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Market Monitoring PUCT Staff Presentation

Presented by

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Independent Market Monitor (IMM)

- Texas law requires ERCOT to contract with an entity selected by the PUCT to act as the PUCT's wholesale electric market monitor to detect and prevent market manipulation strategies and recommend measures to enhance the efficiency of the wholesale market. PUCT and ERCOT have a three way contract with the IMM. PURA § 39.1515(a).
- IMM is responsible for monitoring the wholesale electricity market in ERCOT power region, including all markets for energy, ancillary capacity services, and congestion revenue rights, plus monitoring all aspects of ERCOT's operations that affect supply, demand, and efficient functioning of the competitive wholesale electricity market. PURA § 39.1515(d).
- Current IMM contract requires IMM to maintain a staff of at least 8 persons with technical and economic proficiency in the areas of electric generation and transmission, economics, information technology, law, and the analysis of complex transactions, including the interaction between the energy and financial markets. Cost is over \$3 million annually.



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PUCT Regulatory Authority

- **Market Power Abuse**

- Texas law defines “market power abuse” as practices by persons possessing market power that are unreasonably discriminatory or tend to unreasonably restrict, impair, or reduce the level of competition, including practices that tie unregulated products or services to regulated products or services or unreasonably discriminate in the provision of regulated services.
 - Market power abuses include predatory pricing, withholding of production, precluding entry, and collusion.
 - Key rules for market power and market power abuse are P.U.C. SUBST. R. § 25.503 and 25.504.
- Market power is the ability to control prices or exclude competition in a relevant market.

- **Market Manipulation**

- The IMM also monitors the market for market manipulation concerns including, but not limited to, fraudulent behavior in the wholesale market, collusion with other market participants affecting the wholesale market, and misrepresentation of the financial condition of an entity.

- **Voluntary Mitigation Plans**

- Texas law allows market participants to enter into a Voluntary Mitigation Plan (VMP) with the PUCT relating to market power violations. Adherence to the VMP constitutes an absolute defense against an alleged violation of the PUCT’s market power abuse rules. PURA § 15.023(f)



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Detecting Market Manipulation & Market Power Abuse

- IMM develops market screens and indices to identify abnormal market events. IMM uses computer simulation and advanced quantitative tools to analyze events that fail the market screens and indices and other abnormal market events.
- IMM conducts market power tests, monitors structural indicators, and conducts other analyses to determine market power.
- IMM monitors ERCOT's policy making process and ERCOT's management of wholesale market to identify opportunities for strategic manipulation and other economic inefficiencies.



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IMM Reporting Requirements & Performance Benchmarks

- IMM immediately and directly reports to PUCT any irregular or potentially anti-competitive behavior, including potential market manipulation, market power abuse, or violations of ERCOT protocols or PUCT rules.
- Additional IMM Reporting Requirements:
 - Daily, monthly, and quarterly reports on prices and congestions, abnormal bids and offers, and unusual market or operational behavior.
 - Annual report on competitiveness and efficiency of market design and operation, structural opportunities for market manipulation, and recommendations to improvement to the market.
 - Quarterly report on description of time allocated to each IMM activity and project, including on investigation and enforcement activities and all other projects.
- The Governance Committee, a joint management oversight committee comprised of representatives from PUCT, ERCOT, and IMM, meets bi-annually to review IMM's performance of contract duties.



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Enforcement of Market Abuse

- **Administrative Penalties**

- Texas law allows penalties of up to \$25,000 per violation. PURA §25.103

- **Disgorgement of Profits**

- Texas law requires PUCT to disgorge any excess revenues earned as a result of a market power violation.

IMM provides expert advice, analysis, reports, and testimony services for PUCT's enforcement proceedings.

- PUCT contested cases are initially heard by an administrative law judge who makes a recommendation to the PUCT Commissioners, who are the final decision makers. Appeals are heard at the District Court level.