

Re: Further Revised Draft

- *To:* Gary Fergus <gfergus@brobeck.com>
 - *Subject:* Re: Further Revised Draft
 - *From:* Richard Sanders <richard.sanders@cw-test.com>
 - *Date:* Sat, 04 Apr 2009 11:56:22 +0000
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ENA Management has signed off on the letter. OK to send. Thanks for all your hard work.

"Fergus, Gary S." <GFergus@brobeck.com>

10/06/2000 01:02 PM

To: "'Richard.B.Sanders@enron.com'" <Richard.B.Sanders@enron.com>, "'msmith1@enron.com'" <msmith1@enron.com>, "'David_Aamodt@pgn.com'" <David_Aamodt@pgn.com>, "'MBD'" <MDay@GMSSR.com>

cc:

Subject: Further Revised Draft

PRIVILEGED AND CONFIDENTIAL

ATTORNEY CLIENT PRIVILEGE

DRAFT DRAFT DRAFT

Harvey Morris Esq.

California Public Utilities Commission

505 Public Utilities Commission

San Francisco, California 94102

Re: I.00-08-002 Subpoenas Served on Enron Power

Marketing, Inc. ("EPMI"), Enron Energy Services Operations Inc. and Enron Energy Services Inc. (collectively referred to as "EES"), Enron Energy Marketing Corporation ("EEMC"), and Portland General Electric Corporation ("Portland General")(collectively sometimes referred to as the "Enron Entities")

Harvey,

Here are our proposals with respect to the Enron Entities' production of documents pursuant to the above described subpoenas issued by the California Public Utility Commission (hereinafter "the Commission"). The Enron Entities are willing to assist the Commission in undertaking its investigation into the problems in the California electric markets by producing the information specified on a timely basis. We believe that the limited production we propose will enable the Commission to commence its investigation much sooner than if the parties were forced to litigate all of the potential objections to the requests for production, which are, by any standard, extremely broad and could involve millions of pages of documents. We make these proposals pursuant to our email exchange of October 3, 2000 with the understanding that the Commission agrees that by cooperating, offering to produce or producing documents, the Enron Entities have not waived any objections or challenges to these subpoenas whatsoever and that any claims, defenses, objections, jurisdictional or otherwise or other

responses have been specifically reserved and can be raised in the future, if necessary. For all of these proposals, we exclude documents that are protected from disclosure by the attorney client and attorney work product privileges.

Generally speaking, the Enron Entities propose to produce documents for year 2000 as noted below. We also understand that the Commission will be obtaining documents from the ISO and PX and we will not attempt here to duplicate documents that we understand will be produced by those entities.

As you will see in the general documents that are offered here for production, Enron Energy Services Operations, Inc. is the parent of Enron Energy Services, Inc. and does not have operating authority or engage in wholesale or retail purchases or sales of energy. Thus, the documents offered here with respect to those two entities originates with Enron Energy Services, Inc. but we have designated them both as EES. We also do not propose to offer duplicative documents as between the Enron Entities.

GENERAL DOCUMENTS

Requests 1 through 4

Because of the dynamic nature of the Enron Entities' businesses, the burden and expense on them to locate, and produce every corporate organizational chart anywhere in their organizations since April 1, 1998 is significant. The Enron Entities will provide the Commission with exemplars of their current organizational charts, telephone directories and so called "family trees" to show its current organization. To the extent that the Enron Entities can readily identify and locate exemplars of significant organizational charts, telephone directories or so called "family trees" for

earlier periods they will also make those available. One Enron Entity, Portland General, has published books on its corporate history. If a list of those books would be helpful, we can provide it. With respect to the other Enron Entities, to the extent that corporate histories can be found, they will be produced. We anticipate producing these documents in the first wave on October 13, 2000.

Requests 5 and 6

The Enron Entities propose that their responses to Requests 1-4 will identify their relationship to affiliated companies and the Transaction Documents will identify its customers and suppliers. We believe this information will be sufficient to illustrate these relationships for the staff's purposes.

