U.S. FEDERAL ENERGY REGULATORY COMMISSION

FACT SHEET

Initial Report on Company-Specific Proceedings and Generic Reevaluations; Published Natural Gas Price Data; and Enron Trading Strategies
Fact-Finding Investigation of Potential Manipulation of Electric and Natural Gas Prices

(PA02-2, EL02-113, EL02-114, EL02-115, EL00-95-045)

- This initial report summarizes key findings to date of a staff-level fact-finding investigation into the factors contributing to extreme price volatility for electricity and natural gas in California and 10 neighboring states in 2000 and 2001, and whether market manipulation contributed to the crisis. Concurrent with forwarding this initial report to Congress, the Commission is issuing four related orders in response to staff recommendations. The staff's fact-finding efforts continue, and the report does not address all of the matters Commission staff is investigating or may investigate in the future.

- The staff's fact-finding investigation was formally initiated Feb. 13, 2002, in response to concerns that Enron Corp., through its EnronOnline Internet-based energy trading system, was able to unfairly influence energy prices in California and the West. The staff has investigated this concern as one part of a far-reaching effort to determine the causes of the energy crisis and any potential market manipulation, whether by Enron or other energy companies.

Report Findings

- The staff report identifies specific incidences of *possible* misconduct by three Enron affiliates and two investor-owned utilities that did business with Enron. The Enron companies are Enron Power Marketing Inc., Enron Capital and Trade Resources Corp., and Portland General Electric Co., an Enron utility affiliate in Oregon. The two other companies are Avista Corp., a Spokane, Wash.-based electric utility, and El Paso Electric Co., an electric utility based in El Paso, Texas.

- El Paso Electric, an electric utility involved in energy trading, is not affiliated with El Paso Corp., a natural gas pipeline company engaged in energy trading.

- The possible misconduct, elaborated upon below, could result in loss of market-based sales authority and other sanctions if warranted after further investigation.

- The staff concludes that publishers of electricity and natural gas price indexes use reporting methodologies without statistically valid sampling or information-verification procedures. While staff is still evaluating whether there was any manipulation of published spot prices for natural gas, the report cited "preliminary indications" that manipulation *may have* occurred. The staff also concludes that market participants had an "incentive" to manipulate prices reported in published indexes.

- EnronOnline was potentially susceptible to manipulation and was a significant source of price discovery for both market participants and publishers of energy pricing data.

- Given these concerns about publishers' natural gas price indexes, the staff concludes it is inappropriate for the Commission to use published spot natural gas prices as part of a methodology for determining possible refunds and offsets for California power sales during the Oct. 2, 2000, through June 20, 2001, refund period.

- The staff recommends an alternative methodology for determining the natural gas costs for computing potential refunds and offsets for power sales in California during the crisis period. That recommended approach would set natural gas costs according to prices in producing regions plus an allowance for transportation costs.

- The potential refunds due using the staff's proposed alternative natural gas pricing method can only be determined as part of an ongoing administrative proceeding. Generators with fuel costs above those set by the staff's proposed alternative method could apply to offset resulting refund amounts if their higher fuel costs were based on arms-length transactions with unaffiliated suppliers.

- The staff analysis finds that natural gas price indexes for delivery into California reliably tracked prices in producing regions, except during the Oct. 2, 2000, through June 20, 2001, refund period. The Commission is seeking information on the appropriate way to account for supply scarcity.

- Many of the Enron trading strategies involved deceit, including the provision of false information. The staff recommends the Commission specifically prohibit submission of false information, or the omission of material information, in tariffs granting authority to sell wholesale power at market rates. This would make any revenues garnered with the help of false information or omission of material data subject to refund.

- Civil penalties would prove a more effective means of deterring such conduct, but the Commission's civil penalty authority is limited and can't be applied in any of the cases discussed in the staff report. The staff recommends that Congress expand the Commission's civil penalty authority to deter violations of Commission orders and regulations. This issue is before a joint House-Senate conference committee on energy legislation.

- Nevertheless, the staff finds Enron's efforts to "game" California's energy markets with the trading strategies did not in and of themselves significantly increase the Houston energy trader's revenues.

The Four Companion Orders

- The staff's findings to date led the Commission to issue three enforcement orders and a fourth order seeking public comment on whether it should change the natural gas price methodology used in calculating potential refunds for power sales in the West during 2000 and 2001.

- The three enforcement orders open investigations under Section 206 of the Federal Power Act. If the 206 investigations conclude that Commission orders or regulations were violated, possible sanctions include loss of market-based sales authority and disgorgement of earnings as a result of any violations of Commission orders or regulations.

- The 206 orders contain language setting refund effective dates 60 days in the future. This language is required under Section 206 of the Federal Power Act.

- Under the statute, the Commission can't reach back to the 2000-2001 period to order refunds. However, in any potential orders to disgorge earnings, the funds likely would be passed through to customers.

- In one 206 proceeding, the Commission ordered a hearing to determine if Enron and El Paso Electric violated the Federal Power Act when El Paso Electric ceded control of jurisdictional assets to Enron without Commission approval, and whether El Paso Electric and Enron engaged in actions that adversely affected power prices and violated Commission open-access transmission rules.

- In another 206 proceeding, the Commission ordered an administrative hearing to determine whether Avista routinely acted as a "middleman" to facilitate Enron trading strategies described in the documents the Commission released in May. The proceeding also will determine whether Avista adequately responded to the staff's requests for information as part of the fact-finding investigation.

- In the third 206 proceeding, the Commission ordered a hearing to determine if Enron's two trading affiliates and Portland General Electric violated Commission rules prohibiting unfair sharing of market-sensitive information among affiliates. The hearing also will determine whether the companies violated provisions of their market-based sales tariffs.

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