convene a prehearing conference of the parties, or their counsel, to be held subsequent to any special prehearing conference, after discovery has been completed, or within such other time as may be appropriate, at a time and place to be set by the Board for the purpose of dealing with the matters specified in 10 CFR 2.752.

Not later than fifteen (15) days prior to the holding of the special prehearing conference pursuant to § 2.751a, or if no special prehearing conference is held, fifteen (15) days prior to the holding of the first prehearing conference, the petitioner shall file a supplement to his or her petition to intervene that must include a list of the contentions which petitioner seeks to have litigated in the hearing. A petitioner who fails to file a supplement that satisfies the requirements of 10 CFR 2.714(b)(2) with respect to at least one contention will not be permitted to participate as a party. Additional time for filing the supplement may be granted based upon a balancing of the factors in 10 CFR 2.714(a)(1).

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide the following information with respect to each contention: (1) A brief explanation of the bases of the contention, (2) a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing, together with references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion, and (3) sufficient information (which may include information pursuant to 10 CFR 2.714(b)(2)(i) and (ii)) to show that a genuine dispute exists with the applicant on a material issue of law or fact. This showing must include references to the specific portions of the application (including the applicant's environmental report and safety report) that the petitioner disputes and the supporting reasons for each dispute, or, if the petitioner believes that the application fails to contain information on a relevant matter as required by law, the identification of each failure and the supporting reasons for the petitioner's belief. On issues arising under NEPA, the petitioner shall file contentions based on the applicant's environmental report. The petitioner can amend those contentions or file new contentions if there are data or conclusions in the NRC draft or final EIS, or any supplements relating thereto, that differ significantly from the data or conclusions in the applicant's document.

The Commission, the presiding officer, or the Atomic Safety and Licensing Board designated to rule on petitions to intervene shall, in ruling on the admissibility of a contention, refuse to admit a contention if: (1) The contention and supporting material fail to satisfy the requirements of 10 CFR 2.714(b)(2); or (2) the contention, if proven, would be of no consequence in the proceeding because it would not entitle petitioner to relief.

A person permitted to intervene becomes a party to the proceeding, subject to any limitations imposed pursuant to 10 CFR 2.714(f). Unless otherwise expressly provided in the order allowing intervention, the granting of a petition for leave to intervene does not change or enlarge the issues specified in the notice of hearing.

Petitions for leave to intervene may be filed by delivery to the NRC Public Document Room at One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852–2738, or by mail addressed to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; Attention: Rulemakings and Adjudication Staff. Because of the continuing disruptions in delivery of mail to United States Government offices, it is also requested that petitions for leave to intervene be transmitted to the Secretary of the Commission either by facsimile transmission to 301–415–1101 or by e-mail to *hearindocket@nrc.gov.* A copy of the petition should also be sent to the Assistant General Counsel for Reactor Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Joseph L. Blount, Entergy Nuclear, 1340 Echelon Parkway, Jackson, Mississippi, 39213, and to Mark J. Wetterhahn, Esquire, Winston & Strawn LLP, 1400 L Street, NW., Washington, DC 20005–3502. All petitions must be accompanied by proof of service upon all parties to the proceeding or their attorneys of record.

A person who is not a party may, in the discretion of the presiding officer, be permitted to make a limited appearance by making an oral or written statement of his position on the issues at any session of the hearing or any prehearing conference within such limits and on such conditions as may be fixed by the presiding officer, but may not otherwise participate in the proceeding.

A copy of the SERI ESP application is available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records are accessible from the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html.* The accession number for the application is ML032960315. Persons who do not have access to ADAMS, or who encounter problems in accessing the documents located in ADAMS, should contact the NRC Public Document Room staff by telephone at 1–800–397–4209, 301–415–4737 or by e-mail to *pdr@nrc.gov.*

The application is also available to local residents at the Harriette Person Memorial Library in Port Gibson, Mississippi, and is available on the NRC Web page at *http://www.nrc.gov/reactors/new-licensing/license-reviews/esp.html.*

Dated at Rockville, Maryland this 7th day of January, 2004.

