

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Sudeen G. Kelly, Marc Spitzer,
Philip D. Moeller, and Jon Wellinghoff.

Enron Power Marketing, Inc. and Enron Energy Services, Inc.	Docket Nos. EL03-180-029
Enron Power Marketing, Inc. and Enron Energy Services, Inc.	EL03-154-023
Portland General Electric Company	EL02-114-024
Enron Power Marketing, Inc.	EL02-115-028
El Paso Electric Company Enron Power Marketing, Inc. Enron Capital and Trade Resource Corp.	EL02-113-026

ORDER STAYING EFFECTIVENESS OF INITIAL DECISION

(Issued July 10, 2007)

1. Rule 708 of the Commission's Rules of Practice and Procedure¹ provides that an initial decision becomes a final Commission decision 10 days after exceptions are due unless exceptions are timely filed or the Commission issues an order staying the effectiveness of the decision pending review under Rule 712.² Rule 712 provides that, if no briefs on exception are filed within the time established (i.e., not later than 30 days after service of the initial decision³), the Commission may, within 10 days after the

¹ 18 C.F.R. § 385.708(d) (2006).

² 18 C.F.R. § 385.712 (2006).

³ 18 C.F.R. § 385.711(a) (2006).

expiration of such time, issue an order staying the effectiveness of the decision pending Commission review. Rule 711(b) requires that any brief on exceptions must include, among other things, a separate summary of the brief if the brief is longer than 10 pages; a short statement of the case; and a list of numbered exceptions, specifying each error or fact of law asserted.⁴

2. On June 1, 2007, the presiding judge issued his initial decision in the above-captioned proceeding.⁵ On June 15, 2007, Port of Seattle filed comments stating that it “has previously expressed, and here expresses, no view on the merits of the question certified by Judge Cintron,” and that, like its previous comments and supplemental exhibits on the certified issue, it submits its comments “in order to assure that the Commission is fully apprised of the larger context within which occurred the actions that gave rise to Judge Cintron’s Certification Order.”⁶ Port of Seattle’s comments do not conform to the requirements of Rule 711(b), which provides the necessary structure for briefs on exceptions. For these reasons, the Commission does not interpret Port of Seattle’s June 15, 2007 filing in this proceeding as a brief on exceptions. No other participants have filed exceptions to the initial decision.

3. Because no briefs on exceptions have been filed in this proceeding, and the Commission is still reviewing the initial decision, the Commission hereby issues an order staying the effectiveness of the decision pending Commission review. After completing its review, the Commission will issue a decision which is final for the purposes of rehearing.

⁴ 18 C.F.R. § 385.711(b) (2006).

⁵ *Enron Power Marketing, Inc. and Enron Energy Services, Inc.*, 119 FERC ¶ 63,009 (2007). The presiding judge’s initial decision arose from the hearing procedures directed by the Commission’s April 11, 2007 Order on Certified Question and Establishing Hearing Procedures, *Enron Power Marketing, Inc. and Enron Energy Services, Inc.*, 119 FERC ¶ 61,036 (2007). The Commission issued the April 11, 2007 order in response to Judge Carmen A. Cintron’s March 13, 2007 Certification of Question Regarding Suspension of Witness and Attorneys Pursuant to Rule 2102, Docket No. EL03-180-000, *et al.* (Certification Order).

⁶ Port of Seattle June 15, 2007 Comments at 1-2.

The Commission orders:

The effectiveness of the initial decision in this proceeding is stayed.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.