

also be viewed on the Commission's Web site at <http://www.ferc.gov>, using the "FERRIS" link. Enter the docket number excluding the last three digits in the docket number filed to access the document. For assistance, contact FERC Online Support at FERCOnlineSupport@ferc.gov or toll-free at (866) 208-3676, or for TTY, contact (202) 502-8659. Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link. The Commission strongly encourages electronic filings.

Magalie R. Salas,
Secretary.

[FR Doc. 03-7768 Filed 3-31-03; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. EL03-77-000 and RP03-311-000]

Order Proposing Revocation of Market-Based Rate Authority and Termination of Blanket Marketing Certificates

Issued March 26, 2003.

Before Commissioners: Pat Wood, III, Chairman; William L. Massey, and Nora Mead Brownell: Enron Power Marketing, Inc. and Enron Energy Services, Inc.; Bridgeline Gas Marketing L.L.C., Citrus Trading Corporation, ENA Upstream Company, LLC, Enron Canada Corp., Enron Compression Services Company, Enron Energy Services, Inc., Enron MW, L.L.C., and Enron North America Corp.

1. This order directs Enron Power Marketing, Inc. and Enron Energy Services, Inc. (collectively, Enron Power Marketers) to show cause to the Commission in a paper hearing why their authority to sell power at market-based rates¹ should not be revoked by the Commission in light of their apparent engagement in gaming, in violation of Section 205(a) of the Federal Power Act's (FPA) requirement that rates be just and reasonable, as well as their apparent failure to disclose changes in their market shares to the Commission in violation of their market-based rate authority.² This order also initiates a proceeding under

Section 206 of the FPA,³ in Docket No. EL03-77-000, where the show cause filing will be considered.

2. This order also directs Bridgeline Gas Marketing L.L.C., Citrus Trading Corporation, ENA Upstream Company, LLC, Enron Canada Corp., Enron Compression Services Company, Enron Energy Services, Inc., Enron MW, L.L.C., and Enron North America Corp. (collectively, Enron Gas Marketers) to show cause to the Commission in a paper hearing why the Commission should not terminate their blanket marketing certificates under Section 284.402 of the Commission's regulations⁴ to make sales for resale at negotiated rates in interstate commerce of categories of natural gas subject to the Commission's Natural Gas Act (NGA) jurisdiction.⁵ This order also institutes a proceeding under Sections 5 and 7 of the NGA, in Docket No. RP03-311-000, where the show cause filings will be considered.

3. This order is necessary to fulfill the Commission's obligation to monitor competitive markets in order to protect wholesale electricity and natural gas customers from unjust and unreasonable rates.

Background

4. On February 13, 2002, the Commission directed a Staff fact-finding investigation into whether any entity manipulated prices in electricity or natural gas markets in the West or otherwise exercised undue influence over wholesale electricity prices in the West, since January 1, 2000.⁶

5. On August 13, 2002, Staff released its Initial Report in Docket No. PA02-2-000.⁷ In that Report, Staff recommended the initiation of various company-specific proceedings⁸ to further investigate possible misconduct, and recommended several generic changes to market-based tariffs to prohibit the deliberate submission of false information or the deliberate omission of material information and to provide for the imposition of both refunds and penalties for violations.

6. As noted in Staff's Final Report, being publicly released concurrently

with this order,⁹ evidence indicates that the Enron Power Marketers appear to have engaged in gaming and misrepresentation, and also failed to disclose significant changes in their market shares to the Commission. In addition, the Staff's Final Report identifies evidence which indicates that certain Enron Gas Marketers apparently engaged in the manipulation of prices in natural gas markets.

Discussion

A. Proposed Market-Based Rate Revocation

7. We find that the Enron Power Marketers, based on the evidence discussed in the Final Report appear to have engaged in gaming, and failed to disclose significant changes in their market shares to the Commission.

8. The Commission's grant of authority to sell power at market-based rates, as opposed to at cost-based rates, depends on a functioning, competitive market for wholesale power unimpaired by market manipulation. Moreover, implicit in Commission orders granting market-based rates is a presumption that a company's behavior will not involve fraud, deception or misrepresentation. Companies failing to adhere to such standards are subject to revocation of their market-based rate authority.¹⁰ In addition, the Enron Power Marketers were directed, when they were granted market-based rate authority, to inform the Commission promptly of changes in status that reflect a departure from the characteristics that the Commission relied upon in granting market-based rate authority.¹¹

9. The information in Staff's Final Report indicates that the Enron Power Marketers appear to have violated FPA Section 205(a) by engaging in gaming. It also indicates that Enron Power Marketers appear to have acted inconsistently with their market-based

⁹ Final Report on Price Manipulation in Western Markets (Docket No. PA02-2-000 (Docket No. PA02-2-000 (March 2003)). The Staff Final Report is available on the Commission's website. We will incorporate the Staff Final Report, and the underlying record in Docket No. PA02-2-000, by reference into the records in these proceedings.

¹⁰ Fact Finding Investigation of Potential Manipulation of Electric and Natural Gas Prices, 99 FERC ¶ 61,272 at 62,153-54 (2002); *accord* Investigation of Terms and Conditions of Public Utility Market-Based Rate Authorizations, 97 FERC ¶ 61,220 at 61,975-77 (2001); GWF Energy, LLC, *et al.*, 98 FERC ¶ 61,330 at 62,390 (2002); New York Independent System Operator, Inc., 91 FERC ¶ 61,218 at 61,798-800 (2000), *order on reh'g*, 97 FERC ¶ 61,155 (2001); Washington Water Power Company, 83 FERC ¶ 61,097 at 61,462-64, *order in response to show cause presentation*, 83 FERC ¶ 61,282 (1998); Kansas City Power & Light Company, 74 FERC ¶ 61,066 at 61,175, *order on reh'g*, 75 FERC ¶ 61,244 (1996).

¹¹ 65 FERC at 62,405; 81 FERC at 62,319.

¹ Enron Power Marketers are authorized to sell power at market-based rates. See Enron Power Marketing, Inc., 65 FERC ¶ 61,305 (1993); Enron Energy Services Power, Inc., 81 FERC ¶ 61,267 (1997).

² 16 U.S.C. 824d(a) (2000).

³ 16 U.S.C. 824e (2000).

⁴ 18 CFR 284.402 (2002).

⁵ See 15 U.S.C. 717 *et seq.* (2000).

⁶ Fact-Finding Investigation of Potential Manipulation of Electric and Natural Gas Prices, 98 FERC ¶ 61,165 (2002) (February 13 Order).

⁷ The Initial Report is available on the Commission's Web site at <http://www.ferc.gov/electric/bulkpower/pa02-2/Initial-Report-PA02-2-000.pdf>.

⁸ These proceedings, which are currently pending before the Commission, are Docket Nos. EL02-113-000, EL02-114-000, and EL02-115-000.