

**UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION**

**Enron Power Marketing, Inc.
and Enron Energy Services, Inc.
City of Glendale, California
City of Redding, California
Colorado River Commission
Las Vegas Cogeneration, L.P.
Modesto Irrigation District
Montana Power Company
Northern California Power Agency
Public Service Company of New Mexico**

**Docket No. EL03-180-000
Docket No. EL03-182-000
Docket No. EL03-183-000
Docket No. EL03-184-000
Docket No. EL03-191-000
Docket No. EL03-193-000
Docket No. EL03-194-000
Docket No. EL03-196-000
Docket No. EL03-200-000
(Consolidated)**

**PRESIDING ADMINISTRATIVE LAW JUDGE'S ORDER
ESTABLISHING PROCEDURES FOR IMPLEMENTING
PARAGRAPH 47 AND AMENDING CAPTION**

(Issued December 30, 2003)

1. The Commission on December 22, 2003 issued an order clarifying Paragraph 47 of its June 25, 2003 order. It ruled that the tapes and other materials referred to in Paragraph 47 were not limited to those relating solely to revenues realized by the Respondents during the relevant period arising out of their partnerships, alliances and other associations with Enron and other utilities. "Paragraph 47," the Commission said, "was intended to have a broad reach, to cover all materials in the possession that relate to their culpability." 105 FERC ¶ 61,362 at ____ (P 14). The Commission also held that the presiding judge has authority to administer the disclosure of information under Paragraph 47 to the same extent and in the same manner as the Commission's judges have traditionally administered the discovery process pursuant to the Rules of Practice and Procedure, 18 C.F.R. §§ 385.401-385.411 (2003).

2. On December 29, 2003, the California Parties filed a motion, asking me to order the Respondents who remain in the consolidated proceeding ("the Named Respondents") to comply with Paragraph 47 of the June 25, 2003 order with respect to materials other than audio tapes and to make the tapes themselves available for review under procedures to be worked out by the interested parties.

3. In consideration of the foregoing, the California Parties' motion is granted to the extent that:

- (a) Each of the Named Respondents shall, on or before the close of business on January 16, 2004, provide to the California Parties and the Commission Trial Staff all correspondence, e-mails, memoranda, phone logs, transaction data, billing statements and agreements in its possession or in the possession of an affiliate of the Respondent that relate to or discuss any transaction or transactions between or among said Respondent and any other electric utility doing business in the California electricity market during the period from January 1, 2000 to June 20, 2001. However, documents and other material furnished in a Named Respondent's show-cause response, in prepared testimony heretofore filed in this proceeding or in response to a discovery request need not be furnished again.
- (b) On or before the close of business on January 16, 2004, each of the Named Respondents shall provide to the California Parties and the Commission Trial Staff all transcripts of, and notes and communications regarding, audio tapes of conversations that are required to be produced under Paragraph 47 of the Commission's June 25, 2003 order. In addition, each of the Named Respondents shall either provide the Staff and the California Parties with audible copies of such audio tapes or make reasonable arrangements to allow the Staff, the California Parties, or both, to listen to the tapes, to sample the contents of the tapes and to make copies of the tapes or any portion of the tapes. However, tapes furnished in a Named Respondent's show-cause response or in response to a discovery request need not be furnished again. This paragraph applies only to tapes in the possession and control of a Named Respondent. If the expense of making copies requested by the Staff or the California Parties exceeds \$100.00, it shall be paid by the Named Respondent; costs in excess of that sum shall be divided equally between the Respondent and the California Parties or the Staff, as the case may be.

4. A Named Respondent may file a motion for a protective order under Rule 410(c), 18 C.F.R. § 385.410(c)(2003), limiting the obligations imposed upon it by this order. Such a motion must be filed on or before the close of business on January 6, 2003.

5. The deadline for completion of discovery with respect to the materials to be provided in accordance with paragraph 3 of this order is extended and will expire on February 27, 2004. This extension will require an adjustment of the existing procedural schedule. The California Parties have proposed a specific set of procedural dates. There is now pending before the Chief Administrative Law Judge a motion to change certain procedural dates. I will defer acting on the California Parties' requested modifications to the procedural schedule until after the Chief Judge has ruled on the motion before him.

However, other participants are invited to file an answer, on or before the close of business on January 6, 2004, setting forth their views on the procedural dates proposed by the California Parties.

6. The caption of this proceeding is amended to read as set forth at the top of this order.

IT IS SO ORDERED.

Isaac D. Benkin
Presiding Administrative Law Judge