For the Nuclear Regulatory Commission.

Annette Vietti-Cook,

Secretary of the Commission.

[FR Doc. 04–682 Filed 1–15–04; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–27793; File No. 3–11373]

Public Utility Holding Company Act of 1935; Application of Stephen Forbes Cooper, LLC, PGE Trust, and Enron Corporation for Exemption Under the Public Utility Holding Company Act of 1935 (No. 70–10190); Notice of and Order Scheduling Hearing Regarding Request for Order Exempting Holding Companies from Registration Under the Public Utility Holding Company Act of 1935

January 14, 2004.

Enron Corporation (''Enron''), a public utility holding company, Stephen Forbes Cooper, LLC (''SFC''), an entity headed by the Acting President of Enron, and PGE Trust, an entity that Enron may organize (collectively ''Applicants''), all located at 1400 Smith Street, Houston, Texas 77002, have filed an application (''Application'') with the Securities and Exchange Commission seeking exemption from all provisions of the Public Utility Holding Company Act of 1935 (''Act'') except section 9(a)(2). Enron represents that it is a public utility holding company by reason of its ownership of all of the outstanding voting securities of Portland General Electric Company (''Portland General''). Enron requests exemption

under Section 3(a)(4) of the Act.[1] Section 3(a)(4) provides that the Commission shall exempt, ''unless and except insofar as it finds the exemption detrimental to the public interest or the interest of investors or consumers,'' a holding company if:

> such holding company is temporarily a holding company solely by reason of the acquisition of securities for purposes of liquidation or distribution in connection with a bona fide debt previously contracted or in connection with a bona fide arrangement for the underwriting or distribution of securities * * *

Section 3(c) of the Act provides that:

> Within a reasonable time after the receipt of an application for exemption under subsection (a) or (b), the Commission shall enter an order granting, or, after notice and opportunity for hearing, denying or otherwise disposing of such application * * *

We cannot, from the face of the Application, conclude that Enron meets the statutory criteria for an exemption pursuant to section 3(a)(4) of the Act. Therefore, we have determined, in accordance with sections 3(c) and 19 of the Act, to conduct a hearing on Enron's Application.[2] Because ownership and control of Portland General has not yet been transferred to the other applicants, there is no basis for taking action on the applications of SFC and PGE Trust. We therefore do not consider these two requests.

The hearing will be conducted on the basis of written submissions to be filed on or before February 2, 2004.[3] We currently believe, given the issues raised in the Application, that a hearing on the basis of written submissions will be sufficient. However, if any person believes that oral testimony or oral argument is necessary, he may request that the Commission consider ordering such testimony or oral argument. Such a request should be filed by February 2, 2004, and should specify why the person making the request believes such testimony or argument is necessary and what the person making the request expects to accomplish thorough such testimony or argument.

Accordingly, *it is hereby ordered* that a hearing shall be conducted, pursuant to Sections 3(c) and 19 of the Act (and in accordance with the Commission's Rules of Practice except as otherwise provided), on February 2, 2004. Enron and the Division of Investment Management shall file with the Secretary of the Commission, on or before February 2, 2004, a written submission that identifies specifically the issues of fact or law in dispute including legal arguments supporting their position, and shall serve simultaneously a copy of such submission on the other participant. A person who files a written submission will receive a copy of any other notice or order issued in this matter; and

It is further ordered that Enron and the Division of Investment Management shall be parties to the proceeding and that Enron, as the proponent of the exemptive order it seeks, shall, pursuant to 5 U.S.C. 556(d), bear the burden of proving that it is entitled to such exemptive order; and

