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# FEDERAL ENERGY REGULATORY COMMISSION

WASHINGTON, D.C. 20426

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## NEWS RELEASE

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### FOR IMMEDIATE RELEASE

August 13, 2002  
Docket Nos. PA02-2-000,  
EL02-113-000, EL02-114-000,  
EL02-115-000, EL00-95-045 and  
EL00-98-042

## COMMISSION TAKES ENFORCEMENT ACTION AGAINST SIX COMPANIES

After six months into a staff probe into behavior that may have distorted electric and natural gas prices in Western energy markets, the Federal Energy Regulatory Commission today launched formal investigations into instances of possible misconduct by Avista Corporation and Avista Energy, Inc., El Paso Electric Company, and three Enron corporate affiliates -- Enron Power Marketing, Inc., Enron Capital and Trade Resources Corporation and Portland General Electric Corporation.

Today's Commission actions stem from findings in an interim FERC **Staff Report**, also issued today, on potential manipulation of short-term electric and natural gas prices in the West. Key findings and recommendations in the staff fact-finding investigation are:

- there exists sufficient evidence to warrant formal investigations of possible violations of the Federal Power Act by Portland General Electric Company, Enron Power Marketing, Inc., Enron Capital Trade Resources Corporation, El Paso Electric Company and Avista Corporation and Avista Energy.
- historically, the spot prices for natural gas at the California delivery points highly correlate with prices at producing basins and Henry Hub. During the months of October 2000 to July 2001 – the refund period in the California refund proceeding – the correlation was abnormally low. Since that time, the high correlation has resumed.

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- given the abnormal correlation for this isolated period, staff attempted to independently verify the price data to assure that it is statistically valid, reliable and free from the effects of price manipulation.
- the published natural gas spot prices at the California border–California delivery points–used as a basis for refunds in the pending California refund proceedings (Docket Nos. EL00-95-045 and EL00-98-042) cannot be independently verified and may have been manipulated.
- Enron's trading strategies, described in the previously released Enron memos, used false information in an attempt to manipulate prices.
- staff recommends that the Commission require that all market-based rate tariffs include language specifically prohibiting misleading or false misinformation. This will allow refunds for any revenues obtained in violation of the tariff.
- staff recommends that the Commission reevaluate the "simultaneous offer" rule that it uses to discipline affiliate transactions to ensure that it is effective and verifiable.
- staff endorses expanded civil penalty authority applicable to jurisdictional companies that violate Commission orders and regulations.

On February 13, the Commission directed staff to begin a fact-finding investigation into whether any entity, including Enron, manipulated short-term prices in electric or natural gas markets in the West or unduly influenced wholesale prices since January 1, 2000. In conducting this broad investigation, staff was directed to "obtain information on any and all matters relevant to potential market manipulation in the West...." The Commission moved quickly in the wake of Enron's declared bankruptcy in December 2001 and allegations that Enron Corporation, through its affiliates, used its market position to distort electric and gas markets in the West.

Electric prices in the California markets skyrocketed in the summer of 2000, exacerbated by an inadequate infrastructure and insufficient energy supplies, staff reports. In addition, poor market rules within California provided fertile ground for potential manipulation.

In a series of actions taken today, the Commission initiated three separate investigations into possible violations of FERC regulations. In the first instance, the Commission ordered a hearing to look into whether Enron and El Paso Electric may have: adversely affected prices; failed to file rates; and disposed of jurisdictional assets without prior approval, among other things (EL02-113-000). El Paso Electric is not affiliated with El Paso Corp., a natural gas pipeline company engaged in energy trading.

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The Commission also ordered an investigation and hearing into possible trading strategies employed by Avista and Enron that were identified in a widely-reported Enron memo as a means to "game" the energy trading markets (EL02-115-000). Avista admits that it acted as middleman to facilitate certain transactions between Enron and Portland—an Enron affiliate. The investigation will look into Avista's activities over the 2000-2001 period and address the extent to which Avista engaged in or facilitated certain trading strategies as well as the circumvention of prohibitions on affiliate sales.

In a third action, based on the preliminary evidence obtained in the staff investigation of questionable transactions between Enron and Portland, the Commission ordered a hearing and investigation (EL02-114-000) into whether the companies violated their codes of conduct and the Commission's standards of conduct. Codes of conduct govern, among other things, a power marketer's relationship with its traditional public utility and include limitations on its ability to sell at market-based rates to its affiliate with captive customers. Standards of conduct generally require that employees involved in transmission functions operate independently from employees working in the wholesale merchant operations.

The report noted that historically, the spot prices for natural gas at the California delivery points highly correlate with prices at the producing basins and Henry Hub. During the refund period—October 2000 to July 2001—the correlation was abnormally low. The high level of correlation has since resumed.

The report found that natural gas spot prices at the California border, during the refund period noted above, had limited internal verification and no external validation; may have been manipulated; and, there were incentives for market participants to manipulate reported prices. Refunds are tied to the mitigated market clearing price (MMCP), whose formula relies on published gas spot prices in California or at the California border. In light of these staff findings, the Commission is asking for comment on the method for determining natural gas prices in order to calculate refunds. The separate notice issued today gives parties to the proceeding 30 days to file comments with the Commission (EL00-95-045 and EL00-98-042).

If the Enron companies, El Paso Electric, or Avista are found to have violated federal law, the Commission could revoke their market-based rate authority. If any of the companies are found to have violated a FERC rule, regulation, tariff or order, they may be ordered to disgorge any profits obtained while engaging in the prohibited activities.

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The interim report is the result of an ongoing time-and resource-intensive investigation by FERC staff, analyzing over 1,200 gigabytes of electronic data, 70 boxes of paper, interviews, on-site inspections and coordination with the Department of Justice (DOJ), the Commodity Futures Trading commission (CFTC) and the Securities and Exchange Commission (SEC).

Commission staff will continue to investigate the trading operations in the Western markets and said that in addition to other potential lines of inquiry that may develop, the final report will contain:

- an explanation of Enron OnLine (EOL) operations and the role it played in the energy markets, including a discussion of staff coordination with the Commodity Futures Trading Commission and other agencies, and interviews with former Enron employees;
- an analysis of selective sales data from short-term, seasonal and long-term forward contracts staff collected from information requests. Staff will explain the results of the statistical analysis of such data, including findings of how, and to what extent, forward prices directly correlate with spot energy prices;
- an analysis of wash trades in electricity and natural gas markets in the West;
- a discussion of staff's findings from its investigation into allegations that Williams Co. had attempted to manipulate natural gas markets in the West. Williams invited FERC staff to investigate these allegations.
- an analysis of the relationship between physical and financial natural gas and electric products;
- recommended standards and protocols for dealing with physical withholding.

Copies of the Commission Staff Report, Initial Report on Company-Specific Separate 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, may be found on the Federal Energy Regulatory Commission internet site [www.ferc.gov](http://www.ferc.gov) .