FINANCIAL DOCUMENTS

Requests 7 through 11

The Enron Entities will produce their public filings for the period requested with respect to financial data. EPMI, EES, and Portland General will provide to the Commission electronic transaction data (the "Transaction Documents") for the purchase and sale of energy delivered which information includes economic data. We anticipate producing public filings regarding financial data on October 13, 2000 and the electronic Transaction Documents in the second wave of document productions.

GENERATING DOCUMENTS

Requests 12, 14 and 18

For the Enron Entities other than Portland General, the generation facilities are either non-existent or limited in number and there will probably be limited documents available. The Enron Entities to the extent they act as a scheduling coordinator or possessed the right to use or resell generation output, do not have the specific documents that pertain to each generation unit requested. The Enron Entities, other than Portland General, do have documents and information for Las Vegas Cogeneration. We propose to produce these documents in the second wave of document productions.

For Portland General, the production of the requested documents would involve a tremendous volume of documents, as Portland General owned twenty generating facilities of a variety of types and sizes during 2000.

Portland General is a net importer of energy and can only generate about one half of its total energy demand. As a result, we question whether the effort required of Portland General is warranted as its impact on the California wholesale market is necessarily limited. In addition, those transactions which do involve Portland General sales into California are limited to sales to the ISO and PX, and long term contracts with two small California municipal utilities. Thus, the Commission will receive the essential transactional information regarding these sales from the ISO and PX. Nevertheless, Portland General proposes to provide for year 2000 electronic Transaction Documents in summary form similar to the data being provided by other Enron Entities, to the extent relevant as discussed below.

We propose that the Commission defer requesting production of other information until it has reviewed the information of generators who sell a significant proportion of their energy into the California market. At that time a more accurate assessment can be made of whether this enormous effort will be valuable given the limited impact of Portland General generation on the California wholesale market.

TRANSACTION DOCUMENTS

Requests 13, 15, 16, 17 and 19

We understand that the Commission will be obtaining trading data for the purchase and sale of energy delivered in California from the ISO and PX.

EPMI can provide the Commission several different sets of relevant transaction data for year 2000 (in California and outside of California and Real Time) for the purchase and sale of energy delivered with the date, counterparty, quantity, delivery point, hours, price, and whether it is a purchase or a sale. Because of the speed with which you want this information, it is possible that some entries will be incomplete or inaccurate. For those

transactions where EPMI served only as the scheduling coordinator, we understand that the ISO will show part of the transaction, but there will not be a corresponding transaction in the EPMI data we can provide quickly.

The reason is that this type of transaction is passed through to EPMI's customer on an accounting system rather than as part of the trading business. EES can also provide similar data with respect to relevant

wholesale and retail transactions with the proviso that with respect to retail transactions it will not include the specific names of its retail customers but instead will provide a blind customer number due to EES' confidentiality obligations to those customers. We anticipate producing the Transaction Documents in the second wave of document productions.

FERC DOCUMENTS

Request 20

The Enron Entities will produce the requests for data they received from FERC and to the extent that FERC has been given responses, copies of those responses. We anticipate producing the FERC documents on October 13, 2000.

Based upon discussions that we have had with the various Enron Entities, we believe that we could make a second wave of productions on Friday October 27, 2000. It is possible that not all Enron Entities could make that date but we believe the bulk of the data could be available for production by then.

We propose to make these productions with the understanding that if any entity obtains a more stringent protective order than the one currently in place, that all of the Enron Entities document productions will be protected by the most stringent protective order. In addition, if, at the request of any party or nonparty to this proceeding, the Commission or a court of competent jurisdiction orders that the requests for production be limited, reduced or eliminated, the Enron Entities reserve the right to limit the production of documents in conformance with such order.

We understand that you will consider these proposals and let us know if they are acceptable to the Commission. If you have any questions or comments about our proposal, please do not hesitate to contact Michael Day or myself.

Brobeck Phleger & Harrison LLP

Gary Fergus

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