

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Nora Mead Brownell, and Suedeem G. Kelly.

Enron Corp.
Enron North America Corp.
Enron Power Marketing, Inc.
Enron Net Works L.L.C.
UBS AG

Docket No. EC02-51-001

ORDER REMOVING CONDITION

(Issued June 23, 2006)

1. Florida Gas Transmission (FGT) and Transwestern Pipeline Company LLC (Transwestern) have requested a review of the conditions the Commission accepted in authorizing, under section 203 of the Federal Power Act (FPA),¹ Enron Corp., Enron North America Corp., Enron Power Marketing, Inc., and Enron Net Works, L.L.C. (collectively, Enron) to transfer certain assets involving its trading business (Trading Platform) to UBS AG (UBS).² FGT and Transwestern, which were affiliated with Enron at the time, ask that we find that they are no longer required to treat UBS as an energy affiliate. In this Order, we find that they need not do so.

I. Background

2. In the 2002 Order, the Commission authorized Enron to lease, license, and transfer to UBS its Trading Platform, which consists of certain assets used for its wholesale gas and electricity trading business. Enron's application stated that although it and UBS would not be affiliates under the Commission's rules, it would treat UBS as an affiliate with respect to Enron's pipeline interests for purposes of then Part 161 of the

¹ 16 U.S.C. § 824b (2000), *amended by* Energy Policy Act of 2005, Pub. L. No. 109-58, § 1289, 119 Stat. 594, 982-93 (2005).

² *Enron Corp.*, 99 FERC ¶ 62,053 (2002) (2002 Order).

Commission's regulations.³ That Part set forth the standards of conduct for interstate natural gas pipelines with marketing affiliates.⁴ These standards stated that an interstate natural gas pipeline must conduct its business by applying for and enforcing a tariff provision related to transportation, as well as its account and records, in such a way that its marketing affiliates do not receive preference over its nonaffiliated customers.⁵ The Commission approved the transfer on the conditions set forth in the application.⁶ Thus, FGT and Transwestern treated UBS as an affiliate under Part 161, and then as an energy affiliate under the Commission's Standards of Conduct⁷ regulations when those regulations were promulgated.⁸ FGT and Transwestern still treat UBS as an energy affiliate in the same way Enron had.

3. On April 4, 2006, FGT and Transwestern filed a request seeking relief from the conditions of the 2002 Order. They state that because they are no longer affiliated with Enron or UBS, they should not be required to treat UBS as an energy affiliate. They contend that because there is no affiliate relationship, no potential or motivation exists to provide information or give preferential treatment to an affiliate. They state that having to "post" UBS as an energy affiliate⁹ creates unnecessary confusion among their own

³ Subchapter I – Standards of Conduct for Transmission Providers, 18 C.F.R. § 161 (2002)(Part 161).

⁴ *Id.*

⁵ *Id.*

⁶ Enron Corp. Request for Disclaimer of Jurisdiction or in the Alternative, Application for Authorization of Transfer of Facilities, Docket Nos. EL02-57-000 & EC02-51-000, at p. 16 & n.8 (February 13, 2002). *See also* UBS AG Application for Authorization to Make Sales of Electricity at Market-Based Rates, Docket No. ER02-973-000, at p. 6-7 (February 2, 2002) (even if Enron were affiliated with UBS, UBS qualifies for market-based rates).

⁷ Subchapter S – Standards of Conduct for Transmission Providers, 18 C.F.R. § 358 (2005)(Standards of Conduct).

⁸ Part 358 differs from Part 161 in that it adds the term "energy affiliate," which has a broader definition. The Standards of Conduct now apply equally to both marketing and energy affiliates.

⁹ Under the Standards of Conduct, a transmission provider is required to identify energy affiliates on the public Internet, by electronic means, including their names and addresses, a complete list of the facilities shared by the transmission provider and energy affiliates, and comprehensive organizational charts showing the organizational structure of the parent corporation and its relationship to the transmission provider, marketing and energy affiliates. *Supra* note 6 at § 358.4(b)(1)-(3).

personnel as well as their customers. Furthermore, FGT and Transwestern maintain that this required posting imposes an unnecessary burden on them.

II. Notice and Intervention

5. Notice of the filing was published in the *Federal Register*, 71 Fed. Reg. 28,258 (2006), with interventions and protests due on or before May 26, 2006. None were filed.

III. Commission Determination

6. The Commission agrees with FGT and Transwestern that because the ties between FGT and Transwestern and Enron have been severed, they are not in a position to enter into prohibited affiliate relationships with UBS. Accordingly, the Commission concludes that FGT and Transwestern are no longer required to treat UBS as an energy affiliate under the Commission's 2002 Order.

The Commission orders:

The conditions of the 2002 Order no longer apply to FGT and Transwestern, to the extent discussed in the body of this order.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.