It is further ordered that any person who seeks to intervene as a party pursuant to Rule of Practice 210(b)[4] shall file a motion to intervene with the Secretary of the Commission no later than February 2, 2004, and any person who seeks to participate on a limited basis pursuant to Rule of Practice 210(c)[5] shall file a motion for leave to participate with the Secretary of the Commission no later than February 2, 2004. Any person who seeks to intervene as a party or to participate on a limited basis also shall file with the Secretary of the Commission no later than February 2, 2004, a written submission that identifies specifically the issues of fact or law in dispute including any legal arguments supporting that person's position and identifies the person's interest in the Application, and shall serve all participants with a copy of any document the person files with the Commission; and

It is further ordered that the Secretary of the Commission shall mail copies of this Notice and Order by certified mail to Enron at the address noted above and shall serve a copy on the Division of Investment Management; that notice to all other persons shall be given by publication of this Notice and Order in the **Federal Register**; and this Notice and Order and any subsequent orders granting or denying or otherwise disposing of the Application shall be posted on the Commission's Web site at *www.sec.gov* and published in the SEC Docket.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 04–1102 Filed 1–14–04; 12:20 pm]

BILLING CODE 8010–01–P

[1] We take no position as to whether the Application with respect to any of the Applicants was filed in good faith as required under Section 3(c) in order to exempt the applicant from any obligation, duty, or liability imposed by the Act upon the applicant until the Commission has acted on such application.

[2] Although the Applicants did not request a hearing, they have reserved their right to do so.

[3] No briefs in addition to those specified in this Notice and Order may be filed without leave of the Commission. Attention is called to Rules 150–153, with respect to form and service. Briefs shall not exceed 50 pages, exclusive of pages containing the table of contents, table of authorities, and any addendum, except with leave of the Commission. Requests for extensions of time to file briefs are disfavored.

[4] 17 CFR 201.210(b).

[5] 17 CFR 201.210(c).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 49038; January 8, 2004]

Securities Exchange Act of 1934; Order Granting Temporary Exemption for Security Futures Products From the Definition of Penny Stock

The Commodity Futures Modernization Act of 2000 (''CFMA'') permits the trading of security futures, *i.e.*, futures contracts on individual securities and on narrow-based security indexes (''security futures'').[1] Under the CFMA, security futures are regulated both as ''securities'' under the federal securities laws,[2] and as futures contracts for the purposes of the Commodity Exchange Act (''CEA'').[3] Accordingly, security futures products potentially fall within the statutory definition of penny stock.[4] Thus, absent an exemption, security futures products could be subject to the Commission's regulatory scheme for penny stocks.[5]

We are proposing to amend the definition of penny stock in Exchange Act Rule 3a51–1 to exclude security futures listed on a national securities exchange or an automated quotation system sponsored by a registered national securities association.[6] This

[1] Pub. L. 106–554, 114 Stat. 2763 (2000). Under Section 3(a)(55)(A) of the Securities Exchange Act of 1934 (''Exchange Act''), the term ''security future'' is defined as a contract of sale for future delivery of a single security or of a narrow-based security index. 15 U.S.C. 78c(a)(55)(A). Under Exchange Act Section 3(a)(56), the term ''security futures product'' is defined as a security future or an option on a security future. 15 U.S.C. 78c(a)(56).

[2] *See, e.g.*, Exchange Act Section 3(a)(10), 15 U.S.C. 78c(a)(10).

[3] The term ''security future'' is defined in CEA Section 1a(31) [7 U.S.C. 1a(31)] as a contract of sale for future delivery of a single security or of a narrow-based security index. Under CEA Section 1a(33) (7 U.S.C. 1a(33)), the term ''security futures product'' is defined as a security future or an option on a security future.

[4] 15 U.S.C. 78c(a)(51). This definition is supplemented by Exchange Act Rule 3a51–1, 17 CFR 240.3a51–1, which further defines the term ''penny stock.''

[5] Rules 15g–1 through 15g–9 under the Exchange Act (collectively known as the ''penny stock rules'') 17 CFR 240.15g–2 through 15g–9.

[6] *See* Exchange Act Rel. No. 49037 (January 8, 2004). Section 6(h)(1) of the Exchange Act makes it unlawful for any person to effect transactions in security futures products that are not listed on a