

California AG Joins Lawsuit Alleging BP Manipulated NatGas Prices

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California Attorney General Kamala Harris has thrown the weight of the state government behind a lawsuit accusing BP plc affiliates and traders of manipulating natural gas prices for years to overcharge California as much as \$300 million.

The plaintiffs -- the state, Los Angeles County, the University of California, California State University and Christopher Schroen, a former BP employee -- claim that BP "conspired to artificially increase, conceal and overcharge plaintiffs for the purchase of natural gas through DGS' [California Department of General Services] Natural Gas Services program," according to documents unsealed last week by the California Superior Court in San Francisco.

"BP will defend itself vigorously against these meritless claims, which were brought by a former employee who was terminated more than a year before this suit was filed," a BP spokesman told *NGI*. "We will respond to the claims in detail through legal filings to be made at the appropriate time."

The lawsuit (CGC-12-522063) was first filed in July, 2012, but had remained seal for more than two years awaiting a decision by the attorney general's office about signing onto the case.

BP and its traders violated California's False Claims Act, according to the plaintiffs, who are seeking to recover treble damages and civil penalties for the alleged fraudulent overcharges. BP was "the exclusive supplier of natural gas to DGS, which in turn is the primary supplier of natural gas to large public facilities and local governments in California," according to the lawsuit. "In the 2008-2009 fiscal year, DGS provided over 315.5 million therms, or 2.6% of all natural gas used in California, for a total price of nearly \$250 million."

Terms of contracts between BP and DGS allowed for two pricing methodologies: published index price plus 0.002/MMBtu, or "special purchase" pricing, which limited profit to 0.15/MMBtu. "In reality, BP's management manipulated its profit margin to exceed any reasonable amount of profit and greatly exceeded these contractual caps," according to the lawsuit. "The amount of overcharging to Plaintiffs on Special Purchases was rarely less than three times greater than allowed under the contract, and was often five to six times the cap." And BP traders were required to obtain the natural gas they sold to DGS not on the open market, but from internal BP counterparts who provide the gas "at prices that were inflated far above commercial market prices," the plaintiffs alleged.

Schroen dealt with the DGS Natural Gas Services account while employed by BP American Production Co. from 2004 until he was fired in 2012. Schroen claims that BP was manipulating gas prices for the DGS contract before he was hired by BP and continued to do so when he left the company.

Harris' decision comes within weeks of industry analysts filing testimony at FERC indicating that the "Texas team" of BP's Southeast gas trading desk engaged in next-day fixed-price natural gas trading at the Houston Ship Channel (HSC) in 2008 in order to benefit its HSC-to-Henry Hub spread position tied to the index (see *Daily GPI*, [Sept. 23](#)). Based on his analysis of the Texas team's physical positions and their HSC-Henry Hub spread position, Patrick Bergin, a consultant at Houston-based FPS Consulting, found that starting on Sept. 18, 2008 -- after the value of the Texas team's physical trading at HSC-Henry Hub spread position jumped following Hurricane Ike -- its physical trading at HSC "changed markedly," according to a filing by FERC's Office of Enforcement [IN13-15].

The testimony was filed more than a year after the Federal Energy Regulatory Commission (FERC) ordered BP America Inc. and affiliates to show cause in the long-running case involving the alleged gaming of the physical and financial markets at HSC (see *Daily GPI*, [Aug. 6, 2013](#)). BP is slated to file responsive testimony by Dec. 8, followed by FERC rebuttal and deposition of witnesses. The hearing is slated for March 2, 2015 with an initial decision by July 15, 2015. BP has disputed the allegations and denied wrong-doing.