

I. Background

The Gaming Order required Redding to show cause why it should not be found to have engaged in Circular Scheduling, as that practice was described in the Order. The Partnership Order determined that Redding may have engaged in a partnership with Enron Power Marketers, Inc. and Enron Energy Services, Inc. (“Enron”). In the Agreement, Redding and Staff propose to settle the Circular Scheduling Order by having Redding pay \$6,300. and the proceeding initiated by the Partnership for no money.

II. Discussion

The CAISO has no objection to settlement of the Gaming Order, *i.e.*, with respect to Circular Scheduling, for the \$6,300 Redding has agreed to pay.

The CAISO does not believe it is appropriate to settle the Partnership Order as to Redding for no money at this early stage in the proceeding. As the Agreement notes, at ¶ 2.2(a), the Partnership Order cited material indicating some kind of relationship between Enron and Redding. The Affidavit of Lyle Hurley (submitted in support of the Agreement), at ¶12, contends that the references in that material “are not supported by the facts,” and goes on to deny that Enron and Redding had any “partnership or similar” relationship or that Enron had “control” over Redding or its assets. There are three reasons this affidavit is insufficient to justify settling the Partnership Order as to Redding for no money. First, the affidavit, which asserts facts, has not been tested through discovery or cross-examination; the merits of the Partnership Order should not

be settled away without any further investigation. Second, the affidavit narrowly addresses only the existence of a “partnership or similar” relationship, or one in which Enron could exercise control over Redding; it does not even address the possibility of a looser arrangement, perhaps an opportunistic one involving mutual assent and special terms for each specific venture. And third, the three Circular Scheduling transactions involving Enron that Redding has acknowledged are suggestive of at least the possibility that there could have been other opportunistic arrangements.

The purpose of the Partnership Order must have been, once and for all to get to the bottom of the web of relationships Enron created to further its apparent schemes. If the Commission allows a party identified in the Partnership Order to terminate its involvement in the proceeding on the basis of an untested affidavit that defines narrowly the type of relationships at issue, the Commission will short-circuit the very process it has instituted and neither it nor those affected in California may ever learn the full truth, whatever it may be. While it is certainly an inconvenience for Redding to be subjected to full discovery and a hearing concerning its relationship with Enron, that is a necessary inconvenience if the affected parties and the Commission are to have a full opportunity to resolve, once and for all, the issues swirling around Enron’s relationships, in this case with Redding.

The CAISO notes that neither the Agreement, if approved by the Commission, nor Redding’s payment of the amount required by the Agreement, will affect Redding’s potential liability under any other proceeding now ongoing,

or prevent the institution of future Show Cause or other proceedings against Redding based on time periods, practices or transactions different from those made relevant to Redding in the Gaming Order or the Partnership Order, nor does the Agreement purport to do so. In addition, even if the Agreement is approved, Redding will still have a responsibility to respond to discovery from *all parties*, in addition to the responsibility to respond to discovery from Staff (which Redding acknowledges in ¶ 4.4 of the Agreement.)

III. Conclusion

For the reasons stated, the CAISO does not object to settling the Gaming Order as to Circular Scheduling but does object to settling the Partnership Order at this early stage.

Respectfully submitted,



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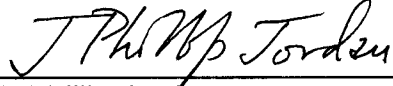
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Dated: September 30, 2003

CERTIFICATE OF SERVICE

In accordance with the order issued by the Presiding Administrative Law Judge I hereby certify that I have this day served the foregoing document by posting an electronic copy on the Listserv for this proceeding, as maintained by the Commission.

Dated at Washington, DC, on this 30th day of September, 2003.


J. Phillip Jordan