

# DRAFT

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UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners:

Coral Power, L.L.C.

Docket Nos. EL03-151-000  
and EL03-186-000

ORDER APPROVING CONTESTED SETTLEMENT

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1. On November 14, 2003, Commission Trial Staff and Coral Power, L.L.C. (Coral) filed a Settlement Agreement. The Settlement Agreement resolves all issues related to Coral that were set for hearing in Docket No. EL03-151-000 in the Commission's Order to Show Cause Concerning Gaming and/or Anomalous Market Behavior (Gaming Order)<sup>1</sup> and in Docket No. EL03-186-000 in its Order to Show Cause Concerning Gaming and/or Anomalous Market Behavior Through the Use of Partnerships, Alliances or Other Arrangements and Directing Submission of Information (Partnership Order).<sup>2</sup>

2. On December 4, 2003, both the California Parties<sup>3</sup> and the California Independent System Operator Corporation (CAISO) filed comments objecting to the Settlement Agreement. On December 4, 2003, the Port of Seattle, Washington (Seattle) filed comments opposing the settlement and adopting by reference most of the comments of the California Parties and also its own earlier comments on another settlement. On December 4, 2003 the Pacific Northwest Parties<sup>4</sup> filed comments partially opposing the

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<sup>1</sup> American Electric Power Service Corporation, *et al.*, 103 FERC ¶ 61,345 (2003), *reh'g denied*, 106 FERC ¶ 61,020 (2004).

<sup>2</sup> Enron Power Marketing, Inc. and Enron Energy Services, Inc., *et al.*, 103 FERC ¶ 61,346 (2003), *reh'g denied*, 106 FERC ¶ 61,024 (2004).

<sup>3</sup> The California Parties are the People of the State of California *ex rel.* Bill Lockyer, Attorney General; the California Electricity Oversight Board; the California Public Utilities Commission; Pacific Gas and Electric Company; and Southern California Edison Company.

<sup>4</sup> The Pacific Northwest Parties consist of the Public Utility District No. 1 of Snohomish County, Washington; the City of Tacoma, Washington; and the Port of

Docket Nos. EL03-151-000 and EL03-186-000

- 2 -

settlement. On December 15, 2003, both Trial Staff and Coral filed reply comments in support of the settlement. In addition, Trial Staff incorporates by reference its general reply comments submitted on October 20, 2003.<sup>5</sup> The California Parties filed comments in opposition to the pending settlement on January 7, 2004. Trial Staff replied to this filing on January 12, 2004. On April 1, 2004 the presiding judge certified the Settlement Agreement to the Commission as contested, but recommending its approval.<sup>6</sup>

3. The Settlement Agreement constitutes a reasonable resolution of these proceedings and will be approved. The Settlement Agreement reasonably addresses and resolves the charges against Coral that were set for hearing in the Gaming and Partnership Orders. In this regard, Coral will be returning \$7,787,055, the total revenues (and not merely the profits -- and thus more than would be achieved in litigation<sup>7</sup>) from Coral's alleged participation in gaming practices. Furthermore, given our determination in our order on rehearing not to expand the scope of this proceeding, the release provision in Article IV, section 4.8, of the Settlement Agreement, releasing Coral from further scrutiny of its trading activities in California during the period January 1, 2000 through June 20, 2001 (with the exception of the ongoing proceedings in Docket Nos. IN03-10-000 and EL00-95-000, *et al.*), is reasonable.<sup>8</sup>

4. Moreover, issues raised in the comments filed by the CAISO, the California Parties, the Pacific Northwest Parties and Seattle largely go to the scope of these proceedings, are thus essentially requests for rehearing of the Gaming and Partnership Orders and, in fact, were addressed and denied in the Gaming and Partnership Orders on Rehearing.<sup>9</sup> Such matters thus need not be further addressed here.

5. The California Parties have requested that we order that: (1) if the Commission or a reviewing court enlarges the scope of the proceedings, then the Settlement Agreement

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Seattle, Washington.

<sup>5</sup> The terms of the Settlement Agreement and these various pleadings are described in more detail in the presiding judges' certification. Coral Power, L.L.C., 107 FERC ¶ 63,002 (2004) (Certification).

<sup>6</sup> *Id.* at P 82-87.

<sup>7</sup> Gaming Order, 103 FERC ¶ 61,345 at P 1, 2, 71; Partnership Order, 103 FERC ¶ 61,346 at P 2, 3, 48.

<sup>8</sup> Compare Certification at P 28, 86 with *supra* note 1.

<sup>9</sup> Gaming Order on Rehearing, 106 FERC ¶ 61,020 at P 85; Partnership Order on Rehearing, 106 FERC ¶ 61,024 at P 47.

Docket Nos. EL03-151-000 and EL03-186-000

- 3 -

will not preclude the Commission or the California Parties from advocating or applying any newly imposed rules, standards, or remedies; and (2) the Settlement Agreement does not preclude the Commission from ordering any appropriate remedy as to others in these proceedings or as to Coral in any other proceeding.

6. The Commission has previously granted the requested clarifications to settlement agreements in Partnership Order proceedings. Therefore, we will adopt the requested conditions, which are, we note, unopposed. See *Colorado River Commission of Nevada*, 106 FERC ¶ 61,022 at P 50-51 (2004).

7. This order terminates Docket Nos. EL03-151-000 and EL03-186-000.

By the Commission.

Secretary