

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Enron Power Marketing, Inc.	Docket No. EL03-180-000
and Enron Energy Services, Inc.	
City of Glendale, California	Docket No. EL03-182-000
Colorado River Commission	Docket No. EL03-184-000
Modesto Irrigation District	Docket No. EL03-193-000
Public Service Company of New Mexico	Docket No. EL03-200-000

And

Enron Power Marketing, Inc. and Enron Energy Services Inc.	Docket No. EL03-154-000
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ORDER OF CHIEF JUDGE CONSOLIDATING GAMING AND PARTNERSHIP
PROCEEDINGS FOR HEARING AND DECISION

(Issued January 26, 2004)

1. On January 16, 2004 the California Parties¹ filed a motion requesting that the Chief Judge consolidate all issues set for hearing in Docket No. EL03-154-000 (Enron Gaming Docket) into Docket Nos. EL03-180-000, *et al.* (Partnership Proceeding). As grounds for the request the California Parties state that all the entities originally named in the Gaming Order, except Enron Power Marketing, Inc., and Enron Energy Services, Inc. (Enron) have reached a settlement, or will soon do so soon, or are subject to a motion to dismiss. The California Parties also argue that there is substantial overlap between the alleged activities that are the subject of the Gaming Proceeding and those that are the subject of the Partnership Proceeding; that holding separate hearings as to Enron's alleged Gaming activities in two proceedings before two different presiding judges would create disjointed records, risk inconsistent decisions, and waste both Commission and party resources.

2. The California Parties state that the motion is unopposed by Dynegy Power Marketers, Inc., *et al.*, the California ISO, the Port of Seattle, the City of Tacoma, and

¹ The California Parties are the People of the State of California *ex rel.* Bill Lockyer, Attorney General (Attorney General), the California Electricity Oversight Board (EOB), the California Public Utilities Commission (CPUC), Pacific Gas and Electric Company (PG&E), Southern California Edison Company (Edison)

Public Utility District No. 1 of Snohomish County, Washington, and by the City of Glendale—the only party that remains consolidated with Enron in the Gaming proceeding. The Chief Judge has been advised that the City of Glendale has reached a settlement which will dispose of the issues concerning it. Counsel for the Commission Trial Staff does not oppose the request as long as it maintains its current procedural rights from the Gaming Proceeding.

3. On January 20, 2004, Enron filed an answer in opposition to the California Parties' request to consolidate asserting that the California parties fail to demonstrate that the proceedings in Docket No. EL03-152-000 and in EL03-180-000 present commonality of issues of law and fact required to justify consolidation and that there are different activities at issue, different Gaming Practices, and different relevant evidence for the separate proceedings. Further, Enron believes that its rights in both cases may be compromised if the request for consolidation is granted.

4. On January 21, 2004, the California Parties filed a Motion for Leave to Reply and Reply to Enron's Answer to the California Parties' Motion to Consolidate. On January 22, 2004, the California Parties filed an Errata to its Motion for Leave to Reply. The Commission's Rules of Practice and Procedure do not provide for the filing of answers to answers, unless ordered by the decisional authority (See Rule 213 of the Rules of Practice and Procedure, 18 C.F.R. § 385.213 (2003)). The Motion for Leave to Reply does not contain any information that would assist the Chief Judge in his decision-making process. Accordingly the Chief Judge hereby denies the California Parties' Motion for Leave to Reply.

5. The Chief Judge is persuaded that the two proceedings are best resolved in a unified forum. Two separate proceedings made sense when these matters were set for hearing due the sheer number of dockets involved in both cases. However, such is no longer the case. The dockets left for litigation in both proceedings have been reduced to a manageable number that can easily be handled by a single administrative law judge. The Chief Judge finds that it is in the public interest to consolidate these proceedings and that consolidation of the captioned dockets will result in avoidance of duplication and in conservation of resources and administrative efficiency. Accordingly, for good cause shown, the California Parties' motion to consolidate Docket No. EL03-154-000 into the proceeding pending before Presiding Judge Benkin in Docket No. EL03-180-000, *et al.*, for hearing and decision is hereby granted. Judge Cintron is relieved of further responsibility in Docket No. EL03-154-000.

Curtis L. Wagner, Jr.
Chief Administrative Law Judge