were established to prevent another similar disaster.

The latest allegations against JPMorgan once again underscore the parasitic nature of the financial oligarchy that dominates all aspects economic and political life. The speculative activities that triggered the current economic crisis continue unabated.