

United States Senate

WASHINGTON, DC 20510

July 14, 2004

The Honorable Susan Collins
Chairman
Committee on Governmental Affairs
340 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairman Collins:

We are writing to urge you to hold hearings on the Federal Energy Regulatory Commission's (FERC's) actions with respect to trading abuses by Enron and others in the Western energy markets in light of newly discovered evidence of these abuses.

As you know, the Governmental Affairs Committee conducted extensive oversight of FERC in the 107th Congress as part of the Committee's investigations into the deregulation of the energy industry and into the collapse of Enron Corp. In June 2001, the Committee held a series of three hearings on the 2000-2001 Western energy crisis and the restructuring of the energy industry, focusing on the role of FERC in these matters. Subsequently, on November 12, 2002, the Committee held a hearing on FERC's oversight of Enron, as part of the Committee's broader inquiry into whether public and private watchdogs charged with overseeing Enron had done all they could to detect and prevent the problems that led to the company's demise. At the same time, the Committee released a report prepared by the majority staff based on its far-reaching, nine-month investigation. The majority staff report found a "shocking lack of regulatory vigilance" by FERC and noted that "[o]ver and over again, FERC displayed a striking lack of thoroughness and determination with respect to key aspects of Enron's activities – an approach seemingly embedded in its regulatory philosophy, regulations, and practices."

Among the areas of FERC oversight that the staff report highlighted for criticism was FERC's response to allegations of abusive trading practices during the Western energy crisis. FERC waited nearly two years after the first allegations of market abuses by individual companies arose before launching a formal inquiry into these abuses. By that time, however, Enron had already filed for bankruptcy and the peak of the Western energy crisis had passed. A subsequent report by the Government Accountability Office in August 2003, prepared at the request of Senator Lieberman, confirmed that FERC's capability to oversee the electric and natural gas energy markets remained lacking in a number of critical areas.

Recently, recordings made of Enron electricity traders during the height of the 2000-2001 energy crisis in the Western United States were submitted to FERC and, ultimately, made public. These tapes appear to show Enron traders engaged in deliberate efforts to manipulate the Western energy markets and to take unfair advantage of other market participants and their customers. This new evidence of abusive practices raises significant questions about the thoroughness of

FERC's own, belated investigation into the trading practices of Enron and other market participants during this period: although the tape recordings were in the possession of the Justice Department, FERC apparently never reviewed them – or perhaps even sought them. This new evidence of abusive practices also raises concerns about FERC's actions with regard to the many related issues which arose as a result of market problems, such as the refund of unjust and unreasonable prices, the validity of long-term contracts entered into by Enron and other market participants, and enforcement actions against market participants who engaged in abusive practices.

In accordance with the Committee's mandate to investigate the efficiency and economy of operations of all branches of the Government, and as an important follow up to the Committee's earlier investigations, we request that you hold a hearing into the adequacy of FERC's investigation into the price manipulation by Enron and others in the Western energy markets and into FERC's plan of action going forward, to ensure that ratepayers and others who were harmed by these practices can be assured of sufficient remedies and of better protection in the future.

Sincerely,



Joseph I. Lieberman
Ranking Minority Member
Committee on Governmental Affairs



Maria Cantwell
Member
Committee on Energy and Natural Resources