and seller and have the transparency necessary to instill confidence in the market. Staff believes the industry has already recognized the inherent advantages of many-to-many platforms over one-to-many platforms, resulting in the IntercontinentalExchange (ICE) becoming an industry leader. However, even these platforms are not immune to manipulation. In Chapter IX, Staff identifies circumstances on many-to-many platforms in which companies use the creditworthiness of counterparties to restrict trading activity to a single counterparty only. This enables two counterparties to complete prearranged wash trades over a many-to-many platform because only the counterparty they designate as having a sufficient level of credit would have the ability to qualify as an acceptable counterparty and complete the trade at the specific bid or offer price.

Summary and Conclusions Regarding Wash Trades on EnronOnline

The Trade Press has reported that, like a casino, Enron had the "house" advantage by trading on EOL in energy markets. Based on our analysis of the archived EOL database, Staff concludes that this is a flawed analogy. For example, a card game in a casino has set rules and all players can clearly see who they are competing against. On EOL, Enron had access to trading histories, limit orders, and volumes of trades, and therefore understood the liquidity of the market. In contrast, an unaffiliated trader on EOL was only able to see the activity that was posted electronically on the EOL screen. More significantly, when bid and ask prices were changed, the trader was unable to know if it was due to a legitimate trade or if prices were being manipulated. Unlike a casino game, this lack of transparency prevented the trader from knowing with whom he was competing. Moreover, because the EOL platform was wholly controlled by Enron, there were no fixed rules. The EOL operator had an infinite ability to manipulate what was posted in any of the ways described above. Simply put, the use of EOL enabled Enron to post any price it wanted.

Staff concludes that wash trading was commonplace on the EOL trading platform between January 2000 and November 2001, and was more prevalent in the later months of this period. The wash trades considered here were identified by statistical criteria. Although it is unlikely that every pair of trades identified here meets the criteria of being prearranged and involving no economic risk, the overall evidence (including the use of choice markets, the volume of actual and apparent wash trades, and the existence of affiliate wash trades) supports the conclusion that trading abuses and market manipulation occurred on EOL.